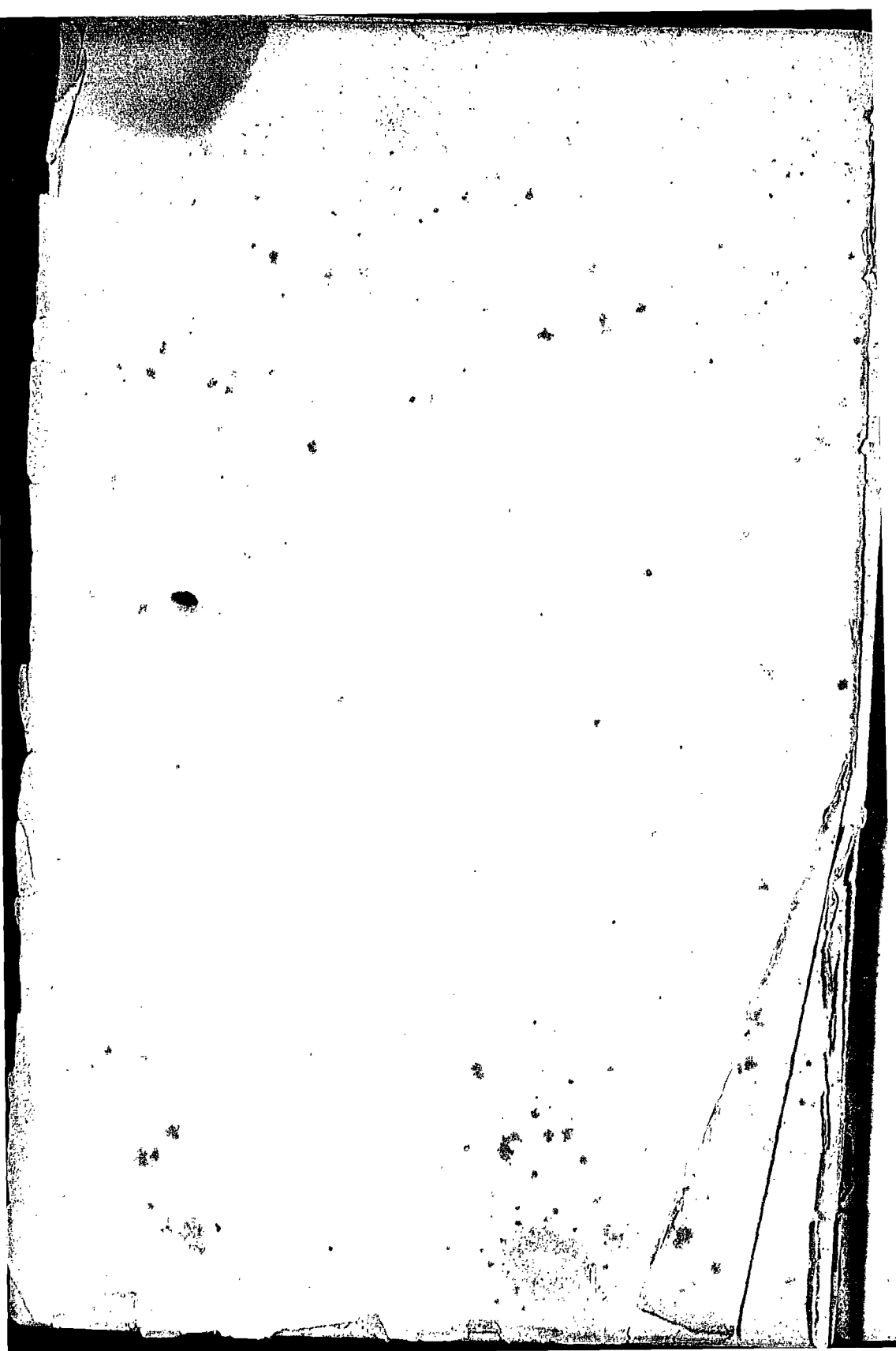


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THEREFORE REPRINTED IN 1837. THESE "NEW" PAGES WILL
DIRECTLY PROCEED THE FOLLOWING VOLUME.

LAWS OF DELAWARE 1830 - 1835



L A W S
OF THE
STATE OF DELAWARE,

**FROM THE SIXTEENTH DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND
THIRTY, TO THE THIRTEENTH DAY OF FEBRUARY, ONE THOU-
SAND EIGHT HUNDRED AND THIRTY-FIVE.**

TO WHICH IS PREFIXED

THE AMENDED CONSTITUTION
OF SAID STATE.

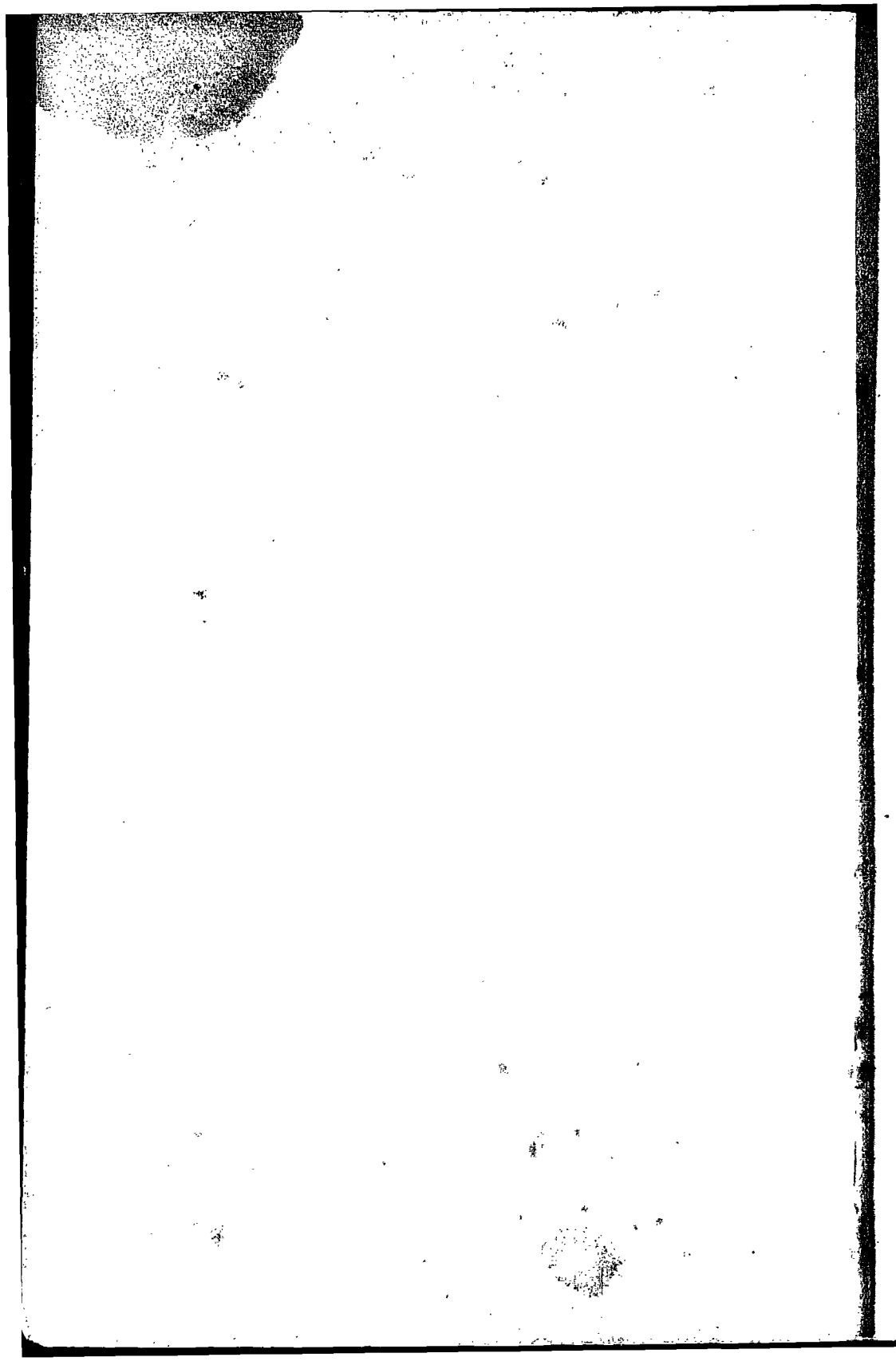
VOLUME VIII

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DOVER, DELAWARE:

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1841.



THE
AMENDED CONSTITUTION
OF THE
STATE OF DELAWARE.

WE, the People, hereby ordain and establish this Constitution of Government for the State of Delaware.

THROUGH Divine goodness all men have, by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of attaining objects suitable to their condition, without injury by one to another: and as these rights are essential to their welfare, for the due exercise thereof power is inherent in them; and therefore all just authority in the institutions of political society is derived from the People, and established with their consent, to advance their happiness: And they may, for this end, as circumstances require, from time to time alter their Constitution of Government.

ARTICLE I.

SECTION 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the universe, and piety and morality on which the prosperity of communities depends, are thereby promoted; yet no man shall, or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent: and no power shall or ought to be vested in or assumed by any magistrate, that shall in any case interfere with, or in any manner control, the rights of conscience, in the free exercise of religious worship: nor shall a preference be given by law to any religious societies, denominations, or modes of worship.

SEC. 2. No religious test shall be required as a qualification to any office, or public trust, under this State.

SEC. 3. All elections shall be free and equal.

SEC. 4. Trial by Jury shall be as heretofore.

Elections.

Jury trial.

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The press.

SEC. 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity: and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence: and in all indictments for libels the jury may determine the facts and the law, as in other cases.

Warrants of search or arrest.

SEC. 6. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures: and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.

Rights of accused.

SEC. 7. In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury: he shall not be compelled to give evidence against himself: nor shall he be deprived of life, liberty or property, unless by the judgment of his peers or the law of the land.

SEC. 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger: and no person shall be for the same offence twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

Administration of justice.

SEC. 9. All courts shall be open: and every man for an injury done him in his reputation, person, moveable, or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense: and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried, shall determine that an impartial trial therefor cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

Suits against the State.

Suspending laws.

SEC. 10. No power of suspending laws shall be exercised, but by authority of the Legislature.

Bail, punishments. Gaols.

SEC. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted: and in the construction of gaols, a proper regard shall be had to the health of prisoners.

Privileges of prisoners.

SEC. 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is positive or the presump-

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tion great: and when persons are confined on accusation for such offences, their friends and counsel may at proper seasons have access to them.

SEC. 13. The privilege of the writ of *Habeas Corpus* shall not be suspended, unless when in cases of rebellion, or invasion, the public safety may require it. Habeas corpus.

SEC. 14. No commission of Oyer and Terminer or gaol delivery shall be issued. Oyer and Terminer.

SEC. 15. No attainder shall work corruption of blood, nor except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives, shall descend or vest as in case of natural death: and if any person be killed by accident, no forfeiture shall be thereby incurred. Attainder, suicide, deodand.

SEC. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also in governments of a republican form, contravenes the social principles of such governments founded on common consent for common good; yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government, for redress of grievances or other proper purposes, by petition, remonstrance or address. Right to petition.

SEC. 17. No standing army shall be kept up without the consent of the Legislature: and the military shall, in all cases and at all times, be in strict subordination to the civil power. Military.

SEC. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but by a civil magistrate, in a manner to be prescribed by law. Quartering soldiers.

SEC. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behavior; and no person holding any office under this State, shall accept of any office or title of any kind whatever, from any king, prince, or foreign state. Titles and offices.

WE DECLARE THAT EVERY THING IN THIS ARTICLE IS RESERVED OUT OF THE GENERAL POWERS OF GOVERNMENT HEREINAFTER MENTIONED. Reservation.

ARTICLE II.

SEC. 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. Legislature. General Assembly.

SEC. 2. The Representatives shall be chosen for two years, by the citizens residing in the several counties. Representatives.

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Qualifications.

No person shall be a Representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the Legislature after his election, and the last year of that term, an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

Number.

There shall be seven Representatives chosen in each county, until a greater number of Representatives shall by the General Assembly be judged necessary; and then, two-thirds of each branch of the Legislature concurring, they may by law make provision for increasing their number:

Senators.

SEC. 3. The Senators shall be chosen for *four* years by the citizens residing in the several counties.

Qualifications.

No person shall be a Senator, who shall not have attained to the age of twenty-seven years, and have in the county in which he shall be chosen, a freehold estate in two hundred acres of land, or an estate in real and personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the Legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

Numbers.

There shall be three Senators chosen in each county. When a greater number of Senators shall by the General Assembly be judged necessary, two-thirds of each branch concurring, they may by law make provision for increasing their number; but the number of Senators shall never be greater than one-half, nor less than one-third of the number of Representatives:

Vacancies.

If the office of Representative, or the office of Senator, become vacant before the regular expiration of the term thereof, a Representative or a Senator shall be elected to fill such vacancy, and shall hold the office for the residue of said term.

When there is a vacancy in either House of the General Assembly, and the General Assembly is not in session, the Governor shall have power to issue a writ of election to fill such vacancy; which writ shall be executed as a writ issued by the Speaker of either House in case of vacancy.

Biennial meeting.

SEC. 4. The General Assembly shall meet on the first Tuesday of January, *biennially*, unless sooner convened by the Governor.

First meeting.

The first meeting of the General Assembly, under this amended Constitution, shall be on the first Tuesday of January, in the year of our Lord, one thousand eight hundred and thirty-three, which shall be the commencement of biennial sessions.

Each

SEC. 5. Each House shall choose its Speaker and other officers,

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and also each House, whose Speaker shall exercise the office of ^{House, officers.} Governor, may choose a Speaker *pro tempore*.

SEC. 6. Each House shall judge of the elections, returns, and ^{Powers.} qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may ad- ^{Quorum.} journ from day to day, and shall be authorised to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient.

SEC. 7. Each House may determine the rules of its proceedings, ^{Punishing.} punish any of its members for disorderly behavior, and with the concurrence of two-thirds expel a member, and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

SEC. 8. Each House shall keep a journal of its proceedings, and ^{Journals.} publish them immediately after every session, except such parts as may require secrecy; and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal.

SEC. 9. The doors of each House, and of committees of the ^{Open doors.} whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 10. Neither House shall, without the consent of the other, ^{Adjournment.} adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 11. The Senators and Representatives shall receive a com- ^{Compensation and privileges.} pensation for their services to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect, till an election of Representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

SEC. 12. No Senator or Representative shall, during the time ^{Exclusion of members from offices.} for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time. No person concerned in any army or navy contract, no member of ^{Disqualifications to be members.} Congress, nor any person holding any office under this State or the United States, except the Attorney-general, officers usually appointed by the Courts of Justice respectively, Attorneys at law and officers in the militia, holding no disqualifying office, shall during his continuance in Congress or in office, be a Senator or Representative.

SEC. 13. When vacancies happen in either House, writs of elec- ^{Vacancies.} tion shall be issued by the Speakers respectively, or in cases of necessity, in such other manner as shall be provided by law; and

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the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected, might have done, if such vacancies had not happened.

Revenue bills.

SEC. 14. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose alterations as on other bills; and no bill, from the operation of which when passed into a law revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

Public money.

SEC. 15. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published at least once in every two years.

State treasurer.

SEC. 16. *The State Treasurer shall be appointed biennially by the House of Representatives, with the concurrence of the Senate. In case of a vacancy in the office of State Treasurer in the recess of the General Assembly, either through omission of the General Assembly to appoint, or by the death, removed out of the State, resignation, or inability of the State Treasurer, or his failure to give security, the Governor shall fill the vacancy by appointment to continue until the next meeting of the General Assembly. The State Treasurer shall settle his accounts annually with the General Assembly or a committee thereof, which shall be appointed at every biennial session. No person who hath served in the office of State Treasurer, shall be eligible to a seat in either House of the General Assembly until he shall have made a final settlement of his accounts as Treasurer and discharged the balance, if any, due thereon.*

Corporations.

SEC. 17. *No act of incorporation, except for the renewal of existing corporations, shall be hereafter enacted without the concurrence of two-thirds of each branch of the Legislature, and with a reserved power of revocation by the Legislature; and no act of incorporation which may be hereafter enacted, shall continue in force for a longer period than twenty years, without the re-enactment of the Legislature, unless it be an incorporation for public improvement.*

ARTICLE III.

Executive Governor.

SEC. 1. The Supreme Executive powers of the State shall be vested in a Governor.

Election.

SEC. 2. The Governor shall be chosen by the citizens of the State.

Election returns.

The returns of every election for Governor shall be sealed up, and immediately delivered by the returning officers of the several counties to the Speaker of the Senate, or in case of the vacancy of the office of the Speaker of the Senate, or his absence from the State, to the Secretary of State, who shall keep the same until a Speaker

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of the Senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both Houses of the Legislature. Duplicates of the said returns shall also be immediately lodged with the Prothonotary of each county. The person having the highest number of votes shall be Governor: but if two or more shall be equal in the highest number of votes, the members of the two Houses shall, by joint ballot, choose one of them to be Governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the Speaker of the Senate shall have an additional casting vote.

Contested elections of a Governor shall be determined by a joint committee, consisting of one-third of all the members of each branch of the Legislature, to be selected by ballot of the Houses respectively; every person of the committee shall take an oath or affirmation, that in determining the said election, he will faithfully discharge the trust reposed in him: and the committee shall always sit with open doors. Election contested.

SEC. 3. The Governor shall hold his office during *four* years from the third Tuesday of January next ensuing his election, and shall not be *eligible a second time to said office.* Tenure of office.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the Legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States or of this State. Qualifications.

SEC. 5. No member of Congress, nor person holding any office under the United States or this State, shall exercise the office of Governor. Disqualifications.

SEC. 6. The Governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected. Compensation.

SEC. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia; except when they shall be called into the service of the United States. Commander-in-chief.

SEC. 8. He shall appoint all officers whose offices are established by this Constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a county, who shall not have a right to vote for Representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the county. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of Judge, Treasurer, Attorney-General, Secretary, Pro- Appointments to offices.
Incompatible offices.

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Commis-
sions.

thonotary, Register for the probate of wills and granting letters of administration, Recorder, Sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the Legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit: Treasurer, Attorney-General, Prothonotary, Register or Sheriff. All commissions shall be in the name of the State, shall be sealed with the Great Seal, and be signed and tested by the Governor.

Pardon.

SEC. 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment. *He shall set forth in writing, fully, the grounds of all reprieves, pardons and remissions, to be entered in the Register of his official acts, and laid before the General Assembly at their next session.*

Information.

SEC. 10. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Communica-
tions to gen-
eral assembly.

SEC. 11. He shall from time to time give to the General Assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

Convening
and adjourn-
ing general
assembly.

SEC. 12. He may on extraordinary occasions convene the General Assembly, and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months.

SEC. 13. He shall take care that the laws be faithfully executed.

Vacancy.

SEC. 14. *Upon any vacancy happening in the office of Governor, by his death, removal, resignation, or inability, the Speaker of the Senate shall exercise the office until a Governor elected by the people shall be duly qualified. If there be no Speaker of the Senate, or upon a further vacancy happening in the office by his death, removal, resignation or inability, the Speaker of the House of Representatives shall exercise the office until a Governor elected by the people shall be duly qualified. If the person elected Governor shall die, or become disqualified, before the commencement of his term of office, or shall refuse to take the same, the person holding the office shall continue to exercise it, until a Governor shall be elected and duly qualified. If upon a vacancy happening in the office of Governor, there be no other person who can exercise said office within the provisions of the Constitution, the Secretary of State shall exercise the same until the next meeting of the General Assembly, who shall immediately proceed to elect by joint ballot of both Houses a person to exercise the office until a Governor elected by the people shall be duly qualified. If a vacancy occur in the office of Governor, or if the Governor elect die, or become disqualified, before the commencement of his term, or refuse to take the office, an election for Governor shall be held at the next general election, unless the vacancy happen within six days next pre-*

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ceding the election, exclusive of the day of the happening of the vacancy and the day of the election: in that case, if an election for Governor would not have been held at said election, without the happening of such vacancy, no election for Governor shall be held at said election in consequence of such vacancy. If the trial of a contested election shall continue longer than until the third Tuesday of January next ensuing the election of a Governor, the Governor of the last year, or the Speaker of the Senate, or of the House of Representatives, who may then be in the exercise of the Executive authority, shall continue therein until a determination of such contested election. The Governor shall not be removed from his office for inability, but with the concurrence of two-thirds of all the members of each branch of the Legislature.

SEC. 15. A Secretary shall be appointed and commissioned during the Governor's continuance in office, if he shall so long behave himself well. He shall keep a fair Register of all the official acts and proceedings of the Governor, and shall, when required by either branch of the Legislature, lay the same, and all papers, minutes, and vouchers, relative thereto, before them, and shall perform such other duties as shall be enjoined him by law. He shall have a compensation for his services to be fixed by law.

Secretary of
State.

ARTICLE IV.

SEC. 1. *All elections for Governor, Senators, Representatives, Elections, Sheriffs and Coroners shall be held on the second Tuesday of November, and be by ballot: And in such elections every free white male citizen, of the age of twenty-two years or upwards, having resided in the State one year next before the election, and the last month thereof in the county where he offers to vote, and having within two years next before the election, paid a county tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and every free white male citizen of the age of twenty-one years and under the age of twenty-two years, having resided as aforesaid, shall be entitled to vote without payment of any tax: Provided that no person in the military, naval, or marine service of the United States, shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot, or insane person, pauper, or person convicted of a crime deemed by law felony, shall enjoy the right of an elector; and that the Legislature may impose the forfeiture of the right of suffrage, as a punishment for crime.*

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

ARTICLE V.

SEC. 1. The House of Representatives shall have the sole power

Impeach-
ments.

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of impeaching: but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the Senate: and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the Senators.

SEC. 2. The Governor and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit under this State, but the party convicted shall nevertheless be subject to indictment, trial, judgment and punishment according to law.

Treason.

SEC. 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the Government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

ARTICLE VI.

Judiciary.

SEC. 1. *The judicial power of this State shall be vested in a Court of Errors and Appeals, a Superior Court, a Court of Chancery, an Orphans' Court, a Court of Oyer and Terminer, a Court of General Sessions of the Peace and Gaol Delivery, a Register's Court, Justices of the Peace, and such other courts as the General Assembly, with the concurrence of two-thirds of all the members of both Houses, shall from time to time establish.*

Courts.

SEC. 2. *To compose the said courts there shall be five judges in the State. One of them shall be Chancellor of the State; he shall also be President of the Orphans' Court: he may be appointed in any part of the State. The other four judges shall compose the Superior Court, the Court of Oyer and Terminer, and the Court of General Sessions of the Peace and Gaol Delivery, as hereinafter prescribed. One of them shall be Chief Justice of the State, and may be appointed in any part of it. The other three judges shall be Associate Judges, and one of them shall reside in each county.*

Superior Court.

SEC. 3. *The Superior Court shall consist of the Chief Justice and two Associate Judges. The Chief Justice shall preside in every county, and in his absence the senior Associate Judge sitting in the county shall preside. No Associate Judge shall sit in the county in which he resides. Two of said Judges shall constitute a quorum. One may open and adjourn the Court, and make all rules necessary for the expediting of business.*

This court shall have jurisdiction of all causes of a civil nature, real, personal and mixed, at common law, and all other the jurisdiction and powers vested by the laws of this State in the Supreme Court or Court of Common Pleas.

SEC. 4. *The Court of General Sessions of the Peace and Gaol Delivery shall be composed in each County of the same Judges and in the same manner as the Superior Court. Two shall constitute a quorum. One may open and adjourn the Court. This Court shall have all the jurisdiction and powers vested by the laws of this State in the Court of General Quarter Sessions of the Peace and Gaol Delivery.* Court of General Sessions of the Peace.

SEC. 5. *The Chancellor shall hold the Court of Chancery. This Court shall have all the jurisdiction and powers vested by the laws of this State in the Court of Chancery.* Court of Chancery.

SEC. 6. *The Court of Oyer and Terminer shall consist of all the Judges except the Chancellor. Three of the said Judges shall constitute a quorum. One may open and adjourn the court. This court shall exercise the jurisdiction now vested in the Courts of Oyer and Terminer and General Gaol Delivery by the laws of this State. In the absence of the Chief Justice the senior Associate present shall preside.* Court of Oyer and Terminer.

SEC. 7. *The Court of Errors and Appeals shall have jurisdiction to issue writs of Error to the Superior Court, and to receive appeals from the Court of Chancery, and to determine finally all matters in error in the judgments and proceedings of said Superior Court, and all matters of Appeal in the interlocutory or final decrees and proceedings in Chancery. The Court of Errors and Appeals upon a writ of error to the Superior Court shall consist of three Judges at least: that is to say, the Chancellor, who shall preside, the associate judge who could not on account of his residence sit in the cause below, and one of the judges who did sit in the said cause. The Judges of the Superior Court to whom it appertains to hold the Superior Court in each county, shall sit alternately in the Court of Errors and Appeals in cases in error brought from the Superior Court in such county, according to the following rotation: that is to say: If the judgment below be rendered in the court in New Castle county at the first term of the said court there, the Chief Justice shall sit; if at the second term of the said court there, the associate judge for Kent county shall sit, and if at the third term of said court there, the associate judge for Sussex county shall sit. If the judgment below be rendered in the court in Kent county at the first term of said court there, the associate judge for Sussex county shall sit, if at the second term of the said court there, the associate judge for New Castle county shall sit, and if at the third term of the said court there, the Chief Justice shall sit. If the judgment below be rendered in the court in Sussex county at the first term of said court there, the associate judge for New Castle county shall sit, if at the second term of the said court there, the Chief Justice shall sit, and if at the third term of the said court there, the associate judge for Kent county shall sit; and so from term to term, in every succeeding rotation the judges beginning and following each other in the same order. But if in any case in the Court of Errors and Appeals, the judge who sat in the cause below, and ought according to this provision to* Court of Errors and Appeals.

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sit in the Court of Errors and Appeals, be absent, unable or disqualified, then either of the other judges, who sat in the cause below, may sit: and the court shall have power to prevent any inconvenience or delay from observing the rotation above prescribed, by making an order or regulation for either of the judges who sat in the cause below, to sit in such cause in the Court of Errors and Appeals. If a judge did not sit in the cause below, he shall sit in the said cause in the Court of Errors and Appeals, unless there be a legal exception to him; but the court, if there be three judges present, may proceed in his absence.

Questions of
law.

Whenever the Superior Court consider that a question of law ought to be decided before all the judges, they shall have power, upon the application of either party, to direct it to be heard in the Court of Errors and Appeals; and in that case the chancellor and four judges shall compose the Court of Errors and Appeals, the chancellor presiding, and any four of them being a quorum; and in the absence of the chancellor, the Chief Justice shall preside. The Superior Court in exercising this power, may direct a cause to be proceeded into verdict and judgment in that court, or to be otherwise proceeded in, as shall be best for expediting justice.

Upon appeal from the Court of Chancery, the Court of Errors and Appeals shall consist of the Chief Justice and three associate judges; and three of them shall be a quorum.

Chancellor
interested.

SEC. 8. *In matters of chancery jurisdiction in which the Chancellor is interested, the Chief Justice sitting in the Superior Court without the associate judges, shall have jurisdiction, with an appeal to the Court of Errors and Appeals, which shall consist in this case of the three associate judges, the senior associate judge presiding.*

Judge ad li-
tem.

SEC. 9. *The Governor shall have power to commission a judge ad litem, to decide any cause in which there is a legal exception to the Chancellor or any judge, so that such appointment is necessary to constitute a quorum in either court. The commission in such case shall confine the office to the cause, and it shall expire on the determination of the cause. The judge so appointed shall receive a reasonable compensation to be fixed by the General Assembly. A member of Congress, or any person holding or exercising an office under the United States, shall not be disqualified from being appointed a judge ad litem.*

Orphans'
Court.

SEC. 10. *The Orphans' Court, in each county, shall be held by the Chancellor and the associate judge residing in the county; the Chancellor being President. Either of them, in the absence of the other, may hold the court. When they concur in opinion there shall be no appeal from their decision, except in the matter of real estate. When their opinions are opposed, or when a decision is made by one of them, and in all matters involving a right to real estate, or the appraised value or other value thereof, there shall be an appeal to the Superior Court*

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for the county, which shall have final jurisdiction in every such case. This court shall have all the jurisdiction and powers vested by the laws of this State in the Orphans' Court.

SEC. 11. *The jurisdiction of each of the aforesaid courts shall be Jurisdiction. co-extensive with the State. Process may be issued out of each court, in either county, into every county.*

SEC. 12. *The General Assembly, notwithstanding any thing con- General As- tained in this article, shall have power to repeal or alter any act of assembly may alter. the General Assembly, giving jurisdiction to the Courts of Oyer and Terminer and General Gaol Delivery, or to the Supreme Court, or the Court of Common Pleas, or the Court of General Quarter Sessions of the Peace and Gaol Delivery, or the Orphans' Court, or to the Court of Chancery, in any matter, or giving any power to either of said courts. Until the General Assembly shall otherwise direct, there shall be an appeal to the Court of Errors and Appeals in all cases in which there is an appeal, according to any act of the General Assembly, to the High Court of Errors and Appeals.*

SEC. 13. *Until the General Assembly shall otherwise provide, the Chancellor shall exercise all the powers which any law of this State vests in the Chancellor, beside the general powers of the Court of Chancery; and the Chief Justice and Associate Judges shall each singly exercise all the powers which any law of this State vests in the Judges singly of the Supreme Court or Court of Common Pleas.*

SEC. 14. *The chancellor and judges shall respectively hold their Tenure of offices during good behavior, and receive for their services a compen- office. sation which shall be fixed by law and paid quarterly, and shall not be less than the following sums, that is to say:—the annual salary of Salaries. the Chief Justice shall not be less than the sum of one thousand two hundred dollars: and the annual salary of the Chancellor shall not be less than the sum of one thousand one hundred dollars; and the annual salaries of the Associate Judges, respectively, shall not be less than the sum of one thousand dollars each. They shall hold no other office of profit, nor receive any fees or perquisites, in addition to their salaries for business done by them. The Governor may for any reasonable cause, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the General Assembly. In all cases where the Legislature shall so address the Governor, the cause of removal shall be entered on the Journals of each House. The Judge against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied with the causes alleged for his re-*

CONSTITUTION OF THE

moval, at least five days before the day on which either House of the General Assembly shall act thereupon.

Inferior
Courts.

SEC. 15. *The General Assembly may by law give to any inferior courts by them to be established, or to one or more justices of the peace, jurisdiction of the criminal matters following, that is to say: assaults and batteries, keeping without license a public house of entertainment, tavern, inn, ale house, ordinary or victualling house, retailing or selling without license, wine, rum, brandy, gin, whiskey or spirituous or mixed liquors contrary to law; disturbing camp meetings held for the purpose of religious worship, disturbing other meetings for the purpose of religious worship, nuisances, horse racing, cock fighting and shooting matches, larcenies committed by negroes or mulattoes, and the offence of knowingly buying, receiving, or concealing by negroes or mulattoes, of stolen goods and things the subject of larceny; and of any negro or mulatto being accessory to any larceny. The General Assembly may by law regulate this jurisdiction, and provide that the proceedings shall be with or without indictment by Grand Jury, or trial by Petit Jury, and may grant or deny the privilege of appeal to the Court of General Sessions of the Peace: the matters within this section shall be and the same hereby are excepted and excluded from the provision of the Constitution, that—"No person shall for an indictable offence be proceeded against criminally by information"—and also from the provisions of the Constitution concerning trial by jury.*

Amending
pleadings.

Deposition.

SEC. 16. *In civil causes when pending, the Superior Court shall have the power before judgment, of directing upon such terms as they shall deem reasonable, amendments, impleadings, and legal proceedings, so that by error in any of them, the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses that are aged, very infirm, or going out of the State, upon interrogatories *de bene esse*, to be read in evidence, in case of the death or departure of the witnesses before the trial; or inability by reason of age, sickness, bodily infirmity, or imprisonment, then to attend; and also the power of obtaining evidence from places not within the State.*

Money into
Court.

SEC. 17. *At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, and the costs then accrued, and the plaintiff not accepting thereof, it shall be delivered for his use to the Clerk or Prothonotary of the Court; and if, upon the final decision of the cause, the plaintiff shall not recover a greater sum than that so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.*

Suits survive.

SEC. 18. *By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate, but until the*

STATE OF DELAWARE.

17

Legislature shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner or plaintiff may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator being duly served with a *scire facias*, thirty days before the return thereof, shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and in any of those cases, the court shall pass a decree, or render judgment for, or against executors or administrators, as to right appertains. But where an executor or administrator of a deceased respondent or defendant becomes a party, the court upon motion, shall grant such a continuance of the cause as to the judges shall appear proper.

SEC. 19. Whenever a person, not being an executor or administrator, appeals from a decree of the Chancellor or applies for a writ of error, such appeal or writ shall be no stay of proceeding in the chancery, or the court to which the writ issues, unless the appellant or plaintiff in error, shall give sufficient security, to be approved respectively by the Chancellor, or by a judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation money and all costs, or otherwise abide the decree in appeal or the judgment in error, if he fail to make his plea good. Security on appeal and error.

SEC. 20. No writ of error shall be brought upon any judgment heretofore confessed, entered, or rendered, but within five years from this time; nor upon any judgment hereafter to be confessed, entered or rendered, but within five years after the confessing, entering or rendering thereof; unless the person entitled to such writ be an infant, feme covert, non compos mentis or a prisoner, and then within five years exclusive of the time of such disability. Limitation of writs of error.

SEC. 21. An executor, administrator, or guardian, shall file every account with the Register for the county, who shall as soon as conveniently may be, carefully examine the particulars with the proofs thereof, in the presence of such executor, administrator or guardian, and shall adjust and settle the same, according to the very right of the matter and the law of the land: which account so settled, shall remain in his office for inspection; and the executor, administrator, or guardian, shall within three months after such settlement, give due notice in writing to all persons entitled to shares of the estate, or to their guardians respectively, if residing within the State, that the account is lodged in the said office for inspection. *Exceptions may be made by persons concerned, to both sides of every such account, either denying the justice of the allowances made to the accountant, or alleging further charges against him; and the exceptions shall be heard in the Orphans' Court for the county; and thereupon the account shall be adjusted and settled according to the right of the matter and law of the land.* Executors' administrators' and guardian accounts. Exceptions.

SEC. 22. The Registers of the several counties shall respectively

**Registers'
Court.**

hold the Register's Court in each county. Upon the litigation of a cause, the depositions of the witnesses examined, shall be taken at large in writing, and make part of the proceedings in the cause.

This court may issue process throughout the State, to compel the attendance of witnesses. Appeals may be made from a Register's Court to the *Superior Court*, whose decisions shall be final. In cases where a Register is interested in questions concerning the Probate of wills, the granting letters of administration, or executors, administrators, or guardians accounts, the cognizance thereof shall belong to the Orphans' Court, with an appeal to the *Superior Court*, whose decision shall be final.

**Prothonota-
ry.**

SEC. 23. *The Prothonotary of the Superior Court may issue process, take recognizances of bail and enter judgments, according to law and the practice of the court.* No judgment in one county shall

**Lien of judg-
ments.**

bind lands or tenements in another, until a Testatum Fieri Facias being issued, shall be entered of record in the office of the Prothonotary of the county wherein the lands or tenements are situated.

**Justices of
the peace.**

SEC. 24. The Governor shall appoint a competent number of persons to the office of Justice of the Peace, not exceeding twelve in each county, until two-thirds of both Houses of the Legislature shall by law direct an addition to the number, who shall be commissioned for seven years, if so long they shall behave themselves well, but may be removed by the Governor within that time on conviction of misbehaviour in office, or on the address of both Houses of the Legislature.

**Style of pro-
cess.**

SEC. 25. The style in all process and public acts shall be, THE STATE OF DELAWARE. Prosecutions shall be carried on in the name of the State.

ARTICLE VII.

**Conservators
of the peace.**

SEC. 1. The members of the Senate and House of Representatives, the Chancellor, the Judges, and the Attorney General shall, by virtue of their offices, be conservators of the Peace throughout the State; and the Treasurer, Secretary, Prothonotaries, Registers, Recorders, Sheriffs, and Coroners, shall by virtue of their offices, be conservators thereof within the counties respectively in which they reside.

**Representa-
tives in Con-
gress.**

SEC. 2. The Representative, and when there shall be more than one, the Representatives of the people of this State in Congress, shall be voted for at the same places where Representatives in the State Legislature are voted for, and in the same manner.

**Sheriff and
Coroner.**

SEC. 3. *The Sheriff and Coroner of each county shall be chosen by the citizens residing in such county. They shall hold their respective offices for two years if so long they behave themselves well, and until successors be duly qualified; but no person shall be twice chosen Sheriff upon election by the citizens in any term of four years.*

They shall be commissioned by the Governor. The Governor shall fill vacancies in these offices by appointments to continue until the next election and until successors shall be duly qualified. The Legislature, two-thirds of each branch concurring, may vest the appointment of Sheriffs and Coroners in the Governor; but no person shall be twice appointed Sheriff in any term of six years.

SEC. 4. The Attorney General, Registers in Chancery, Prothonotaries, Registers, Clerks of the Orphans' Court and of the Peace, shall respectively be commissioned for five years, if so long they shall behave themselves well; but may be removed by the Governor within that time on conviction of misbehaviour in office or on the address of both Houses of the Legislature. Prothonotaries, Registers in Chancery, Clerks of the Orphans' Court, Registers, Recorders and Sheriffs, shall keep their offices in the town or place in each county in which the Superior Court is usually held.

Tenure of certain offices.

SEC. 5. Attorneys at law, all inferior officers in the Treasury Department, election officers, officers relating to taxes, to the poor and to highways, constables and hundred officers, shall be appointed in such manner as is or may be directed by law.

Appointment of inferior officers.

SEC. 6. All salaries and fees annexed to offices shall be moderate; and no officer shall receive any fees whatever without giving to the person who pays, a receipt for them, if required, therein specifying every particular and the charge for it.

Salaries and fees.

Receipt for fees.

SEC. 7. No costs shall be paid by a person accused on a bill being returned ignoramus, nor on acquittal by a jury.

Costs in criminal cases.

SEC. 8. The rights, privileges, immunities and estates of religious societies and corporate bodies shall remain as if the Constitution of this State had not been altered. No ordained clergymen or ordained preacher of the gospel of any denomination, shall be capable of holding any civil office in this State, or of being a member of either branch of the Legislature, while he continues in the exercise of the pastoral or clerical functions.

Rights of corporations.

Exclusion of clergy.

SEC. 9. All the laws of this State existing at the time of making this Constitution, and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending shall proceed as if this Constitution had not been made.

Laws in force.

SEC. 10. This Constitution shall be prefixed to every edition of the laws made by direction of the Legislature.

SEC. 11. The Legislature shall, as soon as conveniently may be, provide by law for ascertaining what statutes and parts of statutes shall continue to be in force within this State; for reducing them and all acts of the General Assembly into such order and publishing them in such manner that thereby the knowledge of them may be generally diffused; for choosing Inspectors and Judges of elec-

Duties of legislature.

CONSTITUTION OF THE

tions, and regulating the same in such manner as shall most effectually guard the rights of the citizens entitled to vote; for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenements in sales by sheriffs, where they will bear a division into as many parcels as may be without spoiling the whole, and for advertising and making the sales in such manner, and at such times and places, as may render them most beneficial to all persons concerned: and for establishing schools, and promoting arts and sciences.

Property
qualification.

SEC. 12. *No property qualifications shall be necessary to the holding of any office in this State, except the office of Senator in the General Assembly, and the offices of Assessor, Inquisitor on lands and Levy Court Commissioner, and except such offices as the General Assembly shall by law designate.*

ARTICLE VIII.

Oath of office. Members of the General Assembly and all officers, executive and judicial, shall be bound by oath or affirmation, to support the Constitution of this State, and to perform the duties of their respective offices with fidelity.

ARTICLE IX.

Amend-
ments.

The General Assembly, whenever two-thirds of each House shall deem it necessary, may with the approbation of the Governor, propose amendments to this Constitution, and at least three and not more than six months before the next general election of Representatives duly publish them in print, for the consideration of the people; and if three-fourths of each branch of the Legislature shall, after such an election and before another, ratify the said amendments, they shall be valid to all intents and purposes as parts of

Convention.

this constitution. No Convention shall be called but by the authority of the people: and an unexceptional mode of making their sense known, will be for them at a *special election on the third Tuesday of May in any year*, to vote by ballot for or against a Convention, as they shall severally choose to do; and if thereupon it shall appear that a majority of all the citizens in the State, having right to vote for Representatives, have voted for a Convention, the General Assembly shall accordingly, at their next session, call a Convention, to consist of at least as many members as there are in both Houses of the Legislature, to be chosen in the same manner, at the same places, and at the same time that Representatives are by the citizens entitled to vote for Representatives, on due notice given for one month, and to meet within three months after they shall be elected.

Majority.

The majority of all the citizens in the State having right to vote for Representatives, shall be ascertained by reference to the highest number of votes cast in the State at any one of the three general elec-

tions, next preceding the day of voting for a Convention, except when they may be less than the whole number of votes voted both for and against a Convention, in which case the said majority shall be ascertained by reference to the number of votes given on the day of voting for or against a Convention: and whenever the General Assembly shall deem a Convention necessary, they shall provide by law for the holding of a Special Election for the purpose of ascertaining the sense of the majority of the citizens of the State entitled to vote for Representatives.

SCHEDULE.

THAT no inconveniences may arise from the amendments of the Constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained, as follows:—

SEC. 1. The offices of the present Senators and Representatives shall not be vacated by any amendment of the Constitution made in this Convention, nor otherwise affected, except that the terms of the Representatives and the terms of the Senators, which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-two, are hereby extended to the second Tuesday of November in that year: and the terms of the Senators, which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-three, are hereby extended to the second Tuesday of November in that year: and the terms of the Senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-four, are hereby extended to the second Tuesday of November in that year.

The General Assembly shall meet on the first Tuesday of January next, and shall not be within the amended provision respecting biennial sessions, which biennial sessions shall commence with the session of the General Assembly, on the first Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-three.

SEC. 2. The offices of the present Sheriffs and Coroners shall not be vacated by any amendment to the Constitution made in this Convention, nor otherwise affected, except that the term of office of the sheriff of Sussex county is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, and until a successor be duly qualified: and on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, shall be the first election for sheriff in Sussex county under this amended Constitution. And the term of the present coroner for Sussex county is hereby exten-

CONSTITUTION OF THE

ded to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until a successor shall be duly qualified: and on the said last mentioned day shall be the first election for coroner in Sussex county under this amended Constitution.

The terms of the present sheriffs and coroners for Kent county and New Castle county, are hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and until successors to them respectively be duly qualified: and on or after the first Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, the Governor shall have power to appoint a sheriff and a coroner for New Castle county, and a sheriff and coroner for Kent county, to continue in office until the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until successors to them respectively be duly qualified. And on the said last mentioned day shall be the first election for sheriff and for coroner in New Castle county and in Kent county, under this amended Constitution, unless a vacancy happen in the office of sheriff or coroner of New Castle or Kent county, or of coroner for Sussex county, before the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two: in which case an election shall be held on that day for a sheriff or coroner under this amended Constitution, in place of the sheriff or coroner whose office has become vacant.

SEC. 3. The first election for Representatives under this amended Constitution shall be held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, which shall be the commencement of biennial elections. At this election one Senator shall be chosen in each county for four years. Also at the biennial election to be held in the several counties on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, two Senators shall be chosen in each county for four years each. But as the term of one Senator in each county will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, when no election will be held, to provide for this special case a Senator shall be chosen in each county, at the election held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, for one year, to succeed the Senator for such county whose term will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and to continue in office until the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, when two Senators shall be chosen in each county as afore-provided.

SEC. 4. The term of office of the present Governor shall not be vacated nor extended by any amendment made to the Constitution in this Convention; but the said office shall continue during the original term thereof; but the ninth and fourteenth sections of the third ar-

title of this Constitution shall be immediately in force as amended. An election for Governor shall be held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two.

SEC. 5. This Constitution as amended, so far as shall concern the Judicial Department, shall commence and be in operation from and after the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two. All the Courts of Justice now existing shall continue with their present jurisdiction, and the Chancellor and Judges and the clerks of the said courts shall continue in office until the said third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two; upon which day the said courts shall be abolished, and the offices of the said Chancellor, Judges and clerks shall expire. All writs of error and appeals and proceedings which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the High Court of Errors and Appeals, and all the books, records and papers of said court, shall be transferred to the Court of Errors and Appeals established by this amended Constitution; and the said writs of error, appeals, and proceedings shall be proceeded in the said Court of Errors and Appeals to final judgment, decree, or other determination.

All suits, proceedings and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Supreme Court or Court of Common Pleas, and all books, records and papers of the said courts, shall be transferred to the Superior Court established by this amended Constitution, and the said suits, proceedings and matters, shall be proceeded in to final judgment, or determination in the said Superior Court. All indictments, proceedings and matters which, on the third Tuesday of January in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be transferred to and proceed in to final judgment and determination in the Court of General Sessions of the Peace and Gaol Delivery, established by this amended Constitution, and all books, records, and papers of said Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be transferred to said Court of General Sessions of the Peace and Gaol Delivery. All suits, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Court of Chancery or in the Orphans' Court, and all records, books and papers of said courts respectively, shall be transferred to the Court of Chancery or Orphans' Court respectively, established by this amended Constitution, and the said suits, proceedings and matters, shall be proceeded in to final decree, order, or other determination.

SEC. 6. The Registers' Courts and Justices of the Peace shall not be affected by any amendments of the Constitution made in

this Convention; but the said courts and the terms of office of Registers and Justices of the Peace shall remain the same, as if said amendments had not been made,

SEC. 7. The General Assembly shall have power to make any law necessary to carry into effect this amended Constitution.

SEC. 8. The provision in the twentieth section of the sixth article of this amended Constitution (being the thirteenth section of the sixth article of the original Constitution,) of limitation of writs of error, shall have relation to, and take date from, the twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-two, the date of said original Constitution.

SEC. 9. The Governor shall have power to issue writs of election to supply vacancies in either House of the General Assembly, that have happened or may happen.

SEC. 10. It is declared that nothing in this amended Constitution gives a writ of error from the Court of Errors and Appeals to the Court of Oyer and Terminer or Court of General Sessions of the Peace and Gaol Delivery, nor an appeal from the Court of General Sessions of the Peace and Gaol Delivery.

The acts of the General Assembly, increasing the number of Justices of the Peace, shall remain in force until repealed by the General Assembly; and no office shall be vacated by the amendments to this Constitution, unless the same be expressly vacated thereby, or the vacating the same is necessary to give effect to the amendments.

Done, in Convention, the second day of December, in the year of our Lord one thousand eight hundred and thirty-one, and of the Independence of the United States of America, the fifty-sixth. In testimony whereof, WE have hereunto subscribed our names.

CHARLES POLK, PRESIDENT.

*Thomas Adams,
John Caulk,
John M. Clayton,
Peter L. Cooper,
Thomas Deakayne,
Edw. Dingle,
Wm. Dunning,
John Elliott,
James Fisher,*

*Willard Hall,
Thomas W. Handy,
John Harlan,
Charles H. Haughey,
Hughitt Layton,
James C. Lynch,
James B. Macomb,
Joseph Muull,
Elias Naudain,*

*William Nicholls,
Samuel Ratcliff,
John Raymond,
George Read, Jr.,
Henry F. Rodney,
James Rogers,
Wm. Seal,
P. Spruance, Jr.,
Wm. D. Waples.*

(ATTEST,)

W. P. BROBSON, SECRETARY.

SECRETARY'S OFFICE, Dover, Aug. 17, 1837.

Pursuant to a resolution of the General Assembly of the State of Delaware, adopted at Dover, February 13, 1835, I have caused this edition of the Amended Constitution to be printed and published as a part of the Eighth volume of the Laws of the said State. I have collated the same with, and corrected it by, the original roll. The amendments are in italics.

CHARLES MARIM,

Secretary of the State of Delaware.

L A W S

OF THE

STATE OF DELAWARE,

PASSED AT

A SESSION OF THE GENERAL ASSEMBLY,

COMMENCED AND HELD AT DOVER,

ON TUESDAY THE FIFTH DAY OF JANUARY,

IN THE YEAR OF OUR LORD,

ONE THOUSAND EIGHT HUNDRED AND THIRTY,

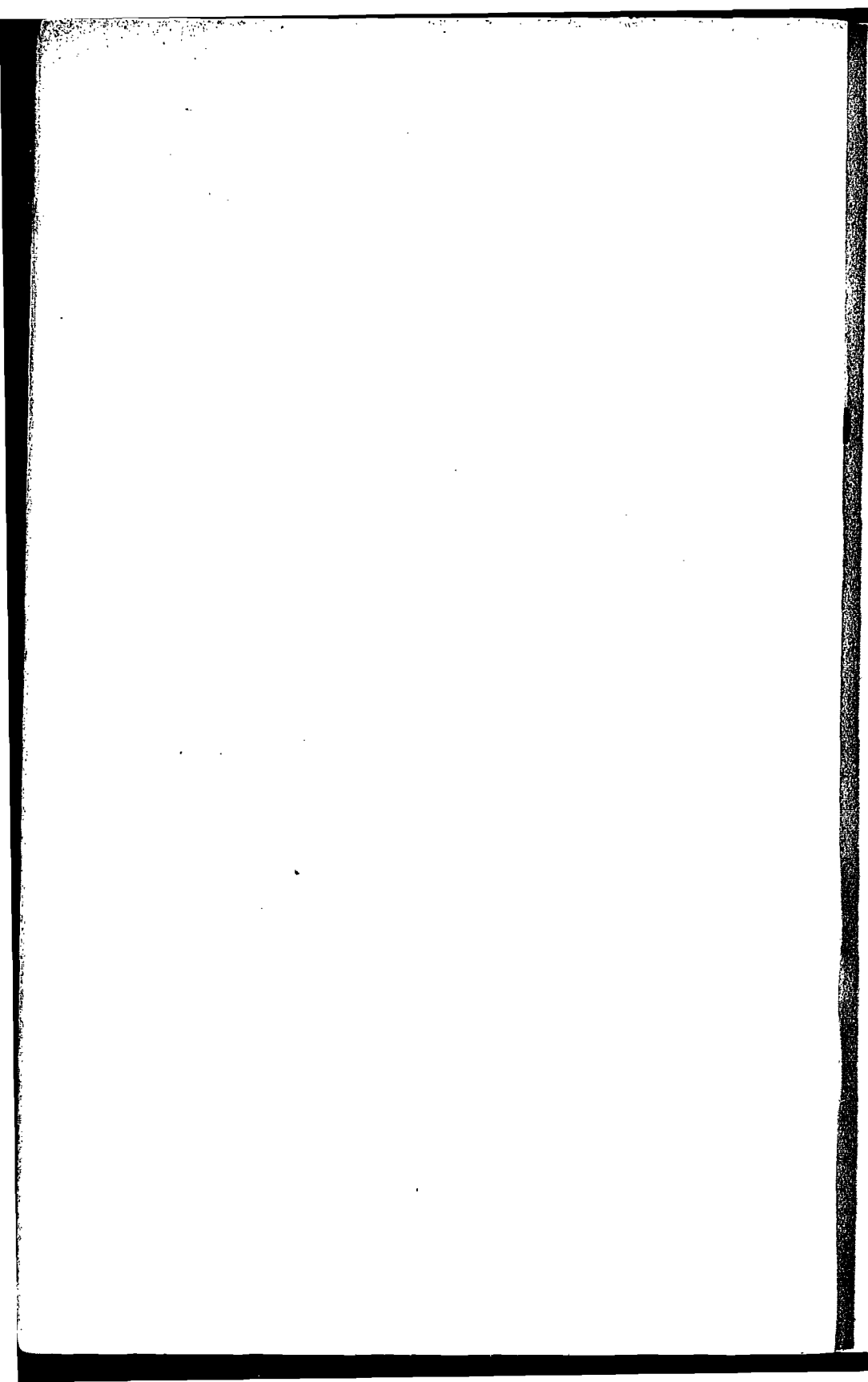
AND OF THE

INDEPENDENCE OF THE UNITED STATES

THE FIFTY-FOURTH.

BY AUTHORITY.

1830.



L A W S

OF THE

STATE OF DELAWARE.

CHAPTER I.

AN ACT concerning the entering of judgment bonds.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall be the duty of the clerks of the Supreme Court, and the prothonotaries of the Court of Common Pleas within this State, on the application of any person being the original holder (or assignee of such holder) of a bond, in which judgment is confessed, or containing a warrant for an attorney at law, or other person to confess judgment; to enter judgment against the person or persons who executed the same, for the amount which from the face of the instrument may appear to be due, without the agency of any attorney, or declaration filed, with such stay of execution as may be therein mentioned, for the fee of one dollar, to be paid by the defendant; particularly entering on his docket, the date and tenor of the instrument of writing on which the judgment may be founded, which shall have the same force and effect as if a declaration had been filed, and judgment confessed by an attorney, or judgment obtained in open court and in term time, and the defendant shall not be compelled to pay any costs, or fee to the plaintiff's attorney when judgment is entered. All acts of assembly now in force, so far as they are inconsistent with this act, and no farther, are hereby repealed.

Passed at Dover, January 16, 1830.

CHAPTER II.

AN ACT supplementary to the act entitled "*An act to incorporate a company to erect a drawbridge over the Christiana creek, at the village of Newport, and for other purposes therein mentioned.*" 4 vol. 650.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Newport Company authorized to

sell the
bridge.

Bridge Company are hereby authorised and empowered to grant, bargain, sell, convey and confirm to the Levy Court of New Castle county, or to any body politic and incorporate, or to any person or persons, in fee, for a valuable consideration, free and clear of all debts and incumbrances, the drawbridge over the Christiana creek at Newport, and works and appurtenances with the profits and tolls arising therefrom, with full power and authority to collect and receive the said tolls; and the right, title, interest, use, benefit, possession and property of, in and to, the said drawbridge, profits, tolls and appurtenances, and all and singular the corporate rights and privileges of the said company.

Purchase
money to be
paid into
bank.

SEC. 2. *And be it enacted*, That the moneys to be paid as the valuable consideration of the sale and conveyance of the said drawbridge, provided for in the preceding section, shall immediately on the receipt thereof, be paid into the Farmers' Bank at New Castle, for the use, benefit and behoof of the owners and proprietors of the respective shares of the capital stock of the said company, subject to the payment of all debts of the said company, and the expenses and charges that may be incurred in obtaining this act and effecting the said sale.

Money, how
apportioned
among the
stockholders.

SEC. 3. *And be it enacted*, That a public meeting of the said owners and proprietors of shares shall and may be holden at the court-house in the town of New Castle, within ten days after the sale, who shall have power by a resolution adopted at said meeting or any adjournment thereof, to direct, and whose duty it shall be to direct, order and apportion among the said proprietors respectively of the said capital stock, or the personal representatives of such of them as may be dead—the moneys so as aforesaid paid into said bank, which apportionment shall be made according to the ratio the same moneys bear to the amount of the said capital stock, subject nevertheless to the deduction to be made on account of the said debts, charges and expenses.

Cashier to
pay over—
when.

SEC. 4. *And be it enacted*, That a certified copy of the said resolution under the seal of the said corporation, shall within three days after its adoption be deposited in the said bank, and thereupon the cashier of the said bank shall pay to each of the said proprietors of the said stock or their personal representatives that part or portion of the said moneys directed by the said resolution to be so paid to each of the said proprietors; and also, that part thereby directed to be paid on account of the debts, charges and expenses aforesaid, to whom such part may be ordered to be paid.

Parts of the
original act
repealed in
case of sale.

SEC. 5. *And be it enacted*, That all the provisions and enactments of the said act of incorporation authorising and requiring the election of president and managers, treasurer and other officers of the said company, its powers and functions and responsibilities incurable by the said company, and the said president and managers, and prescribing duties to be performed by them, are hereby declared to be repealed in case of the sale and conveyance as afore-

said of the said drawbridge, its works, tolls, profits and appurtenances, as being inapplicable to the state and condition of the said drawbridge, and interest therein, after the said sale and conveyance thereof: *Provided always nevertheless, and be it enacted, That the* Proviso.

same provisions and enactments shall be in full force and virtue notwithstanding the said repeal of them so far as may be necessary to enable the said Levy Court, other body politic, or person or persons, to whom the said sale and conveyance may be made as aforesaid, to appoint the necessary officers touching the management and control of the said bridge, its interests, tolls, profits, works and appurtenances; to keep and maintain the said drawbridge and appurtenances in repair, to cause to be given the necessary attendances at the draw thereof, to enjoy the right and benefit of, and to collect and receive and compel payment of the tolls and commutation moneys established by the said act, and to have the benefit of its sanctions. *And provided further, and be it enacted, That the* Powers of the purchasers of said bridge.

keeper or person having the charge and care of the said bridge, for the time being, after the said sale and conveyance, shall be answerable for the damages in case of delinquency mentioned in the eighteenth section of the said act of incorporation instead of the said company, and that the said Levy Court or body politic, or person or persons in case of such sale and conveyance as aforesaid, shall provide for lighting the said bridge, and the toll keeper cause it to be lighted, as ordered, enacted by, and subject to the provisions in the fourteenth section of the said act of incorporation. *And further,* Bridge to be kept lighted up.

that the fifteenth section of the same act providing for protecting and preserving the said drawbridge and appurtenances from injury, destruction and damage, and the lamps from extinguishment, as [is] in like manner hereby declared to be, and continue in full force and effect from and after the sale and conveyance as aforesaid.

Passed at Dover, Jan. 14, 1830.



CHAPTER III.

AN ACT to repeal an act entitled "*An act to regulate the use of gill nets or gill seines in the river Delaware, to impose a tax thereon, and to provide for the payment of the same.*" New edition, p. 275.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled an act to regulate the use of gill nets or gill seines in the river Delaware, to impose a tax thereon, and to provide for the payment of the same, passed at Dover, February 12th, 1829, be and the same is hereby repealed. Repeal.

Passed at Dover, Jan. 15, 1830.

CHAPTER IV.

173. A SUPPLEMENT to the act entitled "*An act regulating the General Election.*"

Place of elec-
tion in Broad
Creek hun-
dred chang-
ed.

174. SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the first section of the act to which this is a supplement, be amended by striking out the words "now occupied by John Anderson," after the words "Broad Creek hundred at the house," and inserting the words "of Levin Vaughan of Charles." And the said sections shall be read, and construed according to the foregoing amendment.

Passed at Dover, Jan. 15, 1830.



CHAPTER V.

173. AN ADDITIONAL SUPPLEMENT to the "*Act regulating the General Election.*"

Preamble.
Art. 10, p. 29.

Whereas, It is declared by the Constitution of this State, [that] "no Convention shall be called but by authority of the people; and an unexceptionable mode of making their sense known, will be for them, at the general election of Representatives, to vote also by ballot for or against a Convention, as they shall severally choose to do." *And whereas,* doubts have arisen, whether under existing laws, it is the duty of the inspectors and freeholders, judges of elections, to tally down and make return of such votes so given as aforesaid:—

Duty of in-
spectors, &c.,
to tally votes
for or against
a Convention.

SEC. 1. *Be it therefore declared and enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it is the duty of the several inspectors and freeholders, judges of elections, in the respective hundreds of this State, at any general election of Representatives, to tally all the votes which may be given by the voters at such elections, either for or against a Convention.

Inspectors,
&c., to make
return, how.
179, 180.

SEC. 2. *And be it further enacted,* That it shall be the duty of the said inspectors and freeholders, judges as aforesaid, to make a return of all the votes, that may be tallied as aforesaid, at the same time, in the same manner, and at the same places, as are prescribed in the act to which this is a supplement, for making returns of the

Duty of sh-
riff, &c.
181, 182, &c.

election of Representatives; and it shall be the duty of the sheriff, or other presiding officer of the board of canvass, in each county, and the inspectors present at such board of canvass, before its adjournment, to make under their hands, four certificates of all the votes given for or against a Convention; one of which certificates,

the said sheriff or other presiding officer of the board of canvass as aforesaid, shall by himself, or by any person deputed for the purpose, deliver to the Governor, one to the Prothonotary of the county in which he shall reside, one to the Speaker of the Senate, and one to the Speaker of the House of Representatives, to be by them laid before their respective Houses.

Passed at Dover, Jan. 16, 1830.

CHAPTER VI.

A SUPPLEMENT to the act entitled "*An act to authorise the New Castle and Frenchtown Turnpike Company, heretofore incorporated by the name of the President, Managers and Company of the New Castle and Frenchtown Turnpike, to make a rail-road from the place called and known by the name of Clark's Corner, in the county of New Castle in this State, as far as the Maryland line, in a direction towards Frenchtown on Elk river.*" [7 vol. 319.]

Whereas, it appears to this Legislature, that certain provisions contained in the act to which this is a supplement, have prevented the said company from receiving subscriptions for the increase of their capital stock, sufficient to accomplish the liberal and beneficial purposes intended by the said act: **Preamble.**

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That turnpike the New Castle and Frenchtown Turnpike and Rail-road Company shall not be required to keep open and in good repair more than twenty feet in breadth of the turnpike road from Clark's Corner to Frenchtown. **Width of the road.**

SEC. 2. *And be it further enacted,* That the Directors of the said New Castle and Frenchtown Turnpike and Rail-road Company may procure and use on any rail-road which shall be constructed by them in virtue of the act to which this is a supplement, all machines, wagons, carriages and other vehicles which they may deem proper or necessary for the purposes of transportation on the said road; and they shall have power to charge and receive as tolls for using the said road, not exceeding three cents per ton, per mile; for the transportation of passengers, not more than five cents per mile, including customary baggage, not exceeding one hundred pounds weight for each; for transporting the whole distance any trunk, box, bale, basket or package, not being the baggage, or part of the baggage of a passenger, and not exceeding one hundred pounds weight, twelve and a half cents; and it shall not be lawful for any other company, or any person or persons whatsoever, to travel upon or use any part of the said rail-road, or to transport **Powers of the company in procuring machines, wagons, &c.** **Tolls.** **No other company or person to use the rail-road without license.**

persons or property of any description thereon, without the license or permission of the said directors.

New Castle
Turnpike Co.
and New
Castle and
Frenchtown
Turnpike Co.
may be
united.

Meeting may
be called,
when.

Notice of
such meeting

New corpo-
rate name.

Rights and
powers of
the company.

Repeal of—
§ 6, 11 of ch.
158—7 v.
323—5.

Part of sec.
10.

This act and
ch. 58, 7 v.
319, declared
to be in force

Sec. 3. *And be it further enacted*, That the president and managers of the New Castle Turnpike Company, or a majority of them, and the president and managers of the New Castle and Frenchtown Turnpike Company, or a majority of them be, and they are hereby authorised and required, at any time after the increased stock of each of the said companies shall have been subscribed, and five dollars paid on each share thereof, to call a meeting of the stockholders of the New Castle Turnpike and Rail-road Company, and of the New Castle and Frenchtown Turnpike and Rail-road Company; first giving at least three weeks notice of the time, place and object of such meeting in one newspaper published in the city of Philadelphia, one in the city of Baltimore, one in Cæcil county, in the State of Maryland, and one in the State of Delaware; and at the said meeting the holders of the major part in amount of the stock of each of the said turnpike and rail-road companies, attending in person or by proxy, shall be competent to decide whether or not the said turnpike and rail-road companies shall be united, and together form one body politic and corporate upon such terms and stipulations as by them shall be deemed proper and expedient; and if at such meeting it be decided that the said turnpike and rail-road companies shall be united, and together form one body politic and corporate, it shall be so certified in writing to the recorder of deeds for New Castle county, who is hereby required to record the same: and thereupon and immediately thenceforth, the said New Castle Turnpike and Rail-road Company, and the said New Castle and Frenchtown Turnpike and Rail-road Company shall be, and are hereby created one body politic and corporate, in fact and in law, by the name, style and title of "The New Castle and Frenchtown Turnpike and Rail-road Company;" and by and under that corporate name, the holders of the stock of the said turnpike and rail-road companies, so united as aforesaid shall hold, possess and enjoy, all the property, rights and privileges, and exercise all the powers, granted to and vested in the said turnpike and rail-road companies, or either of them, by this or any other law or laws of this State.

Sec. 4. *And be it further enacted*, That the sixth and eleventh sections of the act to which this is a supplement, and so much of the tenth section of the said act whereby "the State reserves the right to alter or abolish said charter at any time after the period of twenty years from the completion of said road, on providing that such compensation shall be made to the stockholders as the Legislature shall deem reasonable;" and all such parts of the said act as by this act are altered or supplied, shall be and the same are hereby repealed, made null and void.

Sec. 5. *And be it further enacted*, That this act and the act to which this is a supplement (except such parts thereof as are hereby repealed, altered or supplied) shall be, and are hereby declared to

be in full force and effect, in the same manner, and to all intents and purposes, as if the Legislature of Maryland had passed a law similar in all its provisions to this and the act to which this is a supplement, and all things heretofore done under the said act, are hereby declared to be valid and effectual. in the same manner as if the Maryland Legislature had passed a like law.

SEC. 6. *And be it enacted*, That the State hereby reserves the right to alter or abolish said charter at any time after the period of thirty years from the completion of said road, on providing that such compensation shall be made to the stockholders as the Legislature shall deem reasonable. Reservation of the right to alter this charter.

Passed at Dover, Jan. 16, 1830.



CHAPTER VII.

A SUPPLEMENT to the act entitled "*In act to authorise the New Castle Turnpike Company to make a rail-road from the town of New Castle to the place called Clark's Corner.*" [7 vol 313.]

Whereas, it appears to this Legislature that certain provisions contained in the act to which this is a supplement, have prevented the said company from receiving subscriptions for the increase of their capital stock, sufficient to accomplish the liberal and beneficial purposes intended by the said act:— Preamble.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the directors of the New Castle Turnpike and Rail-road Company, in locating and constructing the rail-road authorised by the act to which this is a supplement, shall be, and are hereby vested with full power to commence the said rail-road, at any point on the river Delaware within the town of New Castle, and thence extend the same up and along Delaware street, or any other street or streets, or ground, within the said town, as the more beneficial and convenient construction of the said rail-road may require. Power of the company in the location of the rail-road.

SEC. 2. *And be it further enacted*, That the said New Castle Turnpike and Rail-road Company, shall not be required to keep open and in good repair, more than twenty feet in breadth of the turnpike road from New Castle to Clark's corner. Width of the turnpike road.

SEC. 3. *And be it further enacted*, That the said directors may procure and use on any rail-road, which shall be constructed by them in virtue of the act to which this is a supplement, all machines, wagons, carriages and other vehicles, which they may deem proper or necessary, for the purposes of transportation on the said road; and they shall have power to charge and receive as tolls for using Powers of the company in procuring machines, wagons, &c., Tolls.

the said road, not exceeding three cents per ton, per mile; for the transportation of passengers, not more than five cents per mile, including customary baggage, not exceeding one hundred pounds weight for each: for transporting the whole distance any trunk, box, bale, basket or package, not being the baggage, or part of the baggage, of a passenger, and not exceeding one hundred pounds weight, twelve and a half cents; and it shall not be lawful for any other company or any person or persons whatsoever, to travel upon or use any part of the said rail-road, or to transport persons or property of any description thereon, without the license or permission of the said directors.

No other company or person to use rail-road without license.

New Castle Turnpike Co. and New Castle and Frenchtown Turnpike Co. may be united.

Meeting to be called, when.

Notice thereof.

New corporate name.

Rights and powers of the company.

Reservation of the right to alter, &c., this charter.

SEC. 4. *And be it further enacted,* That the president and managers of the New Castle Turnpike Company, or a majority of them, and the president and managers of the New Castle and Frenchtown Turnpike Company, or a majority of them, be, and they are hereby authorised and required, at any time after the increased stock of each of the said companies shall have been subscribed, and five dollars paid on each share thereof, to call a meeting of the stockholders of the New Castle Turnpike and Rail-road Company, and of the New Castle and Frenchtown Turnpike and Rail-road Company, first giving at least three weeks notice of the time, place and object of such meeting, in one newspaper published in the city of Philadelphia, one in the city of Baltimore, one in Cecil county, in the State of Maryland, and one in the State of Delaware; and at the said meeting, the holders of the major part in amount of the stock of each of the said turnpike and rail-road companies attending in person or by proxy, shall be competent to decide whether or not the said turnpike and rail-road companies shall be united, and together form one body politic and corporate upon such terms and stipulations as by them shall be deemed proper and expedient; and if at such meeting it be decided that the said turnpike and rail-road companies shall be united, and together form one body politic and corporate, it shall be so certified in writing to the recorder of deeds for New Castle county, who is hereby required to record the same: and thereupon and immediately thenceforth, the said New Castle Turnpike and Rail-road Company, and the said New Castle and Frenchtown Turnpike and Rail-road Company shall be, and are hereby created one body politic and corporate, in fact and in law, by the name, style and title of "The New Castle and Frenchtown Turnpike and Rail-road Company;" and by and under that corporate name, the holders of the stock of the said turnpike and rail-road companies, so united as aforesaid shall hold, possess and enjoy, all the property, rights and privileges, and exercise all the powers, granted to and vested in the said turnpike and rail-road companies, or either of them, by this or any other law or laws of this State.

SEC. 5. *And be it enacted,* That the State hereby reserves [the] right to alter or abolish said charter at any time after the period of thirty years from the completion of said road; providing that such compensation shall be made to the stockholders as the Legislature shall deem reasonable.

SEC. 6. *And be it further enacted*, That the sixth, ninth and eleventh sections of the act to which this is a supplement, and so much of the said act as by this act is altered or supplied, be and the same are hereby repealed, made null and void. Repeal of
sec. 6, 9 and
11 of ch. 47,
7 v. 317, 318.

Passed at Dover, Jan. 16, 1830.

CHAPTER VIII.

AN ACT to incorporate "*The Union Line Transportation and Steamboat Company*," between Philadelphia and Baltimore.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That John Janvier, Thomas Janvier, Bankson Taylor, James Lefever, Matthew C. Jenkins, William Whilden, Joseph Smith, Jonathan Smith, William Peterson, David Hill and William J. Watson, and all and every of the persons who shall at the time of the passing of this act be members or partners of the association called and known by the name of "*The Union Line Transportation and Steamboat Company*," and the persons who shall hereafter become members, according to the provisions hereinafter contained, shall be, and they are hereby created and declared to be a body corporate and politic, by the name of "*The Union Line Transportation and Steamboat Company*," and they and their successors by the name of "*The Union Line Transportation and Steamboat Company*," shall and may have continual succession during the term of twenty-one years from and after the passing of this act, and shall be able to sue and be sued, implead and be impleaded, in all courts of record or elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors, lands, tenements and hereditaments, goods and chattels, of what nature or kind soever, real, personal or mixed, and choses in action, and the same from time to time, to sell, grant, alien, demise, mortgage, pledge or dispose of, and also to make and have a common seal, and the same to alter and renew at pleasure; and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall appear necessary and convenient for the government of the said corporation, not being contrary to the laws and constitution of this State, or of the United States, and generally to do all and singular, the matters and things which to them it shall lawfully appertain to do, for the well being of the said corporation, and the due management and ordering of the affairs thereof: *Provided*, that the powers, privileges, rights and franchises herein and hereby granted, are upon the express condition that the Legislature of this State shall at all times hereafter, have the power to revoke, repeal, alter, amend and modify the same, as to the said Legislature shall seem expedient or proper.

Company in
incorporated.

Name.

Powers.

Proviso.

Joint stock,
&c. of the
present asso-
ciation trans-
ferred to the
company
now incorpo-
rated.

And also the
contracts,
debts, &c.

Proviso.

Constitution
established
for the com-
pany.

Capital
stock.

Stock—how
increased.

General
meetings of
stockholders
—when held.

Notice.

SEC. 2. *And be it enacted*, That all the joint stock and all other the real estate, personal and mixed, and all the sureties, dues, claims and demands, and all the records, books, papers, vouchers and other documents whatsoever, in anywise belonging to, or held or claimed, by the said association or persons named in the first section of this act, shall be transferred to, and vested in, the said corporation of "The Union Line Transportation and Steamboat Company," hereby created, as absolutely and completely to all intents and purposes as shall then respectively belong to, or be held and claimed by the said association or partnership, or by their officers and agents for their use; and also all the contracts and other engagements, debts, obligations and assumptions whatsoever, for the said association or partnership, entered into, made, subsisting, due, or payable, or to become due or payable, at the time of the passing of this act, shall henceforth become, and be as obligatory and binding upon the said incorporation of "The Union Line Transportation and Steamboat Company" hereby created, to all intents and purposes as if the same respectively had been entered into, made and constructed by the said company, subsequent to the incorporation thereof: *Provided*, that nothing in this section contained shall impair the rights of creditors and others having claims against the said association or partnership; but the same may be enforced in the same way as if this act had not passed.

SEC. 3. *And be it enacted*, That from and after the passing of this act, the following constitution shall be deemed the constitution of "The Union Line Transportation and Steamboat Company" hereby created, that is to say:—

ARTICLE 1. The capital stock of the said "The Union Line Transportation and Steamboat Company," shall be two hundred and fifty thousand dollars, with privilege to increase to five hundred thousand dollars, divided into shares of one hundred dollars each; and the present capital stock of the said company may at any time be increased to such extent as shall be deemed necessary to complete the establishment, at the discretion of the company, by increasing the number of shares to that extent and opening books to receive subscriptions therefor: the said capital stock to be employed by the said company for the establishment of steamboats, vessels and stages or other carriages for the conveyance of passengers, and transportation of merchandise and other articles, to ply on the Delaware, and on the water of the Chesapeake bay, or the waters thereof: *Provided*, that nothing in this State shall be construed to to prevent their taking up, or landing passengers at any intermediate point or points.

ART. 2. A general meeting of the stockholders shall be held on the first Monday of January, in each succeeding year, at such place as the said company, or a majority of them, may think proper, or in default thereof (the corporation shall not for that cause be dissolved) the president shall from time to time appoint, whereof two weeks notice shall be given in one daily newspaper published

in Philadelphia, one newspaper published in the State of Delaware, and one daily newspaper published in Baltimore; and the said stockholders, between the hours of ten and three of the clock of that day, shall in person or by proxy, elect by ballot, by a majority of votes of them or their proxies present, each being entitled to one vote for every share of stock held, five directors, being stockholders, to serve for one year next after their election, and until successors to them shall be duly chosen. Directors.

ART. 3. In case either of the directors shall transfer the whole of his or their shares of stock in this company, the office of such director or directors shall thereupon be vacated; and in case of a vacancy in the office of a director, by any means or for any cause whatever, the remaining directors shall supply the same, and the directors so chosen, shall have the same powers, and be considered in all respects as if elected by the stockholders. Office of director vacated by transfer of his stock.
Vacancies—how filled.

ART. 4. The directors at their first meeting after their election, shall choose from their body a president, treasurer and secretary, to serve for one year thereafter, and until successors to them shall be duly chosen; they, the president and directors, shall meet at such times and places, and be convened in such manner as they from time to time may agree on, for transacting their business; three directors shall constitute a quorum for the transaction of business, and if the president be absent, they may choose a president pro tempore:—they shall keep correct minutes of all their transactions, in a book to be provided for that purpose; they shall have full power to employ, agree with and appoint, such engineers, artists, superintendents and others, as they shall think necessary for the making, repairing, constructing and finishing, on the most liberal and improved plan, such steamboats, vessels and stages, or other carriages, for the conveyance of passengers and transportation of merchandise and other articles, as they may deem expedient; procure, by purchase or otherwise, steamboats, suitable sites, landings and accommodations, and cause convenient wharves, docks, piers and slips to be built thereon; purchase materials; fix on, and agree with, persons employed and engaged by them, their respective wages and compensations; call on the stockholders for moneys due in their respective shares in such instalments as may be required, and to do such other duties as may be necessary to insure the completion and conduct of the business: make by-laws, and do such other acts as may be necessary for the purposes contemplated by this act, and the same shall be binding on the stockholders, and to call a meeting of the stockholders, giving notice as is required in the second article. President, Treasurer, Secretary.
Powers of directors.

ART. 5. The treasurer shall receive the cash, securities, leases, deeds and other papers, belonging to the company, and from time to time pay, dispose of, and deliver the same according to the order of the directors; he shall keep regular and fair books and accounts of his receipts and disbursements, and shall, before entering upon the duties of his office, give such bond and security for the due and Duty of Treasurer.
His bond.

faithful discharge thereof, and for accounting for, and delivering up to his successor in office, all the moneys, securities, deeds, effects and papers, which may remain in his hands, as the board of directors may require, which bond shall be held by the president.

Stock assign-
able—how.

ART. 6. The shares in the capital stock of the said company shall be deemed personal estate, and be assignable and transferable at pleasure, in person or by attorney, in a book to be kept for that purpose, in the presence of the president or treasurer, subject to the instalments due thereon; and if any stockholder, either of the shares of the present capital stock, or of the shares which may be added thereto, after twenty days notice given, as is required in the second article, of the time and place appointed for the payment of any instalment of stock, shall neglect to pay such instalment for thirty days next after the time so appointed, every such stockholder shall

Forfeiture of

forfeit to the use of the company all his, her or their shares of stock, and every previous payment made thereon, and cease to be a member; which shares of stock, so forfeited, shall and may be sold by the president and directors for the time being, for such prices as can be had for the same, and the purchaser or purchasers thereof shall be considered members of the company as fully as if they had been originally stockholders.

Salaries, &c.

ART. 7. That the said directors shall have power to fix the salaries, compensation or wages of all persons employed or appointed by them, regulate the prices of transportation of passengers and goods, declare dividends, (retain such surplus funds as they see proper,) and do other acts necessary or expedient to enable them to manage the property of the company to the best advantage.

Dividends.

Restriction of
the powers
of the company.

SEC. 4. *And be it enacted*, That nothing in this act contained, shall authorise the said company to employ any part of their funds, for any other purposes than those before specified in this act, or to engage in any banking operation.

Passed at Dover, Jan. 19, 1830.



CHAPTER IX.

AN ACT concerning the revised edition of the Laws.

Acts includ-
ed in the re-
vised edition,
to be constru-
ed as they are
printed
therein.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the acts of the General Assembly included in the revised edition of the laws, published pursuant to the "Act directing a new edition of the Laws" shall be read and construed, as the same stand printed in said edition. This shall not apply to any statement inclosed in brackets,

or parenthesis, intended to express a summary of any act, section or clause; but such statement shall be admissible as evidence. 31.
Exception.

The second section of the "Act for easing scrupulous consciences in the mode of taking an oath" has been, and is repealed. 418.

Passed at Dover, Jan. 19, 1830.



CHAPTER X.

AN ACT to repeal certain provisions not heretofore expressly repealed, but supplied or inapplicable, and therefore not included in the revised edition of the Laws, and to confirm certain corrections made in said edition in certain acts.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the "Act to limit suits on constables' bonds;" and the seventh section of the "Act to prevent infectious diseases, being brought into this State, and for other purposes;" and the fifth section of the "Act laying duties on licenses to retailers of foreign goods, wares and merchandise;" and the fifth section of the "Act concerning negroes and mulattoes;" and the eighth section of the "Act for the more easy and speedy recovery of legacies;" and the eighth section of the "Act to authorise and empower the owner or possessor of any swamp or low ground, to ditch or drain the same, &c.;" and the second section of the supplement of 4th Feb. 1817 thereto; and the twenty-fourth section, and the clause following the word "dollars," both in the tenth and thirteenth sections of the "Act for the valuation of real and personal property within this State;" and all the part of the ninth section of the "Act directing the manner of suing out attachments within this government" from the words "and if any person" inclusive, to the end of said section; and the part of the third section of the "Act concerning sales of the real estate of deceased persons by executors or administrators for the payment of debts," from the words "but if in any action or proceeding upon such mortgage" inclusive, to the words "for that purpose;" and the part beginning with the words "and to hear" and ending with the words "agreeable to equity" of the third section of the act for the better regulation of the Supreme Court within this government;" and the part beginning with the words "and all recognizances" and ending with the words "embezzeling of the same" of the second section of the "Act for the establishing courts of law and equity within this government; and the part beginning with the words "and the clerk or prothonotary shall be allowed" of the fourteenth section of the "Act concerning awards, to regulate the summoning and returning juries, and for lessening the expense thereof, &c." and continuing to the end of said section, and clause beginning with the words "by a summons" and ending with the word "jury" Repeal of
ch 53 6, v 72.
§7 of ch. 134
c. 2 v. 1357.
§5 of ch. 47,
6 v. 59.
§5 of ch. 124
4 v. 339.
§8 of ch. 183
a 1 v. 411
§8 of ch. 78,
5 v. 136.
§2 ch. 142.
v 5, 242.
parts of ch.
98, c. 2 v.
1259, 1253,
1255.
part of §9,
ch 200, a 1
v. 465.
part of §3 ch.
140, 7 v. 277.
part of §3 ch.
167, a 1 v.
376.
part of §2 ch.
54 a 1 v. 122.
part of §14,
ch. 48, 4 v.
454.
parts of ch.
198, a. 1 v.

454. of the fourth section, and the words "and to be levied in such man-
 452. ner" in the second section, and the words of like import in the third
 453. section of the supplement of March 24, 1770, to the "Act for regu-
 lating fences within this government;" and the words "towards all
 the king's subjects" in the "Act about binding to the peace;" and
 the words "pursuant to the act for the better regulation of servants
 and slaves within this government" of the forty-fifth section of the
 "Act providing for the recovery of small debts," be and the same
 are hereby repealed and annulled.

part of ch. 4
 a 1 v. 52
 part of §45,
 ch. 263, 6 v.
 479.

Certain parts
 of the revised
 edition of the
 laws confirm-
 ed. 122.
 173.
 198.
 31.

SEC. 2. *And be it further enacted*, That the "Further supplement to the act to alter the times of holding the courts of law and equity in this State; and the "Act regulating the General Election;" and the "Act for the appointment of escheators, and to declare and regulate escheats" shall be confirmed and have effect, as the same stand printed in the revised edition of the laws, published pursuant to the "Act directing a new edition of the laws." The places of holding elections, to which dates are annexed in the margin of said "Act regulating the General Election" in said edition, shall be considered as appointed at said dates respectively. Every license of a turnpike company heretofore made, exempting electors from the payment of tolls going to or returning from any election shall remain valid, and the record thereof in the office for the recording of deeds in New Castle county, shall be evidence.

Passed at Dover, Jan. 22, 1830.



CHAPTER XI.

AN ACT to provide for the distribution and sale of the revised edition of the Laws of the State of Delaware.

Secretary of
 State to dis-
 tribute the
 revised edi-
 tion of the
 laws—how.

Duty of the
 Prothonotary
 here.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the Secretary of State shall distribute and dispose of the said revised edition of the laws in the following manner: he shall deliver one copy to the Governor, nine to the Senate, twenty-one to the House of Representatives; he shall transmit two copies to the library of Congress, and three to the Executive of each State and Territory of the United States; he shall retain fifty copies in the Secretary's office for the purpose of interchange, agreeably to law, and the remainder he shall, from time to time, as the demand for the same may require, distribute among the prothonotaries of the several counties. Of the copies so received by each prothonotary, he shall deliver one to the Clerk of the Supreme Court, one to the Clerk of the Peace, one to the Clerk of the Orphans' Court, and one to the Register in Chancery of his county, and shall retain one for himself. Each officer to whom such copy shall be delivered, shall

carefully preserve the same for the use of the courts, and deliver it over to his successor in office. The residue of said copies, the said prothonotaries shall sell at two dollars per copy; and, after retaining five per centum out of the amount received from the sales thereof, it shall be their duty to account with, and pay over to the Secretary of State, for the use of the State, the balance in their hands every three months.

Revised edition to be sold at \$2 per copy. Proceeds, how accounted for.

SEC. 2. *And be it further enacted,* That five hundred copies of the said revised edition of the said laws, shall be deposited in the Secretary's office, without binding, and the Secretary is hereby authorised to have the said copies bound up as the future demand for the same may require.

500 copies to be retained unbound—when to be bound up.

Passed at Dover, Jan. 26, 1830.



CHAPTER XII. (Private act.)

AN ACT for the relief of Augustine H. Pennington, a non-resident insolvent prisoner.

Passed at Dover, Jan. 19, 1830.



CHAPTER XIII.

AN ACT to grant and confirm the escheated lands at Cantwell's Bridge in New Castle county, to the several owners thereof. [6 vol. 82.]

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That upon application being made to the Governor of the State of Delaware, by any person or persons holding as owner or owners, any lot or lots, or any part or parts of any lot or lots, of the escheated lands at Cantwell's Bridge, in New Castle county, which were sold on or about the eleventh day of May, in the year of our Lord one thousand eight hundred and twenty-one, at public auction by John Lowber, Esquire, then escheator of said county; and, upon such certificate being presented to the Governor, as is mentioned in the second section of this act, then, and in such case, it shall and may be lawful, to and for the Governor of the State of Delaware, and he is hereby required to grant, convey, assure and confirm, unto such person or persons so holding and making application as aforesaid, and to his, her, or their heirs and assigns forever, by some good and sufficient deed or deeds of bargain or sale, to be executed under the great seal of the State, all the estate, right,

Titles to these lands, how procured.

title, interest, property, claim and demand whatsoever of the State of Delaware, of, in or to, all or any of the said lot or lots, or part or parts thereof, held as aforesaid, by the person or persons making application as aforesaid, whether such person or persons, hold the same as original purchasers at the public auction aforesaid, or as deriving their title by, through, from or under such original purchasers, or any of them.

Plot to be
filed in the
Secretary's
office.

SEC. 2. *And be it further enacted*, That before application shall be made to the Governor as aforesaid, by virtue of this act, a duly certified copy of the division and plot of the said escheated lands made by the commissioners appointed to survey and divide the same, and recorded in the office for recording of deeds in and for New Castle county, shall be filed in the office of the Secretary of State, and the person or persons intending to make such application shall also first prove to the satisfaction of the Secretary of State, the payment by them respectively, or by the original purchaser or purchasers, under whom they severally derive their respective titles, their several and respective parts, shares, or proportions of the purchase money, for which such lot or lots, or part or parts thereof, of the said escheated lands were originally sold at public auction as aforesaid, and upon such proof being so made, it shall be the duty of the Secretary of State, and he is hereby required, immediately to certify the fact to the Governor of the State, with a general description of the premises to be so conveyed.

Passed at Dover, Jan. 20, 1830.



CHAPTER XIV.

AN ACT to secure to the Clerk of the High Court of Errors and Appeals the payment of his fees.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That in all causes hereafter carried to the High Court of Errors and Appeals, the party plaintiff or appellant shall, upon suing out his writ of error, or entering the appeal, deposit in the hands of the clerk of the said court, the sum of five dollars, as a security for the payment of the fees which may become due to the said clerk, in the progress of the said cause.

Appellant to
deposit \$5 as
a security for
office costs in
the appeal.

Duty of the
clerk.

SEC. 2. *And be it enacted*, That upon the decision in the said court of appeals of a cause in which a deposit shall have been made as aforesaid, the clerk of the said court shall immediately make out and enter upon the record, a bill of the costs in such cause; and after deducting his own fees, shall, upon demand, pay over the balance of said deposit, if any, to the party plaintiff or appellant,

or to his attorney; and, on failure to pay over such balance as aforesaid, upon demand thereof made, the said clerk shall be deemed guilty of a misdemeanor in office, and upon conviction thereof, shall forfeit his office.

Passed at Dover, Jan. 20, 1830.



CHAPTER XV. (Private Act.)

AN ACT to enable the administrator, c. t. a., of John Wilson, carpenter, deceased, to sell and convey a house and two lots therein mentioned.

Passed at Dover, Jan. 18, 1830.



CHAPTER XVI. (Private Act.)

A SUPPLEMENT to the act entitled "An act granting to Elias Hopkins and Samuel Fisher, a certain piece of land therein mentioned." [7 v. 282.]

Passed at Dover, Jan. 19, 1830.



CHAPTER XVII.

AN ACT to extend the time for the recording of deeds.

Whereas, by the second section of an act of the General Assembly of this State, entitled "An act concerning conveyances" passed at Dover, on the fifth day of February, in the year of our Lord one thousand eight hundred and twenty-nine, it is provided that after the first day of January, in the year of our Lord one thousand eight hundred and thirty, a deed or letter of attorney concerning lands, tenements, or hereditaments, shall not be recorded, unless lodged in the office for recording of deeds, in the county wherein such lands, tenements or hereditaments, or any part thereof are situate, within one year after the day of the sealing and delivering such deed, or letter of attorney: And whereas, it is represented to this Legislature, that from the lateness of the time of publishing the acts of the General Assembly of this State, passed at their last session, sufficient publicity has not been given to the prohibition con-

Preamble.
90.

tained in the said second section of the aforesaid act entitled "An act concerning conveyances;" by reason whereof, many deeds and letters of attorney cannot now be recorded.

Time for recording deeds extended to 1 Sep. 1830.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all deeds or letters of attorney concerning lands, tenements or hereditaments, sealed and delivered before the first day of September in the year of our Lord one thousand eight hundred and twenty-nine, and being acknowledged or proved, and the acknowledgment or proof certified according to the laws of this State in force at the time when such acknowledgment or proof was made, may, with the certificate of the acknowledgment or proof, and all endorsements and annexations, be recorded in the office for recording of deeds in the county wherein such lands, tenements or hereditaments, or any part thereof are situate, if lodged in such office on or before the first day of September, in the year of our Lord one thousand eight hundred and thirty; and the said record, or an office copy thereof, shall be sufficient evidence; and from and after the said first day of September, in the year last aforesaid, no deed or letter of attorney, sealed and delivered before the said first day of September, in the year of our Lord one thousand eight hundred and twenty-nine, shall be recorded.

This act to be published in the newspapers.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of State, and he is hereby required to publish for the space of two months from the first day of March next, a copy of this act, in three or more newspapers printed within this State.

Passed at Dover, Jan. 21, 1830.



CHAPTER XVIII. (Private Act.)

AN ACT *authorising and empowering Samuel Battersby, guardian of Peter McCallmont, personally, or by his attorney in fact, to sell and convey a certain lot of ground in the town of New Castle, belonging to the said minor.*

Passed at Dover, Jun. 19, 1830.



CHAPTER XIX. (Private Act.)

AN ACT *to enable the executors of William Lindsey, late of New Castle county, deceased, to sell his real estate.*

Passsd at Dover, Jan. 23, 1830.

CHAPTER XX.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act to authorise and empower the owners or possessors of any swamp or low ground to ditch and drain the same, and for rendering more easy and convenient the mode of obtaining permission therefor.*" 158. 161.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever the owners of any swamp or low ground, or a majority of such owners, shall deem it fit to have such swamp or low ground ditched and drained, such owners or a majority of them, may prefer a petition to the Supreme Court or Court of Common Pleas, settling in the county in which such swamp or low ground may be, praying an order to appoint three freeholders; and the said court, to which such petition may be preferred, shall thereupon appoint three good and substantial freeholders of the neighborhood, whose duty it shall be to do and perform the services required by the act to which this is an additional supplement, and by the several supplements thereto; and all the provisions of the said acts now in force shall be, and are hereby extended to the Supreme Court in as ample a manner as if the said Supreme Court had been named in the said acts. Supreme Court authorised to appoint freeholders to view low grounds, lay out ditches, &c.

Passed at Dover, Jan. 23, 1830.



CHAPTER XXI.

A SUPPLEMENT to the act entitled "*An act for the establishment of Free Schools.*" 486.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all and every the provision and provisions of the act to which this is a supplement, which required the performance or doing of any duty or thing, the time for the performance or doing of which is expired, is and are hereby declared to be in full force, and so shall continue for the term of one year longer than in said act is limited; and all acts, matters and things, required to be done by said act within such time so expired as aforesaid, provided the same be done within one year thereafter, shall be as good and available, as if the same had been done within the time limited in the aforesaid act to which this is a supplement: *Provided however,* that the neglect of the Levy Court of Sussex county to cause the returns of the commissioners appointed to district the said county, to be published agreeably to the act to which this is a supplement, shall not operate to the dis- Time allowed for the performance of certain acts—extended. Limitation. Proviso.

Number of
commission-
ers in N. C.
Co.

Oath of com-
missioners—
vacancies.

Sum or bal-
ance to the
credit of a
district at the
end of the
year, to re-
main *three*
years—
how drawn—
when forfeit-
ed.

Proviso.
Fund to be
drawn on
raising a sum
equal to *one-*
half its am't.

Assessment
lists—
how made.

What they
shall consist
of.

Exceptions.

Rates to be
taken from
the hundred
assessments.

advantage of the districts of said county, nor to make a publication of said returns necessary, but that the school districts in said county may and shall enjoy all the rights and benefits of this act and of the act to which this is a supplement, in as full and ample a manner as if such publication had been made: but instead of five commissioners, according to the provisions of said act, the Levy Court and Court of Appeals in New Castle county, shall appoint one commissioner in each hundred in said county, to divide the same into convenient school districts; and they or a majority of them acting together, shall divide the county as directed in said act. The commissioners so appointed, shall be sworn or affirmed, and vacancies filled, in the same manner as directed in the said act to which this is a supplement.

SEC. 2. *And be it further enacted,* 'That any sum or balance remaining to the credit of a school district in either county, at the end of the year, shall continue to remain to the credit of the said district for three years, and draughts may be drawn thereon in the same manner, and subject to the same restrictions as provided in the fourth section of the act to which this is a supplement; but any balance thereof, which shall remain undrawn at the expiration of the said three years, shall be carried to the portion of the income of the school fund, divisible among the school districts in the same county the next year, and shall increase the amount to be divided among said districts: *Provided however,* that if the voters in any school district within this State, shall raise by subscription, or by tax in any one year, a sum equal to one-half of said district's share of the distributive portion of the school fund for that year, and shall certify the same to "The Trustees of the Fund for establishing Free Schools within this State," agreeably to the provisions of the act to which this is a supplement, then every such district shall be entitled to its equal and full share of the said distributive portion of said school fund, and also to the whole amount of money that may stand to the credit of said district upon the books of the said trustee, any thing in the act to which this is a supplement contained to the contrary notwithstanding.

SEC. 3. *And be it further enacted,* 'That it shall be the duty of the school committees of the several and respective school districts within this State, to make an assessment list for their respective districts. The assessment list for the district shall consist of the rates of persons of all the white male inhabitants of the district, of the age of twenty-one years or upwards, of the valuations of the personal property of all the white inhabitants of the district, and of the clear rental value of all the real estate within the district, (real estate owned by any person of color, and real property not chargeable with the public assessment according to the law of this State, excepted.) The rates of persons and valuations of personal property shall be taken from the assessment list of the hundred on which the inhabitants of the district respectively stand assessed for the time being; and if such rate or valuation, in case of any inhabit-

ant who ought to be rated, on [or] whose personal property ought to be valued, is not upon the assessment list of any hundred in the county, the committee shall assess the rate of person, or value the personal property, according to the laws of this State, and practice in the county; they shall also assess the clear rental value, beyond reprises, of all the real estate in the district, except as before excepted; and they shall compose the assessment list, setting down the names of all the persons assessed in the alphabetical order of the surnames, and against the respective names, the rate of persons, valuation of personal property, number of acres, or other description of real property, and the clear rental values respectively. A copy of said list, when made, shall be posted or hung up in some public and suitable place of the district for inspection; and, at the same time the committee shall, by advertisements in five at least of the most public and suitable places in the district, give notice of the place where such copy is, and of a day, hour and place, when and where they will attend to hear objections to the assessment; which day shall be at least five days from the day of giving such notice. Upon hearing and examination, the committee shall make all just corrections in such list, and shall insert therein any rate or assessment omitted, and shall settle the same according to justice and equity; but they shall not alter a rate or valuation taken from the assessment list of a hundred; they may adjourn if necessary. The list when settled, shall be conclusive, and shall stand until the year when a general rate of persons and valuation of personal property in each hundred in the county shall be returned; after which, in the same year, an assessment list for each school district shall be made; but every year the committee shall make any proper additions in case of other persons or property becoming liable to be assessed, or being before omitted, and necessary alterations, in case of death or removals; and in respect to additional assessments they shall give notice, and proceed in the manner before prescribed for the original assessment.

How completed.

Rental value of lands.

Lists, how composed.

Copy of lists to be posted.

Notice thereof.

Objections to —how heard. Corrections of.

No rate taken from the hundred assessment to be altered.

How long these lists shall stand.

The proceedings of the committee in making an assessment list shall not be questioned except on the ground of fraud or corruption. If the sum to be raised in a school district according to the resolution of a majority of the school voters is not made up by subscription or otherwise, for the benefit of the district, within four weeks after the meeting, the school committee shall add to the said sum the rate of ten per cent. thereon, to cover fees of collection of the assessment and delinquencies, and shall determine the rate on every hundred dollars of the amount of the assessment necessary to make the amount of said sum and addition, and issue to the collector of the district a warrant under the hands and seals of them or any two of them, with a duplicate of said assessment list annexed for the collecting of the said rate, and to execute the said warrant, the said collector shall proceed in the manner, and have all powers prescribed by the eighth section of the "Act concerning the Levy Court, clerk of the peace, assessors, collectors and county treasurers." The warrant may be in this form.

Lists not to be controverted but for fraud, &c. Duty of committee in case of failure to raise the sum fixed by school voters.

Warrant to collectors.

Manner of executing said warrant.

Form of war-
rant.
379.

— County, School district No. —, ss.

The State of Delaware. To the Collector of said District:

We command you to collect from the respective persons named in the annexed duplicate, the rate of — on every hundred dollars of the amount with which they respectively stand assessed, according to said duplicate, and the like rate on every less sum; and if either of said persons shall not in ten days after demand, pay the sum which you are required to collect from him or her, you are authorised to proceed in the manner and use all the means prescribed by the eighth section of the "Act concerning the Levy Court, clerk of the peace, assessors, collectors and county treasurers," passed at Dover, February 4, 1825.

Given under the hands and seals of the subscribers, members of the school committee of the district aforesaid, the — day of —, 18—.

Ex'r. &c. of
a collector
may execute
warrant.
Collector's
oath evi-
dence—when

Death or re-
moval of
taxables.

Collectors to
pay over in
thirty days.

The executor or administrator of a collector may execute the warrant and exercise all the powers which he could exercise. The oath or affirmation of the collector, or of his executor or administrator, shall be received as evidence to prove the demand, and in respect to every non-resident of the district, the issuing of the warrant shall be deemed a demand of the rate, and no other demand shall be necessary to authorise proceedings to levy the rate. If a person liable to pay a rate removes from the district, or dies without payment, it shall be deemed a debt due to the collector, and may be proceeded for before a justice of the peace, like other debts of the same amount; and in case of a deceased person, it shall be of superior dignity to a judgment against the deceased in his life time. The collector shall within thirty days after receiving the warrant, pay to the school committee the balance of the amount which he is required to collect, after deducting delinquencies to be allowed by the committee, and five per cent. on the sum collected, for his fees.

Adjoining
districts may
establish a
union school
for small
children.

Sec. 4. *And be it further enacted*, That the respective school committees of adjoining districts shall have power, when in their opinion circumstances require it, to make such arrangements in establishing a school for small children, over the age of five years, for the joint benefit of such adjoining districts as they may deem proper.

No tax to be
laid but by
the vote of a
majority of
school voters.

To be ascer-
tained by bal-
lot—when.

Limitation of
tax.

Sec. 5. *And be it further enacted*, That nothing in this act contained, or in the act to which this is a supplement, shall be construed or taken to compel or require the levying or raising of any tax in any school district, without the express will and consent of a majority of the school voters in such district; such majority to be ascertained by ballot, at the stated meeting of the school voters, to be held in each and every year, on the second Monday of October, at one of the clock in the afternoon at the place appointed for that purpose, nor shall the school committee of any such district levy or raise by way of taxation, in any one year, a sum greater than three hundred dollars.

SEC. 6. If a vacancy or vacancies happen in any school committee, the school voters of the district may fill it at any adjourned or occasional meeting. Vacancies in the school committee—how filled.

SEC. 7. *And be it further enacted*, That so much of the fourth section of the act to which this is a supplement as is hereby altered or supplied be, and the same is hereby repealed. Repeal 491.

SEC. 8. *And be it further enacted*, That the Secretary of State be, and he is hereby authorised and required to cause 800 copies of this act to be printed and published in pamphlet forms, and to distribute the same to and amongst the prothonotaries of the several counties of this State, to each an equal proportion, to be by them, together with the copies of the act for the establishment of free schools now in their offices, delivered to such school voters as may call for the same: *Provided*, that three copies for each district be retained by the said prothonotary, to be distributed to each district, as they may become organised. This act to be published in pamphlet form.

Passed at Dover, Jan 25, 1830.

CHAPTER XXII.

AN ACT to protect the navigation of Mispillion creek in this State, and to prevent the wanton destruction of Oysters in the same.

Whereas, it has been represented to this General Assembly, that certain indiscreet persons do take from the oyster beds near the mouth of said creek, great quantities of oysters and shells, which they carelessly cull at the landing or wharf at the town of Milford, throwing all the refuse and shells into the said creek, thereby injuring the channel thereof and destroying the young oysters, to the great injury of the inhabitants of said town and neighborhood. In order therefore, to protect the inhabitants from further damage:— Preamble.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the passing of this act, no person or persons whatsoever shall be allowed to cull oysters and throw the refuse and shells of the same into the Mispillion creek, nor upon the banks thereof, above the upper end of a place known and called by the name of broad-reach in said creek. Oysters not to be culled in Mispillion creek above the "broad reach."

SEC. 2. *Be it enacted*, That if any person or persons shall cull and select their oysters above the place designated by the first section of this act in said creek, in violation of said act, and every such person or persons so offending shall upon conviction thereof before any justice of the peace in either of the counties of Kent Penalty.

How recover-
ed. or Sussex, forfeit and pay the sum of five dollars; one moiety for the use of the State, and the other moiety for the use of the person or persons who shall prosecute for the same; which said fine of five dollars shall be recovered as other debts under fifty dollars are recovered in this State.

Passed at Dover, Jan. 26, 1830.

CHAPTER XXIII.

AN ACT *making provision for the support of government for the year one thousand eight hundred and thirty.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the sum of fifteen thousand dollars shall be raised and paid into the Treasury of this State, within the time and in the manner directed by an act of the General Assembly, entitled "An act concerning the Auditor of Accounts;" which said sum of fifteen thousand dollars shall be apportioned, assessed and levied, on the amount of the aggregate valuation of the real and personal property within this State, made in pursuance of the act of the General Assembly of this State, entitled "An act authorising and directing a general assessment of the real and personal property of this State," passed in February, in the year of our Lord one thousand eight hundred and sixteen; and it shall be the duty of the Auditor of Accounts, and he is hereby authorised and required to ascertain and apportion upon the aforesaid amount of the aggregate valuation, the sum per centum, necessary to raise, clear of all allowances for delinquents, according to the best estimate that he can make of such allowances, and also of all charges of collecting the taxes hereby granted and laid.

SEC. 2. *And be it further enacted,* That the aforesaid sum of money shall be appropriated and applied to, and in the following manner: that is to say, so much thereof as may be necessary shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Supreme Court and Court of Common Pleas, Attorney General, Secretary of State and Auditor of Accounts, up to the first day of January, which will be in the year of our Lord one thousand eight hundred and thirty-one: and so much thereof as shall be necessary, shall be applied to the payment of the daily allowances of the members of the General Assembly, their clerks and other expenses, and for printing of the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof, and the residue, if any there be, shall be applied to the payment of any sums of money

due to the citizens of this State, for which provision shall be made by law.

Passed at Dover, Jan. 27, 1830.



CHAPTER XXIV.

AN ACT concerning the jurisdiction of Justices of the Peace.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That whenever any ^{Certain for-}feiture or demand according to any act of the General Assem- ^{made recov-}bly, passed before the twenty-ninth day of January, in the year of ^{erable as}our Lord one thousand eight hundred and twenty-five, is recover- ^{debts under}able before a justice of the peace, as debts under forty shillings, ^{forty shil-}or debts under twelve pounds are recoverable; the proceeding to ^{lings, or un-}recover such forfeiture or demand shall be according to the "Act ^{der twelve}providing for the recovery of small debts." ^{pounds; how} ^{recovered.}

Passed at Dover, Jan. 27, 1830.



CHAPTER XXV.

AN ACT providing a remedy in case of a removed or deceased executor or administrator.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if any person ^{Court of} who shall be removed by the register from the office of executor ^{Chancery to} or administrator, shall refuse to deliver to his co-executor or ad- ^{compel a re-}ministrator, if there be such, and if not to the succeeding executor ^{moved ex'r.} or administrator, all the unadministered goods, chattels, securities, ^{or adm'r. to}books and papers belonging to the estate of the deceased, which ^{deliver over}shall be in the hands of the person so removed, the Chancellor shall ^{papers, &c.}have power in a summary proceeding, in the Court of Chancery, ^{belonging to}upon the petition of such co-executor or administrator, or succeed- ^{the estate.}ing executor or administrator to hear the parties, and make an ^{Petition.}order for the delivery according to law of such unadministered ^{Order.}goods, chattels, securities, books and papers, and to enforce such ^{May compel}order by sequestration or attachment. Also, the Chancellor shall ^{the ex'r. or}have power to proceed in like manner, and make like order against ^{adm'r. of a}an executor or administrator of a deceased executor or adminis- ^{dec'd, ex'r. or}trator who shall refuse to deliver, according to law, any unadmin- ^{adm'r in like}istered goods, chattels, securities, books or papers belonging to the ^{manner.}

Costs. estate of the first testator or intestate which shall come to his hands.
In the cases aforesaid, costs may be awarded according to equity.

Passed at Dover, Jan. 27, 1830.



CHAPTER XXVI.

AN ACT appointing freeholders to lay out a road.

Freeholders appointed. SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Benjamin Harrington, William Tharp and Burton Prettyman of Kent county, and Thomas Curry and Gabriel Deputy of Sussex county, be and they hereby are appointed to go upon and view the premises, and determine whether there is need of a new public road, to commence at some point in the main road leading by the residence of Doctor James B. Ralston, in Kent county, and to extend thence eastwardly across a branch called the river Styx, and which is one of the head-waters of the river Nanticoke, and across lands late of James Johnson, deceased, lands of John Johnson, and across a small branch (the dividing course between the counties of Kent and Sussex) into the county of Sussex, and thence to the main road at or near a place called T Town in said Sussex county.

Road. And if the said Benjamin Harrington, William Tharp and Burton Prettyman of Kent county, and Thomas Curry and Gabriel Deputy of Sussex county, or a majority of them, shall determine that there is need for a new public road as above-mentioned, then they shall, with the assistance of some skilful surveyor to be by them employed, 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 two draughts of said road to be made, representing the courses and distances thereof, with notes of the most remarkable places, and of the woodland, clearland 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 costs of opening and making said road, and making the bridges and causeways therein, in each of said counties of Kent and Sussex, setting down the several items of said cost; and if a road be laid out, shall in their said returns 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 said return, on which shall be shown the part of said road which shall lie in Sussex county.

Road to be laid out—if &c.

Surveyor.

Plots.

Costs.

Returns—what they shall contain.

SEC. 2. *And be it further enacted*, That the draughts and returns ^{Returns—}
 so to be made as aforesaid, by the said Benjamin Harrington, Wil- ^{where made.}
 liam Tharp and Burton Prettyman of Kent county, and Thomas
 Curry and Gabriel Deputy of Sussex, shall be returned, one to the
 clerk of the peace in and for Kent county aforesaid, and one to the
 clerk of the peace in and for Sussex county aforesaid, to be by
 them laid before the Levy Court and Court of Appeal, of the said
 counties respectively: and if no objection be made, or if in the
 opinion of the said Levy Court and Court of Appeal, of either coun-
 ty no sufficient objection is made, the said Levy Court and Court ^{Confirma-}
 of Appeal of such county shall establish so much of said road ^{tion.}
 as shall lie within such county as a public road or highway, ^{Damages.}
 and shall settle such damages as may have been assessed by said
 proceedings, and when the said road shall have been so establish-
 ed as a public road or highway by the Levy Court and Court of
 Appeal of said Kent and Sussex counties, the same shall be and
 remain subject to the same regulations as other public roads or
 highways, or as if the same had been laid out under separate and
 distinct orders of court from the said counties of Kent and Sussex,
 according to the location of the same in either county, under the
 act entitled "An act concerning roads and bridges," passed at Do-
 ver on the tenth day of February eighteen hundred twenty-nine.

SEC. 3. *And be it further enacted*, That the said Benjamin Har- ^{Freeholders}
 rington, William Tharp and Burton Prettyman of Kent county, and ^{and surveyor}
 Thomas Curry and Gabriel Deputy of Sussex county, and the sur- ^{to be sworn.}
 veyor by them employed, shall before performing the duties here as-
 signed them be sworn or affirmed: that is to say, the said Benjamin
 Harrington, William Tharp and Burton Prettyman of Kent county,
 and Thomas Curry and Gabriel Deputy of Sussex county, to per-
 form the duties incumbent upon them according to this act, and
 the surveyor, to perform the service for which he is employed,
 faithfully and impartially, according to the best of their skill and
 judgment respectively; which oath or affirmation, may be taken
 before the chancellor or any judge of this State, or any justice of ^{By whom.}
 the peace, for either Kent or Sussex county; or either of said com-
 missioners or freeholders named in this act, may administer said
 oath or affirmation to any other of said commissioners, or to the
 surveyor employed by them.

The acts of a majority of the said commissioners or freeholders,
 shall be as valid as if concurred in by all of them, and in case of ^{Acts of a}
 a vacancy or vacancies, another or other commissioner or free- ^{majority}
 holder, or commissioners or freeholders may be appointed by any ^{good.}
 judge of the Court of Common Pleas of Kent or Sussex counties. ^{Vacancies—}
^{how filled.}

Passed at Dover, Jan. 27, 1830.

CHAPTER XXVII.

A SUPPEEMENT to "*An act to restrain persons from suffering swine to go at large within certain limits.*"

Ch 2, p.
513, extend-
ed to the li-
mits of school
district No.
13, Kent
county.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the first day of March next, the act to which this is a supplement, shall extend to and be in force, within the limits herein described: beginning at the Fork Bridge, and from thence running with the road from said bridge, and passing Denny's cross roads, to a bend in said road, about a half mile toward Leipsic, from the aforesaid cross roads; thence running in a south-east direction, and passing a little north of the buildings on land of Charles Hamm, now in tenure of Samuel Riggs, also passing a little south of the buildings on land of Nicholas Ridgely, Esquire, being land late of Joseph Harper, deceased, now in tenure of Daniel Morgan, to the run of Muddy Branch; thence in a south easterly direction, and passing a little north of the buildings on land of the heirs of Samuel Howell, deceased, to the head of a large ditch or canal; thence with said ditch or canal to Little creek; thence up said creek to the mouth of Morgan's branch; thence up said branch to the road from Little creek landing to Dover, alias Patten's dyke road; thence with said road to the new bridge near Dover; thence up Jones' creek, alias Dover river, to Ezekiel Cowgill's mill-dam; thence up the mill-pond to the mouth of Fork Bridge branch; thence up said branch to the place of beginning; being laid out for, and established as the boundaries of school district No. 13, in Kent county.

Passed at Dover, Jan. 27, 1830.



CHAPTER XXVIII.

A SUPPLEMENT to the act entitled "*An act directing the manner of choosing commissioners to regulate and repair the streets of Milford, and for other purposes.*"

Who shall
be entitled to
vote at the
town elec-
tions.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for the inhabitants of the town of Milford, who are free white male citizens of the age of twenty-one years, and who are entitled to vote at any general election in this State, and who shall have paid a tax for the regulation and repairing the streets of the town aforesaid, within a year next preceding the time of holding an election, and all white female citizens unmarried, and of the age of twenty-one years, who shall have a freehold estate

within the limits of the town aforesaid, and who shall have paid a tax as aforesaid, and also every free white man, and every free white unmarried woman of the age of twenty-one years, who shall have a freehold estate in any real estate, within the limits of the act of incorporation for the town aforesaid, and shall reside within the bounds of the hog and poultry law, and who shall have paid a tax as aforesaid, although not an inhabitant of said town, agreeably to its act of incorporation, shall be entitled to assemble at any convenient place in said town, on the first Monday in March next, ^{Time of} and on the same day annually in future, and then and there choose ^{re-election.} by ballot five commissioners, one assessor, one inspector of accounts, one treasurer, and one constable, who shall continue in office for one year, or until others are duly elected.

SEC. 2. *And be it further enacted, that by the authority aforesaid,* § 1, p. 618. That the first section of the act to which this is a supplement be, and the same is hereby repealed.

Passed at Dover, Jan. 28, 1830.



CHAPTER XXIX. (Private Act.)

A SUPPLEMENT to the act entitled "*A further additional supplement to the act entitled 'An act to authorise the owners and possessors of 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.'*" [3 v. 121.] [6 v. 353.]

Passed at Dover, Jan. 28, 1830.



CHAPTER XXX.

AN ACT supplementary to the act entitled "*An act to incorporate the Brandywine and Christiana Manufacturing Company.*" [7 v. 254.]

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the time within which the persons named in the sixth section of the act to which this is a supplement, or the survivors of them, or in the case of the death of either of them, the executor or administrator of the deceased are required to declare their acceptance of the terms and provisions of that act, be and the same is hereby extended to the period of two years from the passing of this supplement. ^{Time for accepting the original act extended.}

SEC. 2. *And be it enacted,* That so much of the sixth section of

Repeal of
part of §6,
ch. 129, 7 v.
257.

the act to which this is a supplement as is expressed in the words following, to wit: "The State hereby reserves to itself the power of imposing such tax on the capital stock of the said company, as shall be actually paid in, as may be equitable" be, and the same is hereby repealed, made null and void.

Passed at Dover, Jan. 28, 1830.



CHAPTER XXXI. (Private Act.)

AN ACT authorising James W. Thompson to remove a certain negro slave into this State, from the State of Virginia.

Passed at Dover, Jan. 28, 1830.



CHAPTER XXXII.

AN ACT to divide Mispillion hundred into two hundreds:

Mispillion
hundred to
be divided.

Dividing
line.

Mispillion
hundred.

Milford hun-
dred.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Mispillion hundred shall be divided and formed into two hundreds; the dividing line to be the road leading directly from the division line, between Murderkill and Mispillion hundreds, to Williamsville, being the same which was formerly used and occupied by the Philadelphia, Dover and Norfolk Steamboat and Transportation Company; and that part of the said hundred lying westerly of said road, shall form and be one hundred, which shall be called Mispillion hundred, and the residue of said hundred shall form and be one hundred, which shall be called Milford hundred.

Milford hun-
dred to be
the fifth elec-
tion district,
173.

Place of elec-
tion, Milford.

Mispillion
hundred the
sixth election
district.

SEC. 2. *And be it further enacted,* That Milford hundred as formed according to the preceding section, shall be the fifth election district of Kent county, and the electors of the said hundred shall hold their general elections and their special elections under the act entitled "An act regulating the general election," passed at Dover, January 28, 1825, at the tavern-house now occupied by Edward Stapleford in Milford, in the same manner, and under the same regulations, as if the said Mispillion hundred had been the fifth election district according to said act, and the place in the said act appointed for holding said elections had been the tavern-house now occupied by Edward Stapleford in Milford; and that Mispillion hundred, as formed according to the preceding section, shall be the sixth election district of Kent county; and the electors

of said hundred shall hold their general and special elections under said act, at the tavern-house now occupied by Mrs. Anderson, in the village of Prospect, in the same manner and under the same regulations as if the said Mispillion hundred had been the sixth election district of said county, and the place in said act appointed for holding said elections had been the said tavern-house now occupied by Mrs. Anderson, in the village of Prospect; and that all laws that apply to hundreds, as such, shall apply to Milford hundred and Mispillion hundred as formed as aforesaid, as entire and distinct hundreds, and the citizens residing in each accordingly.

Place of election—Prospect.

SEC. 3. *And be it further enacted,* That there shall be one commissioner of the Levy Court and Court of Appeal residing in Milford hundred, as formed as aforesaid; and one commissioner of the Levy Court and Court of Appeal, each residing in Mispillion hundred, as formed as aforesaid; and that there shall be one trustee of the poor in said Milford hundred, and one trustee of the poor in Mispillion hundred.

One Levy Court commissioner in each hundred. One trustee of the poor in each.

SEC. 4. *And be it further enacted,* That the Levy Court and Court of Appeal, calling to their assistance the last assessors for Mispillion hundred, shall have power and authority, and are hereby required to effect all proper transfers and divisions in the assessment lists of what has heretofore been Mispillion hundred, in such manner that the taxables and property heretofore assessed within the bounds of Milford hundred and Mispillion hundred, may stand and remain as the proper assessment lists of said hundreds, as said last mentioned hundreds are formed and created by this act; and the said Levy Court and Court of Appeal are hereby directed and authorised to appoint a collector for each of said hundreds for the present and each succeeding year, who are hereby authorised and required respectively to give the security, and to receive and collect the taxes according to the duplicates delivered to them in the same manner and to as full an effect as is provided by law for the collection of the taxes of the other hundreds in Kent county; and the Levy Court and Court of Appeal shall take bond and security of said collectors, and duplicates of taxes and taxables for the hundred for which they shall respectively be appointed, shall be delivered to each of them in the same manner, and under the same regulations, as are provided by law in relation to the other hundreds; and generally, the said Levy Court and Court of Appeal shall take the same measures, and proceed in the same manner, to effect the levying and collecting, and paying over the taxes of said hundreds respectively, as are by law provided for effecting the same objects in the other hundreds of Kent county.

Levy Court to make transfers on the assessment lists.

To appoint a collector for each of these hundreds.

To take bond from such collectors, &c.

SEC. 5. *And be it further enacted,* That all the unpaid taxes assessed or levied upon the taxables and property of Mispillion hundred for the year eighteen hundred and twenty-nine (as said hundred heretofore stood,) shall be collected by the collector heretofore appointed for that purpose and all the powers of such collector

Unpaid taxes for 1829, to be collected by the present collector.

Present
assessor to
complete his
assessment.

Present con-
stables to
continue in
office until,
&c.

One consta-
ble for Mil-
ford hundred,
and one for
Mispillion
hundred.
Part of ch.
1, p. 173, re-
pealed.

in this behalf, shall be continued until such collection is completed; and the present assessor for such hundred (as the same heretofore stood,) shall have power to complete the assessment thereof, for the said last-mentioned year, if such assessment be not already completed; and the constables now residing in said hundred (as it heretofore stood) shall continue in office, and do business as heretofore, until their respective terms of office shall expire; and after the expiration of said terms, there shall be one constable for Milford hundred, and one constable for Mispillion hundred, as those hundreds are formed by the first section of this act.

SEC. 6. *And be it further enacted*, That so much of the act of the General Assembly of this State, entitled "An act regulating the general election, as provides that the election for the hundred of Mispillion, shall be held at the house, formerly Daliner's, now occupied by Adam Marvil; and also, so much of every act relating to said hundred, as the same heretofore stood, or to the elections therein held, as is hereby altered or supplied, be and the same is hereby repealed.

Passed at Dover, Jan. 28, 1830.



CHAPTER XXXIII. (Private Act.)

AN ACT *to make void the marriage contract between Ann R. Wilson and her husband James Wilson.*

Passed at Dover, Jan. 28, 1830.



CHAPTER XXXIV. (Private Act.)

AN ACT *to divorce Lavinia Wainwright and her husband from the bonds of matrimony.*

Passed at Dover, Jan. 28, 1830.



CHAPTER XXXV. (Private Act.)

AN ACT *to dissolve the bonds of matrimony between Mary Friel and her husband William Friel.*

Passed at Dover, Jan. 28, 1830.

CHAPTER XXXVI. (Private Act.)

AN ACT *to divorce from the bonds of matrimony Benona Tibbett and Mary Tibbett.*

Passed at Dover, Jan. 28, 1830.



CHAPTER XXXVII. (Private Act.)

AN ACT *to carry into effect the last will and testament of William Hardesty, deceased.*

Passed at Dover, Jan. 28, 1830.



CHAPTER XXXVIII.

AN ACT *to cede to the United States, the jurisdiction over a piece of land and marsh adjoining the Delaware bay.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That for the purpose of erecting a light-house, five acres of land and marsh upon either side of Mahon's 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.*

Five acres of marsh ceded to the U. S.
Upon condition.

SEC. 2. *And be it further enacted, That this State 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.*

Reservation of jurisdiction.

Passed at Dover, Jan. 28, 1830.

CHAPTER XXXIX. (Private Act.)

AN ACT *to grant the escheated house and lot in Milford in Kent county, to Elizabeth James and her children.*

Passed at Dover, Jan. 28, 1830.

CHAPTER XL. (Private Act.)

AN ACT *granting to John Short and John Johnson a certain piece of land therein mentioned.*

Passed at Dover, Jan. 28, 1830.

CHAPTER XLI.

AN ACT *for the payment of claims against the State.*

State Treasurer authorised to pay certain claims to—
J. Buckmaster.
S. M. Harrington.
E. Cowgill.

W. H. Crawford.

N. Clark.

S. Harker.
W. W. Green

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be, and he is hereby authorised and directed to pay the following claims, to wit: to Joseph Buckmaster, cryer of the High Court of Errors and Appeals, for services, eleven dollars; to Samuel M. Harrington, Secretary of State, for making an index to the laws of 1829, and other services, ninety-four dollars and eighty eight cents; to Ezekiel Cowgill, the late State Treasurer, for travelling expenses to and from Philadelphia, in relation to the Chesapeake and Delaware canal stock, and stock of the Bank of the United States, twenty-three dollars and forty-four cents; to William H. Crawford, the sum of thirty-five dollars and forty-two cents, being the amount by him paid to the sheriff of New Castle county for a certain Peregrine Brown, who was indicted as a free negro, and as such convicted and sold under an order of the Court of General Quarter Sessions of the Peace in and for said county, in the month of June last, and who was afterwards claimed as a runaway slave by a certain Richard Lynch, and by him recovered as such from the said William H. Crawford; to Nehemiah Clark, sheriff of Kent county, for attendance on the High Court of Errors and Appeals, and for his fees for summoning witnesses in relation to the escheated lands at Cantwell's Bridge, thirty-six dollars and eighteen cents; to Samuel Harker for printing, twenty-three dollars and twenty cents; to William W. Green, late adjutant general for postage and blanks, forty six dollars and forty-two and a half cents; to

John H. Harris, auditor of accounts for postage, three dollars and fifteen cents; to Augustus M. Schee, for printing the auditor's report for 1827, and for transporting the Journals of the House of Representatives of 1829 to New Castle and Georgetown, twenty-five dollars; to James C. Lynch and William Surmain, for services and expenses in going to Norfolk, with a demand from the Governor of Delaware on the Governor of Virginia, for James R. Hearne and James L. Vincent, fugitives from justice, two hundred and twenty-five dollars and thirty-one cents; to Robert Porter for printing, eighteen dollars and twenty cents.

J. H. Harris.
A. M. Schee.
J. C. Lynch
and W. Surmain.
R. Porter.

SEC. 2. *And be it enacted*, That the State Treasurer be, and he is hereby authorised to pay to the Secretary of State the sum of two hundred dollars, to be applied by him to the payment of the contingent expenses of his office, an account of which shall be submitted to the General Assembly at the next January session.

Passed at Dover, Jan. 29, 1830.

CHAPTER XLII.

AN ACT for the payment of claims for the tuition of poor children in New Castle county.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the trustee of the fund for establishing schools in this State be, and he is hereby authorised and required to pay out of any unappropriated money of that portion of the school fund in his hands belonging to New Castle county, and standing on the books of the trustee aforesaid, to the credit of the said county, the following claims for the tuition of poor children, that is to say: to Maria C. Smith, Free Harmony School, Wilmington, eighty dollars; to Miss Jane A. Barr, for the Female Benevolent Society of New Castle, eighty dollars; to Joseph Lobb, jr., nine dollars eighty-seven and a half cents; to Nathaniel Cloud, five dollars and fifty one cents; to Isaac Grubb, jr., twenty-eight dollars, and to Albert Webster, fourteen dollars.

Trustee of the school fund authorised to pay out of the portion of that fund belonging to New Castle county, certain claims to—
M. C. Smith.
J. A. Barr.
J. Lobb, jr.
N. Cloud.
J. Grubb, jr.
A. Webster.

Passed at Dover, Jan. 29, 1839.

CHAPTER XLIII.

A FURTHER ADDITIONAL SUPPLEMENT to an act entitled *"An act to authorise the owners and possessors of the marsh or low ground commonly called and known by the name of "Cow Marsh," situate in the forest of Murderkill hundred in Kent county, to cut a ditch or drain through the same.*

[2 v. 1132,
1219, 6 v.
625.]

Passed at Dover, Jan. 29, 1830.

RESOLUTIONS.

—000—

CHAPTER XLIV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the following persons be, and they are hereby appointed directors of the Farmer's Bank of the State of Delaware on the part of the State, agreeable to an act of the General Assembly in such case made and provided: For the principal bank Joseph Smithers, William K. Lockwood, Humm Jenkins; for the branch at Wilmington, John J. Milligan, Charles I. du Pont, Harry Connelly; for the branch at New Castle, Thomas Stockton, Samuel Meeteer, Benjamin Watson; for the branch at Georgetown, William D. Waples, David Hazzard and Matthew Rench.

Adopted at Dover, Jan. 8, 1830.

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CHAPTER XLV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State be, and he is hereby authorised and directed to close the seventh volume of the laws of this State, with the acts passed at the last session.

Resolved by the authority aforesaid, That the Secretary of State be, and he hereby is directed to make out a table of private acts and a general index to the said seventh volume; that he cause two hundred copies of the said table of private acts and general index to be printed, fifty copies whereof he shall lodge with the prothonotary of each county, to be distributed gratis to such citizens as may call for the same, and the remaining fifty copies to be retained in the Secretary's office.

Resolved by the authority aforesaid, That the Secretary of State cause to be bound up to correspond with the other bound volumes of the laws, fifty copies of the said seventh volume, with the table of private acts and general index; twenty-one copies of which he shall deposit in the library of the House of Representatives, nine

copies in that of the Senate, for the use of the General Assembly, and the remaining twenty copies shall be deposited in the Secretary's office for the purpose of interchange agreeable to law.

Resolved by the authority aforesaid, That the Secretary of State be, and he is hereby directed to cause to be bound up as many Pamphlet laws of the several States and Territories of the United States, as he can obtain, either from the Secretary's office or from the library of the Senate or of the House of Representatives; and in case at least one complete copy of the laws of any State or Territory cannot be found (unless there have been a digest of said laws, which is in the possession of this State) he shall take proper measures to procure a complete copy thereof, which shall be bound up as aforesaid. to be bound up.

Resolved, That the acts of the present session shall commence a new volume, to be entitled the eighth volume of the laws of Delaware. Acts of 1830 to commence the 8th vol.

Adopted at Dover, Jan. 18, 1830.



CHAPTER XLVI.

Resolved by the House of Representatives of the State of Delaware, C. P. Comeby and with the consent of the Senate, That Cornelius P. Comegys be, and he is hereby appointed State Treasurer. gys appointed State Treasurer.

Adopted at Dover, Jan. 26, 1830.



CHAPTER XLVII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be, and he hereby is authorised and directed to pay to Willard Hall, for his services in digesting and preparing for publication the revised edition of the laws of Delaware, two thousand five hundred dollars, out of any moneys in the treasury not otherwise appropriated. State Treasurer to pay Willard Hall \$2500.

Resolved unanimously, That the thanks of this General Assembly be, and they are hereby accorded to and tendered to the said Willard Hall, for the very able and faithful manner in which he has acquitted himself of that important trust.

Resolved further, That a copy of these resolutions be forwarded by the speaker of the Senate to the said Willard Hall.

Adopted at Dover, Jan. 29, 1830.

CHAPTER XLVIII.

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 authorised and required, immediately after the passing of this resolution, to borrow of the trustee of the fund for establishing schools in this State, any sum not exceeding ten thousand dollars, which may now be in the hands of the said trustee, and which will not be required for the purposes of school appropriations, before the same can be replaced from the funds of the State: and the said State Treasurer is hereby directed and required to place the said sum so borrowed to the credit and for the use of this State, to be applied and used toward the payment of the salaries of the Chancellor and Judges, and for the support of government for the present year, and that the faith of the State be, and the same is hereby pledged for the re-payment of said sum of money within one year from the date of the loan, and that the treasurer shall receive one-eighth of one per cent. out of the money so obtained for his services.

State Treasurer authorised to borrow \$10,000 of the trustee of the school fund.

Appropriation thereof.

Faith of the State pledged for the re-payment thereof.

Adopted at Dover, Jan. 27, 1830.



CHAPTER XLIX.

In the House of Representatives, Jan. 20, 1830.

The committee to whom was referred so much of the Governor's Message as relates to the tariff of the United States, and the communication of Virginia upon that subject, have bestowed on the subject that consideration which its importance demands.

The laws of the United States for the protection of domestic manufactures, have been so often debated in Congress, and so repeatedly pronounced to be in strict accordance with the spirit and meaning of the constitution of the United States, that your committee deem it wholly unnecessary to enter into any argument upon the subject.

They therefore recommend the adoption of the following resolution:

Resolution relative to the tariff of 1828.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the tariff of 1828 accords with the spirit of the constitution of the United States, and is a protection to home industry, from the overwhelming influence of foreign rivalry.

Resolved, That the Governor of the State be requested to com-

municate the foregoing resolution to the Executive of the several States of the United States, with the request that the same be laid before their respective Legislatures. To be sent to the several States.

Resolved, That the Governor be requested to transmit copies of the same resolution to the Senators and Representative of Delaware, in the Congress of the United States, with the request to the Representative, and instruction to the Senators, that the same be laid by them before their respective Houses. And to our senators and representative in congress,

Adopted at Dover, Jan. 26, 1830.

CHAPTER I.

In the House of Representatives, Jan. 25, 1830.

The committee to whom was referred so much of the message of the late Governor as relates to the publishing reports of cases adjudged in the High Court of Errors and Appeals, beg leave to report, that they have conferred with Nicholas Ridgely, the Chancellor, and that he is willing to undertake the service upon having the expense of paper, printing and binding advanced to him, and being indemnified other incidental charges. (Incidental expenses: they may be for copying, for copies of records, postage, and such necessary charges as may arise in the progress of the work. Mr. Ridgely will expect to have printed and bound and to sell the volumes, and their produce shall be paid in part, or in whole, as the case may be, to indemnification, and to reimburse any money advanced by the State to him. No charge of interest shall be made on either side. All that will be looked to will be principal. Mr. Ridgely will give his labor to the work; the State will patronise it. He expects that no profit will be made but by the paper-maker, the printer and book-binder. The Digest is not a model of printing and binding. In addition to such reports, Mr. Ridgely suggests, that it may be necessary, for the purpose of illustration, to report also in the form of notes, some few other decisions made in the other courts of this State. Mr. Ridgely supposes that the cases contemplated previous to this time, may form a volume as large, or nearly so, as the Digest of our laws. He states, that he is in possession of notes of all the cases, worthy of preservation, which have been heard and adjudged in the High Court of Errors and Appeals since he has held the office of Chancellor, but that of the previous cases he has notes of the causes only in which he acted as counsel for one of the parties. He expects, that by the kindness of other gentlemen, and with the aid of the records, he may be enabled to make true and full reports of such cases. Decisions of the High Court of Errors and Appeals; report of committee,

The committee therefore recommend the following resolutions;

State Treasurer to pay \$300 to Nicholas Ridgely—when.

Resolved by the Senate and House of Representatives of the State of Delaware, That the State Treasurer pay to Nicholas Ridgely, or his order, the sum of three hundred dollars, at such time or nearly so, as he shall have prepared for printing a volume of such reports as aforesaid, and that he account for the same in its application to the purpose aforesaid.

Legislature to indemnify for further expenses.

Resolved, That the General Assembly will indemnify the said Nicholas Ridgely the expenses of paper, printing and binding such volume of Reports, and other incidental charges, which may arise over and above, and in addition to the said sum of three hundred dollars.

Resolved, That a duly authenticated copy of the foregoing resolutions be communicated to the Hon. Nicholas Ridgely.

Adopted at Dover, Jan. 27, 1830.

SECRETARY'S OFFICE,

Dover, February 25, 1830.

In obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "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," I have collated with, and corrected by, the original rolls, and caused to be published, this edition of the laws of the said State, passed during the last session of the General Assembly, which commenced on Tuesday the fifth, and closed on Friday the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and thirty.

S. M. HARRINGTON,

Secretary of the State of Delaware.

L A W S

OF THE

STATE OF DELAWARE.

CHAPTER LI.

AN ACT concerning defects in legal proceedings.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That upon a demurrer the court shall not consider any defect not specially alledged, if upon the whole matter appearing judgment can be given according to the merits of the case.

Upon demur-
ror the court
not to consid-
er any defect
not specially
alledged, &c.
Dig. p. 24.

Writs of scire facias, of execution and of error may be amended, and after judgment, the court, before whom a record is, may order the amendment of any clerical error in any part of such record, and when there is matter to amend by, may order any amendment that will tend to the furtherance of justice.

Amendm'ts.
may be made
in writs—
when.

Judgment shall not be arrested nor reversed for a variance between the writ and declaration, nor for any error in the writ, nor for want of a warrant of attorney, nor because the admission of a next friend or guardian is not entered, nor because an infant being plaintiff appeared or prosecuted by attorney, and not by guardian or next friend, nor for the omission of continuances, nor for default of a profert or of a reference to a record, nor for omission of the words "with force and arms," or of the words "against the peace," nor for want of a venue, nor for a wrong venue, nor because it does not appear how or by whom the jurors were summoned, nor for any defect in setting forth the oath or affirmation of the jurors giving a verdict, nor for any clerical misprision, or formal defect whatever, if upon the whole record there appears substantial ground for the judgment.

Judgment
shall not be
arrested nor
reversed—
when.
For variance
between the
writ and de-
claration, &c.
Dig. 26.

After verdict, judgment shall not be arrested nor reversed for error in the form of action, or in joining several causes of action, which cannot legally be joined, nor for error in one or more counts in a declaration, if either count in such declaration be sufficient, unless it expressly appears, that the damages or sum found or a part thereof were assessed or found for matter not contained in any sufficient count, the death of either party between verdict and judgment shall not be alledged for error, if judgment be entered within two terms after the verdict.

After verdict
judgm't shall
not be arrest-
ed or revers-
ed for error
in the form
of action or
misjoinder of
several caus-
es of action,
&c.

Dig. 122. A reference, or confession of judgment a release of all previous errors.

An oath—when presumed to have been properly administered.

12, 29, 135, 418, 419.

Amendment made where person is named adm'r. or executor through mistake.

Marriage of a woman pl'ff. not to abate the action.

In a criminal case, judg't.

not to be arrested nor reversed for clerical mis-

prison, &c.

An entry of a reference shall be a release of all previous errors.

The confessing of a judgment shall be a release of all errors.

Whenever it appears that an oath or affirmation has been administered by competent authority, it shall be presumed that the proper oath or affirmation has been administered, unless the contrary expressly appears.

If a person who is executor, be named as administrator, or conversely, either as plaintiff or defendant; leave shall be given on application to amend the mistake.

The marriage of a woman plaintiff shall not abate the action; in such case the husband may be admitted a party on motion; and, upon application of the defendant, proceedings shall be stayed, until he become a party, unless there be a responsible party besides the wife. If the action proceeds in her name without the husband, it shall not be error.

In a criminal case, judgment shall not be arrested nor reversed for any clerical misprison of formal defect if the record contain substantial ground for judgment.

The omission of the words "with force and arms" shall be deemed a defect in form merely in an indictment.

Passed at Dover, Jun. 12, 1831.



CHAPTER LII. (Private Act.)

AN ACT to enable Charles Allen of New Castle county, administrator d. b. n. c. t. a. of William Armstrong, late of said county deceased, to sell and convey certain real estate therein mentioned.

Passed at Dover, Jan. 13, 1831.



CHAPTER LIII.

A SUPPLEMENT to the act entitled "An act to extend the time for the recording of Deeds."

(8 vol. 19.)
Time for recording deeds, &c. extended to the 1st day of Sept. 1831.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all deeds or letters of attorney concerning lands, tenements or hereditaments, sealed and delivered before the first day of September, one thousand eight hundred and thirty, and being acknowledged or proved, and the acknowledgement or proof certified according to the laws of this State in force at the time when such acknowledgment or proof was made, may, with the certificate of the acknowledgment or

proof, and all endorsements and annexations, be recorded in the office for recording of deeds in the county wherein such lands, tenements or hereditaments or any part thereof are situate, if lodged in such office on or before the first day of September, in the year of our Lord one thousand eight hundred and thirty-one; and the record, or an office copy thereof, shall be sufficient evidence: and from and after the said first day of September, in the year last aforesaid, no deed or letter of attorney, sealed and delivered before the said first day of September, in the year of our Lord one thousand eight hundred and thirty, shall be recorded.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of State, and he is hereby required to publish for the space of two months from the first day of March next a copy of this act, together with the second section of the "Act concerning conveyances," in two or more newspapers printed within the State, and in nine hundred handbills, three hundred of which he shall deliver to the recorder of New Castle county, three hundred to the recorder of Kent, and three hundred to the recorder of Sussex county; and it shall be the duty of each of said recorders to distribute the same in the several hundreds of the county to which he belongs.

This act to be published in 2 newspapers and in 900 hand bills. (Dig. 90.)
Recorders to distribute to them.

Passed at Dover, Jan. 13, 1831.



CHAPTER LIV. (Private Act.)

AN ACT for the relief of Joseph Goodliff, a non-resident insolvent prisoner.

Passed at Dover, Jan. 14, 1831.



CHAPTER LV.

A SUPPLEMENT to the act entitled "An act regulating the General Election."

Dig. 173.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the first section of the act to which this is a supplement be amended by striking out the words, "near St. Georges now occupied as a tavern by John W. Dean," after the words "Indian river hundred, at the house," and insert the words "of Fletcher Lacey," and the said section shall be read and construed according to the foregoing amendment.

Place of holding general election in I. River changed. 174.

Passed at Dover, Jan. 15, 1831.

CHAPTER LVI. (Private Act.)

AN ACT *to authorise John Stradley to erect a gate across a public road therein mentioned.*

Passed at Dover, Jan. 15, 1831.



CHAPTER LVII.

Dig. 435.

AN ACT *supplementary to the act entitled "An act to consolidate and amend the laws for the relief of the poor."*

The day for
the meeting
of the trus-
tees of the
poor in Sus-
sex changed.

436.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passing of this act, the trustees of the poor in and for Sussex county, shall meet at the poor-house four times each year, to wit: on the first Wednesday of January, April, July and October, and that so much of the sixth section of the act to which this is a supplement as shall and does direct and require the said meetings to be on the first Mondays of the aforesaid months be, and the same is hereby repealed.*

Passed at Dover, Jan. 17, 1831.



CHAPTER LVIII. (Private Act.)

AN ACT *for the relief of Trinity Church.*

Passed at Dover, Jun 17, 1831.



CHAPTER LIX. (Private Act.)

AN ACT *granting Leonard Short of Dagsborough hundred in the county of Sussex, a certain piece of land therein mentioned.*

Passed at Dover, Jun. 17, 1831.

CHAPTER LX. (Private Act.)

AN ACT *to carry into effect certain provisions contained in the last will and testament of John Wilson, carpenter, deceased, late of Sussex county.*

Passed at Dover, Jan. 17, 1831.

CHAPTER LXI. (Private Act.)

AN ACT *for the relief of John C. Corbit.*

Passed at Dover, Jan. 18, 1831.

CHAPTER LXII. (Private Act.)

AN ACT *granting to Daniel Hudson and Nehemiah Messick, of the county of Sussex, a certain piece of land therein mentioned.*

Passed at Dover, Jan. 18, 1831.

CHAPTER LXIII. (Private Act.)

AN ACT *to enable Robert Hunter of Sussex county, to erect a mill-dam across the head waters of Mill creek, a branch of Broadkiln creek, in Broadkiln hundred, Sussex county, at the place therein mentioned, and to erect a saw-mill thereon.*

Passed at Dover, Jan. 18, 1831.

CHAPTER LXIV. (Private Act.)

AN ACT *to divorce from the bonds of matrimony, Richard Holcomb and Margaret Holcomb.*

Passed at Dover, Jan. 19, 1831.

LAWS OF THE

CHAPTER LXV. (Private Act.)

AN ACT for the relief of the school voters in School District No. 14, in Kent county.

Passed at Dover, Jan. 19, 1831.



CHAPTER LXVI. (Private Act.)

AN ACT to change the name of the Christiana Presbyterian Church, Wilmington.

Adopted at Dover, Jan. 19, 1831.



CHAPTER LXVII. (Private Act.)

AN ACT to complete the title of John Reed of Dover, to Dona Island, commonly called the Steamboat Landing, in Little Creek hundred and Kent county.

Passed at Dover, Jan. 20, 1831.



CHAPTER LXVIII.

AN ACT concerning a Convention.

Preamble.
Art. X.,
Dig. 29.

Whereas, it is provided by the constitution of this State, that no convention shall be called but by the authority of the people, and an unexceptionable mode of making their sense known, will be for them at a general election of representatives to vote also by ballot for or against a convention as they shall severally choose to do; and if thereupon it shall appear that a majority of all the citizens in the State having right to vote for representatives, have voted for a convention, the General Assembly shall accordingly at their next session call a convention, to consist of at least as many members as there are in both houses of the Legislature, to be chosen in the same manner, at the same places and at the same time that representatives are, by the citizens entitled to vote for representatives, on due notice given for one month, and to meet within three months after they shall be elected. *And whereas*, it satisfactorily appears

to this General Assembly, that a majority of all the citizens in the State, having right to vote for representatives, did at the last general election of representatives, vote for a convention. Therefore—

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That a convention of the people of the State of Delaware by their delegates to be elected as hereinafter provided, be and the same is hereby called to meet at the State-house in the town of Dover, in Kent county, on the eighth day of November next, being the second Tuesday in that month.

A convention shall be called; delegates to meet at Dover; when. (Sec. 3.)

SEC. 2. *And be it enacted by the authority aforesaid,* That the said convention shall consist of thirty delegates, that is to say, ten delegates from the county of New Castle, ten delegates from the county of Kent, and ten delegates from the county of Sussex, and be chosen on the first Tuesday of October next; and that any free white male citizen of this State of the age of twenty-four years and upwards, shall be eligible to a seat in the said convention; and that all persons who are qualified and entitled by the constitution and laws of this State to vote for representatives, shall be qualified and entitled to vote for said delegates.

To consist of 30 delegates; 10 from each county. When chosen Who shall be eligible to a seat in the convention. Qualifications of voters.

SEC. 3. *And be it enacted by the authority aforesaid,* That the said election for delegates shall be held at the time aforesaid, at the same places, and be conducted in all respects in the same manner and according to the same regulations as are prescribed concerning the general elections for representatives; and it shall be the duty of the inspectors and freeholders, judges of elections in the respective hundreds of this State at the said election, to tally all the votes which may be given by the voters at such election for delegates of said convention. And that it shall be the duty of the said inspectors and freeholders judges as aforesaid, to make a return of all the votes that may be tallied as aforesaid, at the same time, in the same manner, and at the same places as is prescribed in the act of assembly entitled "An act regulating the General Elections," for making returns of the election of representatives; and it shall be the duty of the sheriff or other presiding officer of the board of canvass in each county, and the inspectors present at such board of canvass, before the adjournment thereof, to make under their hands two certificates of the election of members of the said convention, for their counties respectively, in the same manner and within the same time in which certificates of the election of representatives are required by said act to be made; and it shall be the duty of the said sheriff or other presiding officer to deliver and lodge within the time aforesaid, one of said certificates in the office of the prothonotary of the Court of Common Pleas in and for Kent county, and further, to deliver to the said convention on the first day of the meeting of the same, the other certificate; and the prothonotary of said Kent county, shall on any day of meeting of the convention, deliver if required, the certificate lodged with him as aforesaid to

Time and place of holding the election.

Fig. 173-4. Manner of conducting it (Fig. 174—180.)

Duty of the inspectors and freeholders and presiding officer of the board of canvass in each county. [Dig. 180.]

Fig. 181.

the order of the convention, or to any person named in the endorsement thereon.

Per diem allowance to the delegates. Dig. 293.

SEC. 4. *And be it enacted by the authority aforesaid, That the delegates and officers of the convention shall be entitled to the like wages as are now paid to the members and officers of the General Assembly; and that the presiding member of the said convention draw his order on the treasurer of this State, for such wages in favor of the respective members and officers of said convention.*

Secretary of State to furnish the sheriffs each, with a copy of this act—they will publish it—when.

SEC. 5. *And be it enacted by the authority aforesaid, That the several sheriffs of the State be furnished by the Secretary of State with a duly certified copy of this act; and that the said sheriff or other officers, who may hold the said election, shall give notice one month before the same of the said election of delegates of the said convention in all the newspapers of the State, and by three hundred advertisements set up in the most public places in each county.*

Passed at Dover, Jun. 20, 1831.



CHAPTER LXIX.

(7 vol. 31. Dig. 674.)

A SUPPLEMENT to an act entitled "*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.*"

Sweeping for anchors, &c., prohibited—where.

Penalty. A saving in favor of those who may have lost anchors, &c. and their agents. The provisions of this act not to be enforced between 1st Nov. and 1st April in each year.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passing of this act, it shall be unlawful for any person or persons to sweep for, or take possession of anchors or cables or buoys within one mile's distance of the Delaware Breakwater and ice breaker, in the Delaware bay, under the penalty for every such offence of not less than five nor more than fifty dollars, upon conviction thereof in any Court of Quarter Sessions of the State: Provided that this act shall not be construed to extend to such person or persons as may have lost anchors, or cables or buoys; or to such person or persons as may have been specially authorised by such person or persons who have lost anchors and cables or buoys, to sweep for, take possession of and recover the same: Provided further that the provisions of this act shall not extend to any person or persons who may or shall sweep for, and take possession of any anchors or cables after the first day of November, and before the first day of April, of each and every year that this act is in force.*

SEC. 2. *And be it enacted, That this act shall continue in force*

until the completion of the said Breakwater, or until in the event of This act to
the works not progressing, the United States shall have ceased to continue in
deposit stone thereon for one year, force until—
when.

Passed at Dover, Jan. 21, 1831.

CHAPTER LXX.

A SUPPLEMENT to the act entitled "*An act providing for the* (6 vol. 708—
punishment of certain crimes and misdemeanors." Dig. 127.)

SEC. 1. *Be it enacted by the Senate and House of Representatives* Wilfully and
of the State of Delaware in General Assembly met, That if any person unlawfully
or persons shall wilfully and unlawfully pluck, pull or gather, and plucking,
take and carry away any Indian corn of another, growing, standing carrying
or being on the stock and attached to the freehold or soil; or if any away any In-
person or persons shall wilfully and unlawfully remove, take and dian corn at-
carry away any post or posts, rail or rails, board or boards, or tached to the
other materials from any fence of another; or if any person or per- freehold—
sons shall wilfully and unlawfully fell, or cut down any oak, hicko- or any mate-
ry or other tree or trees, or any sapling or saplings of another; or rials of a
shall wilfully and unlawfully fell or cut down, and take and carry fence—or
away, any oak, hickory or other tree or trees, sapling or saplings felling any
of another; or shall wilfully and unlawfully fell or cut down any timber.
oak or other tree or trees, or any sapling or saplings of another, Or peeling
and bark or skin the same, and the bark therefrom shall take and any bark.
carry away; or shall wilfully and unlawfully bark or skin any oak
or other tree or trees, or any sapling or saplings of another, stand-
ing or growing in the soil and attached to the freehold, or shall
wilfully and unlawfully bark or skin any oak, or other tree or trees, Or peeling
sapling or saplings of another, standing or growing in the soil and any bark.
attached to the freehold, and the bark therefrom shall take and
carry away, without the consent of the owner of any such Indian
corn, posts, rails, boards, or other materials, oak, hickory or other
tree or trees, sapling or saplings had and obtained; every person
so offending shall be deemed guilty of a misdemeanor, and upon Shall be
conviction thereof, in the Court of General Quarter Sessions of the deemed a
Peace and Gaol Delivery, shall forfeit and pay to the State a fine misdemeanor.
of not less than five dollars, nor more than two hundred dollars, Penalty.
and may also be sentenced to suffer imprisonment for a term not
exceeding two months, if the court shall deem the circumstances
to require such additional punishment.

Passed at Dover, Jan. 21, 1831.

CHAPTER LXXI. (Private Act.)

AN ACT to divorce Ann McCabe from her husband George McCabe.



CHAPTER LXXII. (Private Act.)

A FURTHER SUPPLEMENT to an act entitled "*An act to enable the owners and possessors of the marsh meadow on the north side of Christianu river, called Brandywine marsh, and a tract of meadow, marsh and cripple, on the south side of the said river called Holland's Creek marsh, and also of a tract of marsh meadow near New Port, called Conrad's cripple, to keep the banks, dams and sluices in repair and raise a fund to defray the expenses thereof,*" so far as the same relates to the said Holland's Creek marsh.

Passed at Dover, Jun 22, 1831.



CHAPTER LXXIII.

[5 vol. 153— A SUPPLEMENT to the act entitled "*An act respecting the partition of lands and tenements among joint tenants and tenants in common.*"
Dig. 168.]

The acts of a majority of the comm'rs. to be valid. SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in any case of a commission issued by the Chancellor by virtue of the act to which this is a supplement, for the partition of lands and tenements among joint tenants or tenants in common, if the freeholders or commissioners in said commission named cannot agree, the acts of a majority of said commissioners agreeing, and the return of a majority of said commissioners duly made, shall be held good and valid as if concurred in and done by all of them; and the proceedings of such majority, being approved by the Chancellor, shall remain firm and stable forever.

What shall be deemed a good service of the summons, where the person to whom it is directed cannot be found. SEC. 2. *And be it further enacted,* That if upon any summons issued in any case of petition for partition by virtue of the act to which this is a supplement, the person or persons to whom such summons shall be directed, cannot be found in the county so as to be served personally therewith, then a copy of such summons being left at the usual place of abode in the county, of such person or persons, shall be deemed and held a good and sufficient service of

such summons. If such summons cannot be personally served as aforesaid, and if the said person or persons have no known place of abode within the county, and if such person or persons shall not, at the regular return of said summons, cause his or their appearance to be entered in the court, to the said petition, then it shall and may be lawful for the Chancellor to take such further, or other order in the case, for the service of such summons upon said person or persons, as he shall consider meet and proper under the circumstances.

The Chancellor may make such further order, as may be proper.

Passed at Dover, Jan. 24, 1831.



CHAPTER LXXIV.

AN ACT to incorporate the *Wilmington and New Jersey Steamboat Company.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Benjamin Boulden, Cyrus Lamborn, Mahlon Betts, Samuel Buzby, James Brown, Stephen Bonsall, William P. Richards, and such other persons as are or hereafter shall become stockholders in the Wilmington and New Jersey Steamboat Company, be and the same are hereby declared to be by virtue of this act one body corporate, in fact and in law, and shall have succession by the name, style and title of the "Wilmington and New Jersey Steamboat Company."

Stockholders incorporated.

Name and style of the corporation.

SEC. 2. *And be it further enacted,* That the said corporation and their successors, shall hereafter be able and capable in law to purchase, receive and hold, any lands, tenements, rents, goods or chattels, or any property whatsoever, which may be given, conveyed or devised to them, and also to give, grant, let, sell, or assign the same, and do all other matters touching the same by the name, style and title aforesaid; and they shall have a common seal, may sue and be sued, plead and be impleaded in any court of law or equity in this State, in all manner of actions, suits, complaints, pleas, causes and matters whatsoever and of what nature or kind soever.

Powers of the corp'm's.

SEC. 3. *And be it further enacted,* That the stockholders of this company shall have power to appoint such officers as they may deem proper or necessary to conduct the affairs of the company, and from time to time to make and establish such constitution, rules and by-laws, not contrary nor repugnant to the constitution and laws of this State or of the United States, as they shall deem necessary and proper for the good government of the company.

Stockholders may appoint all necessary officers, and make rules and by-laws.

SEC. 4. *And be it further enacted,* That it shall not be lawful for the said corporation, and it shall not have power to have, possess, nor in any manner hold goods, chattels, rights, or credits.

Disabilities of the corporation.

lands or tenements, or property of any kind, the value of which shall exceed thirty thousand dollars, or the clear yearly incomes or revenue of which shall exceed eight thousand dollars.

This act to continue in force until when.

SEC. 5. *And be it further enacted*, That this act shall continue and be in force until the thirteenth day of December, in the year eighteen hundred and fifty-two, and until the next session of the General Assembly thereafter.

Passed at Dover, Jan. 25, 1831.



CHAPTER LXXV. (Private Act.)

AN ACT for the relief of Nathan Yearsley, therein mentioned.

Passed at Dover, Jan. 25, 1831.



CHAPTER LXXVI.

[5 vol. 195— AN ACT authorising the Levy Court and Court of Appeal of New Dig. 575.] Castle county, to make Naaman's Creek bridge free from tolls.

The Levy Court may make the bridge toll-free.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the Levy Court of New Castle county, may and they are hereby authorised and empowered to make the public toll-bridge over Naaman's creek free.

They shall give notice thereof.

SEC. 2. *And be it further enacted*, That when the said Levy Court shall deem proper to cause the tolls over Naaman's creek bridge to cease, they shall advertise the same in one or more newspapers in the borough of Wilmington, after which said advertisement so authorised, the tolls for travelling over said bridge shall forever cease, any law to the contrary notwithstanding.

Passed at Dover, Jan. 26, 1831.



CHAPTER LXXVII.

AN ACT for the preservation of certain records of the Court of Common Pleas, and of the Supreme Court of Kent county.

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

after the passing of this act it shall and may be lawful for the prothonotary of the Court of Common Pleas in Kent county, to transcribe or copy, or cause to be transcribed or copied, the judgment and continuance docket of the said court, in which entries were made from the year one thousand eight hundred and seventeen, to the year one thousand eight hundred and twenty-two inclusive, and that the clerk of the Supreme Court in said county of Kent, may in like manner transcribe or copy, or cause to be transcribed or copied, the judgment and continuance dockets of the Supreme Court in Kent county, in which entries were made from the March term of the said Supreme Court, one thousand eight hundred and eleven, to the March term of the said court one thousand eight hundred and twenty-seven, both terms inclusive, into good and well bound books, made of good paper, which shall be procured by the said prothonotary and clerk for that purpose; and after the said prothonotary and clerk shall have severally transcribed or copied, or caused to be transcribed or copied their said respective dockets, it shall be the duty of two commissioners that shall be appointed by the Chief Justice of the Court of Common Pleas, to compare and correct the same by and with the originals, and after so comparing and correcting the same, to certify thereon that the said copies of the said dockets are true copies thereof, and the copies made, examined and certified as aforesaid, shall have and receive in all respects the same faith and credit, as the originals now may or can have and receive.

The proth'y. and clerk of Sup. Court to transcribe the judgm't. and continuance dockets from 1817 to 1822, and from 1814 to 1827.

Into good books, to be procured by said proth'y. and clerk.

Duty of commissioners.

SEC. 2. *And be it enacted*, That the said commissioners shall, before entering upon the performance of the duties assigned to them by this act, be sworn or affirmed before some Judge of this State or the Chancellor, faithfully to perform the duties imposed upon them by this act, and they shall file a certificate thereof in the office of the recorder of deeds for Kent county, to be by him recorded, kept and preserved.

Sworn to the performance of their duty.

SEC. 3. *And be it enacted*, That each of the said commissioners shall have and receive, for each and every day's attendance in performing the trust reposed in them by this act, a sum not exceeding two dollars, to be allowed by the auditor of accounts of the State, to be paid by the county treasurer out of any monies in his hands belonging to the county of Kent, and the said auditor shall allow such reasonable compensation as he may deem just and right, to the aforesaid prothonotary and clerk of the Supreme Court for the services severally by them to be performed under this act, to be paid in like manner.

Their allowance.

SEC. 4. *And be it enacted*, That if either or any of the said commissioners, to be appointed as aforesaid, should die or refuse or neglect to perform the duties herein required of him or them, it shall be lawful for the said Chief Justice to appoint some other person or persons in his or their places or stead.

Vacancy may be supplied.

SEC. 5. *And be it enacted*, That the said judgment and con-

Copies of said
dockets how
disposed of.

tinuance docket of the Court of Common Pleas and the said judgment and continuance dockets of the Supreme Court herein directed to be transcribed or copied shall, after such transcribing and copying, be safely and carefully kept by the said prothonotary and the said clerk of the Supreme Court in their respective offices.

Passed at Dover, Jan. 26, 1831.



CHAPTER LXXVIII.

[Dig. p. 513. A SUPPLEMENT to an act entitled "*An act to restrain persons from suffering swine to go at large within certain limits.*"

Limits within which swine are not to run at large.

This act to continue in force one year.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, all and singular the provisions and benefits of the act entitled "*An act to restrain persons from suffering swine to go at large within certain limits,*" be extended to Broadkiln neck, in Broadkiln hundred, Sussex county, or to such part of said hundred or necks as is bounded by the following limits, to wit: beginning at Heavilo's landing, on the Broadkiln creek, thence along the road to Smith's mills, at the head of Prime Hook creek, and down said creek to the Delaware bay, thence along the bay shore to Broadkiln creek, thence up said creek to the place of beginning, and that this act shall continue in force for the term of one year and no longer, after the first day of March next.

Passed at Dover, Jan. 27, 1831.



CHAPTER LXXIX.

AN ACT to vacate an old road near Nauman's Creek in New Castle county.

Preamble.

Whereas, it has been represented to this General Assembly, that there was formerly a road including about thirty-three perches recently rendered useless used by the public, leading by an oil-mill then belonging to Abraham Robinson, and from thence to the Chichester road; that the said oil-mill has been long since gone to decay, and that more than thirty years since, other public roads have been laid out and opened in the same vicinity, whereby all the first mentioned road (except about thirty perches) has been inclosed, until scarcely any traces thereof can be found; and that by recently

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opening a part of a road leading to Naaman's creek landing, the whole of the said first mentioned road has become useless: Therefore,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That a certain old road recited in the above preamble, be and the same is hereby vacated, and that Doctor James W. Thompson and others, through whose property said road lays, be and are hereby authorised to inclose and hold the same to themselves, their heirs and assigns forever: *Provided,* that nothing in this act shall be construed to authorise the stopping or inclosing of any road which the road commissioners of Brandywine hundred now consider ought to be and remain open.

Road vacated and Dr. J. W. Thompson & others may inclose the same.

Passed at Dover, Jan. 27, 1831.



CHAPTER LXXX.

A SUPPLEMENT to the act entitled "*An act for the relief of distressed and decayed pilots, their widows and children.*" (Dip. p. 438. 5 vol. 395.)

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That so much of the act entitled "*An act for the relief of distressed and decayed pilots, their widows and children,*" passed at Dover, February, one thousand eight hundred and nineteen, and of the supplement thereto passed January 31, 1825, as is contained in the first section of each act which excepts and exonerates the owners, masters or consignees of any ships or vessels belonging to this State, of seventy-five tons or more burthen, from the provisions of these several acts which impose half pilotage in certain cases under a forfeiture and penalty therein mentioned, be and the same are hereby repealed, and that hereafter the said original act and the supplement thereto shall be taken and construed without making any exception in behalf of the citizens of this State which do not extend to all the citizens of the several States.

Exception contained in the original act in favor of the citizens of this State repealed. Dig. 434.

SEC. 2. *Be it enacted,* That the provisions of the aforesaid original act and the supplement thereto, which impose the payment of half pilotage in certain cases, shall not hereafter extend to any vessel coming into the waters of this State for the purpose of procuring stone to be conveyed to the Delaware Breakwater.

Half pilotage not to be charged upon vessels engaged at the Delaware Breakwater.

Passed at Dover, Jan. 27, 1831.

CHAPTER LXXXI. (Private Act.)

AN ACT for the relief of *Ann Cabbage*.*Passed at Dover, Jan. 27, 1831.*

CHAPTER LXXXII.

AN ACT concerning the *New Castle and Frenchtown Turnpike and Rail-road Company*.Route of said
rail road.Powers and
duties of said
company and
directors.Maps of said
road to be
made.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the present route or location of the New Castle and Frenchtown Rail-road, as surveyed and laid out by the engineers of the New Castle and Frenchtown Turnpike and Rail-road Company, and adopted by the directors of the said company, commencing at a point on the river Delaware, within the town of New Castle, and thence extending to the waters of the Elk river, at or near Frenchtown in the State of Maryland, in a course as direct as the nature of the ground over which it passes will admit, be and the same is hereby confirmed and established, as the proper route and location of the said rail-road. And the said New Castle and Frenchtown Turnpike and Rail-road Company are hereby authorised to construct, possess, hold and use the same, with all the rights, privileges and powers vested in the said company, by this or any other law or laws of this State. And the directors of the said company are hereby authorised to cause, as soon as it conveniently may be done, accurate maps of the said rail-road, as surveyed, laid out and located as aforesaid, to be made by the engineer-in-chief, for the time being, of the said company or under his immediate superintendence; which said maps, besides designating the route and location of the said rail-road, shall also specify the lands of the several and respective owners and holders, through, over and upon which the said rail-road is located and will pass; and the contents of such lands respectively within the boundaries of the said rail-road. And the said maps shall be verified by the certificate and signatures of the directors of the said company, or a majority of them, and the engineer-in-chief, for the time being; and shall be further verified by the oath or affirmation of the said engineer-in-chief, that the said maps accurately represent and designate, according to the best of his skill and judgment, the route and location of the said New Castle and Frenchtown rail-road, and the lands of the several and respective owners and holders, with the contents thereof within the boundaries of the said rail-road; which oath or affirmation shall be administered by any judge or justice of the peace. And the said maps so verified in manner and form aforesaid, shall be deposited

in the form of an atlas, in the office for the recording of deeds in New Castle county, and an entry shall be made therein and signed by the recorder of the same being so deposited; and for so doing he shall be paid by the said company the sum of one dollar. And the said maps so deposited, shall be a matter of record, and the same, or an office copy thereof shall be deemed, taken and received as sufficient evidence, in all courts of law and equity within this State.

Where deposited.

Recorder's fee.

SEC. 2. *And be it further enacted,* That it is and shall be lawful for the said New Castle and Frenchtown Turnpike and Rail-road Company by their engineers, artists, superintendents, contractors, workmen and laborers with their instruments, implements, carts, wagons and other carriages, and beasts of draught or burden, to enter upon and occupy the lands within the boundaries of the said rail-road, for the purpose of making, constructing and perfecting the same, and all the necessary works thereto belonging: *Provided always,* that the said New Castle and Frenchtown Turnpike and Rail-road Company shall be liable to pay to the several and respective owners of lands within the boundaries of the said rail-road, a fair and reasonable compensation (if compensation be demanded) for the damages sustained, by reason of taking such lands for the location and use of the said rail-road: such damages to be ascertained or assessed in the manner hereinafter mentioned.

Powers of the company in making the road.

Liable to damages.

SEC. 3. *And be it further enacted,* That in all cases where the damages (if any) sustained by any owner or owners of lands within the boundaries of the said rail-road, by reason of taking such lands for the location and use of the said rail-road, have not been, or because of disagreement cannot be ascertained by private contract between such owner or owners and the New Castle and Frenchtown Turnpike and Rail-road Company; or in case the owner or owners of any such lands be out of the State, or be under the disability of infancy, coverture or incompetency of mind, or be otherwise incapacitated or unable to make such contract aforesaid, or to convey lands, then and in each and every such case, it shall and may be lawful for the said New Castle and Frenchtown Turnpike and Rail-road Company, or for the owner or owners of any such lands who have made no such private contract as aforesaid, to make application to the Court of Common Pleas for the county of New Castle in term time, or to the Chief Justice of the said court in vacation, first giving at least five days' notice of making such application to the opposite party: but notice to such party, if out of the State, or under any of the disabilities aforesaid, shall not be required of the said company.

Damages, how ascertained.

After notice to apply to the court of com. pleas, &c.

And the said court or Chief Justice, is hereby authorised and required to nominate and appoint five fit and impartial freeholders of New Castle county, to view the premises and assess the damages (if any) sustained by the reason aforesaid. And it shall be the duty of the party upon whose application the said freeholders are appointed, to give five days' notice to the opposite party, of the time

Duty of said court.

And of the parties.

Service of
notice.

Freeholders
to be sworn
or affirmed.

Powers and
duties of the
freeholders.

Report to be
returned,
where—and
confirmed.

Title of said
company to
the lands,
&c.

and place of meeting of the said freeholders. And it shall be a sufficient service of such notice upon the said company, or of any other notice required by this act, to deliver a copy thereof to the president and secretary personally, or to leave a copy at the dwelling-house of each of them: and such notice, from or on behalf of the said company, or any other notice required by this act, from or on behalf of the said company, may be served by the delivery of a copy thereof to the owner or owners of such lands, or leaving a copy at their respective dwelling-houses: but in case such owner or owners are out of the State, or under any of the aforesaid disabilities, it shall be a sufficient service of notice of the time and place of meeting of the said freeholders, to leave a copy thereof at the dwelling-house, or some conspicuous place, on the land, through which the said rail-road is located. And each of the said freeholders, before he proceeds to perform the duties required of him by this act, shall take an oath or affirmation that he will faithfully and impartially, according to the true intent and meaning of this act, and to the best of his skill and judgment, estimate and assess the damages (if any) sustained by such owner or owners of lands within the boundaries of said rail-road by reason of taking such lands for the location and use of said rail-road, which said oath or affirmation the said freeholders shall severally have authority to administer to each other. And the said freeholders shall proceed to view the premises: and, in assessing damages, shall take into consideration the advantages derived from the said rail-road passing through the lands of such owner or owners; and, having estimated and ascertained the damages, shall make a report under their hands and seals, or the hands and seals of a majority of them, describing the lands and stating the amount of damages (if any) which such owner or owners have sustained or will sustain by reason of taking such lands for the location and use of the said rail-road, and vesting the same in the said company; which said report shall be forthwith returned to the office of the prothonotary of the said county, and judgment of confirmation shall be entered by the said court, unless good and sufficient cause be shown to the contrary; in which case, the said court in their discretion, may refer the matter back to the same freeholders, or appoint other five freeholders, to proceed in manner aforesaid and assess the damages, if any be sustained. And when judgment of confirmation upon any report made as aforesaid pursuant to this act shall be entered by the said court, then the said New Castle and Frenchtown Turnpike and Rail-road Company, paying to such owner or owners aforesaid, the damages assessed in such report aforesaid, or bringing the same into court for the use of such owner or owners, and paying the costs of the said proceedings, shall have and hold, to them and their successors and assigns forever, all and every the lands described in such report as fully and effectually as if the same had been well and sufficiently granted to them by the several and respective owners thereof, by any legal and perfect mode of conveyance or assurance whatsoever.

And each freeholder appointed as aforesaid, shall receive for every day's attendance in the performance of the duties hereby required of him (if regular return be duly made) the sum of one dollar: and the prothonotary shall receive such fees as are given to him by law for like services. Fee of the freeholders.

SEC. 4. *And whereas*, in many cases the said New Castle and Frenchtown Turnpike and Rail-road Company are entitled by gift or private contract, to deeds of conveyance for lands through which the said rail-road is located, and in other cases by the award of arbitrators, amicably chosen, deeds of conveyance are to be executed to the said company, their successors and assigns, for certain other lands through which the said rail-road is located: *And whereas* the drafting, execution, proof, acknowledgment and recording of so many deeds for so many small parcels of land will be attended with great trouble, difficulty, delay and expense, Preamble.

Be it therefore further enacted, That in each and every such case it shall and may be lawful for the said New Castle and Frenchtown Turnpike and Rail-road Company, and they are hereby authorised, instead of such deed or deeds of conveyance as aforesaid, to obtain from the party so contracting or required by any award to make such deed or deeds a certificate, to be made and executed under the hand and seal of such party in the presence of, and attested by the Chancellor or any Judge or Justice of the Peace of this State: which said certificate shall contain an acknowledgment of the receipt from the said company of the consideration money (if any) or of the damages awarded to such party (if any,) and shall also contain a description of the lands of the said party within the boundaries of the said rail-road, with a declaration that the said party conveys all his or her right and title to the said lands so described unto the said company, and their successors and assigns forever. And the said certificate, when so executed, shall vest in the said company and their successors and assigns forever all the estate, right, title and interest of the party or parties making it, in and to the lands therein described, as fully and effectually as if the same were well and sufficiently granted by such party or parties by any perfect and legal mode of conveyance or assurance whatsoever. And it shall be the duty of the recorder of deeds for New Castle county to record such certificates so executed and attested, for which he shall receive such fees as are given to him by law for the like services. And the record of said certificates, or an office copy thereof, shall be sufficient evidence in all courts of law and equity within this State. What shall be a good conveyance to the company.
Certificate shall vest title, &c., in said company.
To be record.
Recorder's fee.

And the said rail-road so located as aforesaid, and all the property, rights, powers and privileges, granted to the said New Castle and Frenchtown Turnpike and Rail-road Company, by this or any other law or laws of this State, shall be and are hereby vested in the said company, their successors and assigns forever. Rail road &c. vested in said company.

SEC. 5. *And be it further enacted*, That if any person or persons shall destroy, break, damage or in any manner injure the rail

Destroying
&c. any part
of said rail-
road, &c.

way or rail-ways or any part thereof of the said rail-road, or any of the switches, turnouts or crossings—or shall aid, abet or counsel the doing of the same; or if any person or persons shall destroy, break, damage or in any manner injure the level or surface edges or sides of the said road or any part thereof; or the embankments, culverts, bridges, birms, drains, ditches, fences, hedges or trees or any of them, of or belonging to the said road, or shall aid, abet or counsel the doing of the same; or if any person or persons shall throw, put or place any obstruction in or upon the said road or any part thereof, or any obstacle or impediment in the way of any car, carriage, vehicle, locomotive engine or machine going or being upon the said road; or shall aid, abet or counsel the doing of the same; or if any person or persons shall destroy, break, damage or in any manner injure the cars, carriages or other vehicles or any of them, or any locomotive engine or machine of the said company, or the buildings, wharves, landing places, or any of them, or any improvement or improvements whatsoever of the said company; or shall aid, abet or counsel the doing of the same, all and every such person or persons so offending shall be liable to indictment in the Court of General Quarter Sessions of the Peace and Gaol Delivery within New Castle county; and on conviction upon such indictment, shall be fined in any sum not exceeding five thousand dollars, at the discretion of the court, and shall be sentenced to pay the fine with all the costs; and such proceedings shall be had as in all other cases of indictable offences, shall be liable to the said New Castle and Frenchtown Turnpike and Rail-road Company in a civil action for the injury sustained; and the form of such action shall be trespass vi et armis, in which treble damages and full costs of suit shall be recovered. But in no case shall both those remedies be had by the said New Castle and Frenchtown Turnpike and Rail-road Company for one and the same offence or damage.

Penalty.

Passed at Dover, Jan. 26, 1831.



CHAPTER LXXXIII.

AN ACT to incorporate the Wilmington and Downingtown Rail-road Company.

Comm'rs.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Caleb Kirk, Joseph G. Rowland, James Canby, E. J. Dupont, John Gordon, Edward Tatnall and William Seal, or any two of them be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they shall on or before the first Monday of October next procure two books, one of which shall be opened in the borough of Wilmington, and one at such other place or places as the said commissioners shall

Their duty to
open books,
&c.

deem proper and necessary, and in each of which they shall enter as follows: We whose names are hereunto subscribed, do promise to pay to the president and managers of the Wilmington and Downingtown Rail-road Company the sum of fifty dollars, for every share of stock set opposite to our respective names, in such manner and proportions and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the General Assembly of this State, entitled "An act to incorporate the Wilmington and Downingtown Rail-road Company." Witness our hands this day of in the year of our Lord one thousand eight hundred and . And shall thereupon give notice in two of the newspapers printed in the borough of Wilmington, and in one newspaper printed in such other place or places as they may deem it proper and necessary to open books, in three weeks at least of the times and places when and where the said books shall be kept open to receive subscriptions for the stock of said company, at which respective times and places one or more of the commissioners shall attend and permit all persons of lawful age, who shall offer to subscribe in the said books in their own name, or the name of any other person who shall authorise the same, for any number of shares in the said stock, and the said books shall be kept open at least six hours in every juridical day, for the space of six days, or until there shall have been subscribed two thousand shares; and if at the expiration of six days the books aforesaid shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time and transfer the book or books elsewhere until the whole number of two thousand shares shall be subscribed, of which adjournment and transfer the commissioners aforesaid shall give such notice as the occasion may require, and when the whole number of shares shall be subscribed then the books shall be closed.

SEC. 2. *And be it enacted by the authority aforesaid,* That when Company in- and as soon as the whole number of shares shall be subscribed the subscribers, their successors and assigns shall be and they are hereby declared to be incorporated—
 "Wilmington and Downingtown Rail-road Company," and by the same name the subscribers shall have perpetual succession and be able to sue and be sued, implead and be impleaded, in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors lands, tenements and hereditaments, goods, chattels, and all estate real, personal and mixed of what kind or quality soever, and the same from time to time to sell, mortgage, grant, alien or dispose of, and to make dividends of such portions of the profits as they may deem proper; and also to make and have a common seal, and the same to alter or renew at pleasure, and also to ordain, establish and enforce such by-laws and regulations as shall be deemed necessary and convenient for the government of the said corporation, not being repugnant to the constitution and laws of this State and of the United States, and generally to do all and singular the matters and things which to them
 when.
 Style and powers of.

Banking privileges prohibited. it shall lawfully appertain to do for the well being and ordering the affairs of the same: *Provided*, that nothing herein contained shall be considered as in any way given to the said corporation any banking privileges whatsoever or any other liberties, privileges or franchises, but such as may be necessary or incident to the making and proper management of the said rail-road.

Notice of meeting to organise.

Officers.

SEC. 3. *And be it further enacted*, That the commissioners aforesaid as soon as conveniently may be, after the whole number of shares shall be subscribed as aforesaid, shall give notice in two of the Wilmington newspapers, and in such other newspapers as they shall deem proper at least twenty days, of the time for the said subscribers to meet in the borough of Wilmington in order to organise the said company, and to choose by a majority of votes of the said subscribers by ballot, to be given in person or by proxy, one president and eight managers, a majority of whom shall be residents of this State, a treasurer and such other officers as shall be deemed necessary; that the president and managers aforesaid shall conduct the business of said company until the first Monday of January, in the year one thousand eight hundred and thirty-three, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations as are not inconsistent with the constitution and laws of the United States or of this State, and that may be necessary for the well governing the affairs of the company.

Annual meetings.

Notice of.

Voting regulated.

SEC. 4. *And be it further enacted*, That the stockholders shall meet on the first Monday of January, one thousand eight hundred and thirty-three, and in every year thereafter at the borough of Wilmington, of which notice shall be given at least twenty days by the secretary in the newspapers before mentioned, and choose, by a majority of votes present, their officers for the ensuing year as mentioned in the third section of this act, who shall continue in office for one year and until others are chosen, and at such other times as they may be summoned by the managers in such manner and form as shall be prescribed by the by-laws; at which annual or special meeting they shall have full power and authority to make alter or repeal by a majority of votes in manner aforesaid all such by-laws, rules, orders and regulations as aforesaid, and to do and perform every other corporate act; and the number of votes to which each stockholder shall be entitled shall be according to the number of shares he or she shall hold in the proportions following, that is to say: for each share, not exceeding twenty shares, one vote; for every five shares, above twenty and not exceeding fifty, one vote, and for every ten shares above fifty, one vote; but no share shall confer a right of suffrage which shall not have been holden three calendar months prior to the day of election, nor unless it be holden by the person in whose name it appears absolutely and bona fide in his own right or in that of his wife, or for his or her sole use and benefit, or as executor or administrator, trustee or guardian, or in the right and for the use and benefit of some co-partnership, cor-

poration or society of which he or she may be a member, and not in trust for and to the use and benefit of any other person: *Provided*, that no share held by transfer shall be entitled to vote, unless the same shall have been transferred at least three months before the election, and in all voting by proxy the attorney shall be legally constituted under the hand and seal of the party and the authority properly authenticated, when according to the laws of this State, such authenticity is necessary.

SEC. 5. *And be it further enacted*, That the election of officers, Election of officers, how conducted. provided for in the preceding section shall be conducted in the following manner, that is to say, the managers for the time being shall appoint two of the stockholders, not being managers, to be judges of the said election, and to conduct the same, after having severally taken and subscribed an oath or affirmation before a judge or justice of the peace well and truly, and according to law conduct such election, and the said judges shall decide upon the qualifications of the voters, and when the election is closed shall count the votes and declare who has been elected; and if it shall at any time happen that an election of president, managers, treasurer, or other officer shall not be made, the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of president, managers, treasurer or other officer on the same day or on any day thereafter by giving at least ten days' notice, signed by the president or secretary in the newspapers before mentioned, of the time and place of holding said election, and the president, managers, treasurer and other officers of the preceding year shall in that case continue to act and be invested with all the powers belonging to their respective situations, until another election shall take place; in case of the death, resignation or removal from the State of any president, manager, treasurer or other officer, his place shall be filled by the board of managers until the next annual election: *Provided*, that the removal of a manager from this State shall not operate to vacate his place, should there be a majority of the managers still residing in the State. Failure to elect provision.

SEC. 6. *And be it further enacted*, That the said president and managers shall hold their meetings in the borough of Wilmington, and when met five shall be a quorum, who in the absence of the president may choose a chairman, and the said managers shall annually appoint a secretary, who shall keep minutes of their transactions fairly entered in a book, and a quorum of the said managers being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other artists and officers as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the monies due on their respective shares, to draw orders on the treasurer for the same, which shall be signed by the president, or in his absence by a majority of the managers present, and countersigned by the secretary, and generally to do all such other acts, Managers' meetings, where to be held, &c. Secretary. Surveyors, &c. Payment of money, &c.

Banking privileges prohibited.

it shall lawfully appertain to do for the well being and ordering the affairs of the same: *Provided*, that nothing herein contained shall be considered as in any way given to the said corporation any banking privileges whatsoever or any other liberties, privileges or franchises, but such as may be necessary or incident to the making and proper management of the said rail-road.

Notice of meeting to organise.

SEC. 3. *And be it further enacted*, That the commissioners aforesaid as soon as conveniently may be, after the whole number of shares shall be subscribed as aforesaid, shall give notice in two of the Wilmington newspapers, and in such other newspapers as they shall deem proper at least twenty days, of the time for the said subscribers to meet in the borough of Wilmington in order to organise the said company, and to choose by a majority of votes of the said subscribers by ballot, to be given in person or by proxy, one president and eight managers, a majority of whom shall be residents of this State, a treasurer and such other officers as shall be deemed necessary; that the president and managers aforesaid shall conduct the business of said company until the first Monday of January, in the year one thousand eight hundred and thirty-three, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations as are not inconsistent with the constitution and laws of the United States or of this State, and that may be necessary for the well governing the affairs of the company.

Officers.

Annual meetings.

Notice of.

SEC. 4. *And be it further enacted*, That the stockholders shall meet on the first Monday of January, one thousand eight hundred and thirty-three, and in every year thereafter at the borough of Wilmington, of which notice shall be given at least twenty days by the secretary in the newspapers before mentioned, and choose, by a majority of votes present, their officers for the ensuing year as mentioned in the third section of this act, who shall continue in office for one year and until others are chosen, and at such other times as they may be summoned by the managers in such manner and form as shall be prescribed by the by-laws; at which annual or special meeting they shall have full power and authority to make alter or repeal by a majority of votes in manner aforesaid all such by-laws, rules, orders and regulations as aforesaid, and to do and perform every other corporate act; and the number of votes to which each stockholder shall be entitled shall be according to the number of shares he or she shall hold in the proportions following, that is to say: for each share, not exceeding twenty shares, one vote; for every five shares, above twenty and not exceeding fifty, one vote, and for every ten shares above fifty, one vote; but no share shall confer a right of suffrage which shall not have been holden three calendar months prior to the day of election, nor unless it be holden by the person in whose name it appears absolutely and bona fide in his own right or in that of his wife, or for his or her sole use and benefit, or as executor or administrator, trustee or guardian, or in the right and for the use and benefit of some co-partnership, cor-

Voting regulated.

poration or society of which he or she may be a member, and not in trust for and to the use and benefit of any other person: *Provided*, that no share held by transfer shall be entitled to vote, unless the same shall have been transferred at least three months before the election, and in all voting by proxy the attorney shall be legally constituted under the hand and seal of the party and the authority properly authenticated, when according to the laws of this State, such authenticity is necessary.

SEC. 5. *And be it further enacted*, That the election of officers, Election of officers, how conducted. provided for in the preceding section shall be conducted in the following manner, that is to say, the managers for the time being shall appoint two of the stockholders, not being managers, to be judges of the said election, and to conduct the same, after having severally taken and subscribed an oath or affirmation before a judge or justice of the peace well and truly, and according to law conduct such election, and the said judges shall decide upon the qualifications of the voters, and when the election is closed shall count the votes and declare who has been elected; and if it shall at any time happen that an election of president, managers, treasurer, or other officer shall not be made, the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of president, managers, treasurer or other officer on the same day or on any day thereafter by giving at least ten days' notice, signed by the president or secretary in the newspapers before mentioned, of the time and place of holding said election, and the president, managers, treasurer and other officers of the preceding year shall in that case continue to act and be invested with all the powers belonging to their respective situations, until another election shall take place; in case of the death, resignation or removal from the State of any president, manager, treasurer or other officer, his place shall be filled by the board of managers until the next annual election: *Provided*, that the removal of a manager from this State shall not operate to vacate his place, should there be a majority of the managers still residing in the State. Failure to elect provision. An officer removing from this State.

SEC. 6. *And be it further enacted*, That the said president and managers shall hold their meetings in the borough of Wilmington, and when met five shall be a quorum, who in the absence of the president may choose a chairman, and the said managers shall annually appoint a secretary, who shall keep minutes of their transactions fairly entered in a book, and a quorum of the said managers being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other artists and officers as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the monies due on their respective shares, to draw orders on the treasurer for the same, which shall be signed by the president, or in his absence by a majority of the managers present, and countersigned by the secretary, and generally to do all such other acts, Managers' meetings, where to be held, &c. Secretary. Surveyors, &c. Payment of money, &c.

matters and things as by this act and by the by-laws and regulations of the company they are authorised to do.

Certificates
of stock.

SEC. 7. *And be it further enacted*, That the president and managers first chosen shall procure certificates or evidence of stock for all the shares of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said company, to each person for every share by him subscribed and held; which certificate or evidence of stock shall be transferable at his pleasure, in person or by attorney duly authorised in the presence of the president or treasurer, each of whom shall keep a book for that purpose (subject however to all payments due or to become due thereon) and the assignee holding any certificate having first caused the assignment to be entered in a book of the company to be kept for the transfer of stock, shall be a member of the said corporation, and for every certificate assigned to him as aforesaid shall be entitled to one share of the capital stock, and of all estates and emoluments of the company incident to one share, and to vote as aforesaid at the meetings thereof, and subject to all penalties and forfeitures, and of being sued for all the balance and penalty due or to become due on each share as the original subscriber would have been.

Neglecting to
pay instal-
ment.

Penalty.

How recover-
ed.

SEC. 8. *And be it further enacted*, That if after thirty days' notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or instalment at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his or her assignee shall in addition to the instalment so called for, pay at the rate of two per centum per month for the delay of such payment, and if the same and additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part and on account of such shares, the same shall be forfeited to the said company, and may be sold to such person or persons willing to purchase, for such price as can be obtained for the same, or in default of payment by any stockholder of any such instalment as aforesaid, the president and managers may at their election, cause suit to be brought before any justice of the peace, burgess of the borough of Wilmington, or in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid: *Provided*, that no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election or at any general or special meeting of the said company on whose share or shares any instalment or arrearages may be due and payable more than thirty days previously to the said election or meeting.

Officers to
give bond.

SEC. 9. *And be it further enacted*, That the president and managers of the said company shall demand and require of and from the said treasurer, and all and every other the officers and other

persons by them employed, bond in sufficient penalties, and with such sureties as they shall by their rules, order and regulations require, for the faithful discharge of the several duties and trusts to them or any of them respectively committed.

SEC. 10. *And be it further enacted*, That dividends of so much Dividends— of the profits of the company as shall appear advisable to the managers shall be declared at least twice a year in every year, and when to be made. paid to the stockholders on demand, at any time after the expiration of ten days therefrom, but they shall in no case exceed the amount of the nett profits actually acquired by the company, so that How regulated. the capital stock shall never be thereby impaired; if the said managers shall make any dividends which shall impair the capital stock Managers of said company, the managers consenting thereto shall be liable liable, when. in their individual capacities to said company for the amount of the stock so divided, and each manager present when such dividend shall be made shall be adjudged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders at the declaring of such dividend.

SEC. 11. *And be it further enacted*, That at the end of the third Abstract of year after the date of this act and of every third year thereafter, the account there shall be furnished to the Legislature an abstract of the ac- to be furnish- count of the company, showing the whole amount of their capital ed to the le- actually paid into the funds of the company, and the amount of gisature— dividend declared in each year, or the losses sustained, as the case when and may be; which abstract shall be verified by the oath or affirmation how made. of the president of the company for the time being.

SEC. 12. *And be it further enacted*, That the president and man- Location of agers of the said rail-road company, shall have power to survey, the road. lay down, ascertain, mark and fix such route as they shall deem expedient for such road, beginning at some point on the Christiana river, within the borough of Wilmington; which point shall not be east of Poplar street in said borough, and extending to the line of this State in the direction of Downingtown in the State of Pennsylvania, having due regard to the situation or nature of the ground and of the buildings thereon, the public convenience and the interest of the stockholders, and so as to do the least damage to private property; and the said road shall not be more than four rods wide, and shall not pass through any burying ground, or place of Not to pass public worship, nor any dwelling-house, without the consent of the through any owner thereof, nor shall it pass through any outbuilding of the value burying of three hundred dollars without such consent; and the said presi- ground, &c. dent and managers shall, within six months after ascertaining the route of the rail-road, cause an accurate survey of the lines of the said road to be made, a map or plot of which survey they shall A map there- cause to be filed in the Secretary's office of this State; which map of to be filed or plot, or a certified copy thereof, shall be sufficient evidence of in the Secre- the course of said road which may then be opened, and all the ex- tary's office. penses incurred thereby shall be defrayed by said company.

Powers of the
company in
locating the
road.

SEC. 13. *And be it enacted*, That it shall be lawful for the president, managers and company, of the said rail-road company and their agents, and all persons employed by or under them for the purposes contemplated by this act, to enter upon any land which they shall deem necessary for laying out said road, and also for the purpose of searching for stone, sand, gravel or wood for constructing said road; but no stone, sand, gravel or wood shall be taken away from any land without the consent of the owner thereof, until the rate of compensation for the same be ascertained and paid; which rate of compensation, if the parties cannot agree thereon, shall be ascertained in the manner hereafter prescribed as to the compensation for lands over which said road may be laid.

And gradua-
ting its de-
scent.

SEC. 14. *And be it further enacted*, That it shall and may be lawful for the said company to make, construct and establish a rail-road on the route laid out as aforesaid, to be constructed so that the said rail-road in its progress shall in no part of it rise above one inch to a foot; and said company are also hereby empowered to erect, make and establish all works, edifices, and devices to the said rail-road as may by the said company be deemed expedient for the purposes of carrying into effect the objects of their incorporation, and also to construct or agree with the owner or owners for the purchase of any lands or tenements which may be necessary for the purpose of erecting the said rail-road.

How dama-
ges to lands,
&c. to be as-
certained.

SEC. 15. *And be it further enacted*, That whenever it shall be necessary for the president, managers and company of the said rail-road company to enter in and upon, and occupy for the purpose of making said rail-road, any land upon which the same may be located, if the owner or owners of said land shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for any injury or supposed injury that may be done to said land by such entry and occupation, it shall and may be lawful for the parties to appoint five suitable and disinterested persons to estimate such damage, who shall be under oath or affirmation fairly and impartially to estimate the same, and shall reside within the county of New Castle; and the expenses incurred by the said appraisers shall be defrayed by the said rail-road company; but if the parties cannot agree upon such persons, or if the persons so chosen shall not decide upon the matter, or if the owner of such land shall refuse or neglect to join in such appointment within twenty days after requisition upon him for that purpose made, or if such owner shall be *feme covert*, under age, non compos mentis, out of the State, or unknown, then it shall be lawful for the Court of Common Pleas of said county, on application of either party and at the costs and charges of the said company, to appoint five disinterested men of said county, to view, examine and survey the said lands, tenements or hereditaments, and estimate the injury or damage, if any, that in their apprehension will be sustained as aforesaid by reason of said rail-road, and report the same under their oaths or affirmation to the said court,

the agreement of any three of them to said report being sufficient; which report being confirmed by the said court, judgment shall be entered thereon, and the viewers shall be entitled to one dollar per diem for their services, to be paid by said company; and it shall be the duty of the appraisers, viewers in estimating such injury or damage, to take into consideration the advantages that will be derived to the owner or owners of the said lands from the said rail-road: *Provided*, that either party may appeal to the said court within thirty days after such report may have been filed in the prothonotary's office of said county, and have the matters in issue decided in the same manner in which appeals from the judgments of justices of the peace are decided, and such decision shall be final; and upon the coming in of such report and the confirmation thereof, or upon final judgment on appeal therefrom, and the said company paying to such owner the sum in such report or judgment specified in full compensation for said lands, or for the injury sustained as aforesaid, the said company shall become seized of the same estate in the said lands which the owner held in the same; and they, and all who act under them, shall be acquitted and freed from all responsibility for and on account of such injury: *Provided*, that the payment of damages aforesaid for land, through which the said road may be made, shall be made before the said company or any person under their direction or in their employ, shall be authorised to enter upon or break ground in the premises, except for the purpose of surveying and laying out said road, unless the consent of the owner of such land be first obtained.

Viewers' fees.

Appeal granted.

Damages to be paid before entry on lands.

SEC. 16. *And be it further enacted*, That the said rail-road shall be so constructed by the said company as not to obstruct or impede the free use or passage of any public road or public roads, which may cross or enter at the same, being now laid out, or hereafter to be laid out; and in all places where the said rail-road may cross, or in any way interfere with any public road, it shall be the duty of the said company to make or cause to be made, a good and sufficient causeway or causeways, to enable all persons passing or travelling such public road, to cross and pass over the said rail-way, which causeway or causeways shall be made and maintained by the said company; and if the said company shall refuse or neglect to make such causeway or causeways, or when made to keep the same in good repair, they shall be liable to pay a penalty of ten dollars, for every day the same shall be so neglected or refused to be made or repaired; to be recovered by the road commissioners of the hundred with costs for the use of the hundred, as debts of like amount are by law recoverable, and shall moreover be liable to an action or actions at the suit of any person who may be aggrieved thereby; and the service of process upon any officer or agent of said company shall be as good and available in law, as if served upon the president himself.

How the rail-road shall be constructed.

SEC. 17. *And be it enacted*, That for the accommodation of all persons owning or possessing land, through which the said rail-

When the said rail-road shall pass through plantation—provision.

road may or shall pass, and to prevent inconvenience to such person in crossing and passing over the same, it shall be the duty of the said company when required, to make or cause to be made a good and sufficient causeway or causeways, whenever the same may be necessary, to enable the occupant or occupants of said lands to cross or pass over the same with wagons, carts and implements of husbandry, as occasion may require: *Provided*, that the said company shall in no case be required to make or cause to be made more than one such causeway through each plantation or lot of land, for the accommodation of any one person owning or possessing land through which the said road may or shall pass; and where any public road shall cross said rail-road, the person owning or possessing land through which the said road shall pass, shall not be entitled to make such requisition on said company, and the said causeway or causeways when so made, shall be maintained and kept in repair by the said company; and if the said company shall refuse or neglect to make such causeway or causeways, or when so made to keep the same in good repair, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person in consequence of such refusal or neglect, to be sued for and recovered before any justice of the peace, or any court having cognizance thereof; and the service of process upon any officer or agent of said company shall be as good and available in law as if served upon the president himself.

Limitation of action for penalty, &c.

SEC. 18. *And be it enacted*, That no suit or action shall be brought or prosecuted by any person or persons for any penalties incurred under this act, unless suit or action shall have been commenced within six months, next after the offence shall have been committed, or the cause of action shall have occurred, 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 authority of this act.

General issue

Lateral rail-roads may be laid out.

SEC. 19. *And be it further enacted*, That from time to time, whenever it may be necessary, the president and managers are hereby authorised to lay out or cause to be laid out and constructed in manner as above prescribed, such lateral rail-roads as occasion may require. And that the Legislature reserves the right, if the said company unreasonably refuse or neglect to lay out and construct such lateral rail-roads as the public wants may demand and require, to authorise any person or persons, company or companies to construct the same, subject to such reasonable terms and regulations as the Legislature may prescribe.

Rates of toll.

SEC. 20. *And be it enacted*, That on the completion of a section of two miles of the principal rail-road, beginning at the Christiana river, and from time to time of the lateral rail-roads, the same shall be esteemed the public highway, free for the transportation of all commodities; and the said company may charge and receive tolls, and for freight on and for transportation of goods, wares and merchandise at the following rates, that is to say: on each ton of salt,

three cents per mile; on each ton of coal, gypsum, brick, lime, iron-ore and sand, two cents per mile; on wood for fuel, two cents per cord per mile; on lumber, squared and round, per one hundred feet solid, two cents per mile; on boards, plank, scantling, or other sawed stuff, reduced to inch stuff, two cents per one thousand feet per mile; on staves and heading, for barrels and other vessels of less size, one cent per mile per thousand; on all carriages conveying passengers, one cent per mile for each passenger; on pig-iron, three cents per ton per mile; on manufactured iron, four cents per ton per mile; on all articles not enumerated, passing southward, two cents per ton per mile, and on all articles not enumerated, passing northward, four cents per ton per mile; on all single and detached articles, weighing less than a ton, it shall be lawful to charge and receive on the transports thereof, an advance of twenty per centum on the rates as above established. *Provided always,* and it is hereby declared and enacted, that the rate of tolls chargeable on articles of any kind whatsoever passing northward, may be one-third more than the tolls hereby established, and chargeable on similar articles passing southward: *Provided also,* that from the line of the borough of Wilmington to any and every part of said borough, when the said rail-road may be located, the tolls shall be the same as is charged for one mile, on the several articles before-mentioned, and no more. *And provided further,* that every person or persons using the said road shall only use those carriages, wagons and conveyances which shall be adapted thereto; which said carriages, wagons and conveyances, to be used thereon for the transportation of persons or commodities, shall be of such kind as the said company shall prescribe. *And provided further,* that if the nett proceeds of the tolls, according to the rates herein-before established, shall not amount to six per centum per annum on the capital stock of said company, the president and managers shall have power and they are hereby authorised to increase said rates so far as that the said nett proceeds shall amount to six per centum per annum on said capital stock.

Rate of tolls on goods passing southward and northward.

Do. in the borough of Wilmington.

Carriages to be adapted to the rail-road.

SEC. 21. *And be it enacted,* That if any person or persons shall wilfully and knowingly break, injure or destroy the rail-road or any part thereof, or any work, edifice or device, or any part thereof to be erected by the said company in pursuance of this act, he she or they shall forfeit and pay to the said company three times the actual damage so sustained, to be sued for and recovered with costs of suit before a justice of the peace, or in any court having cognizance thereof, by action of debt in the name and for the use of the said company.

Penalty for injury to the road, &c.

How recovered.

SEC. 22. *And be it further enacted,* That if the president, managers and company shall not proceed to carry on said work within three years from the date of this act, and shall not complete the same as aforesaid in seven years, according to the true intent and meaning of this act, or if after the completion of the said rail-road the said company shall suffer the same to go to decay and be im-

In case the company neglect to complete the road.

passible for the term of four years, then this charter shall become null and void.

Capital stock
may be in-
creased—
when.

SEC. 23. *And be it further enacted,* That if an increase of the capital stock be deemed necessary by the stockholders to complete the said rail-road, it may be lawful for the said president, managers and company, at a stated meeting convened for the purpose, to increase the number of shares so as the capital stock of said company shall not exceed one hundred and fifty thousand dollars, and to demand and receive the monies for shares so subscribed in like manner and under like penalties as are hereinbefore provided for the original subscription, or as shall be provided for by their by-laws.

In case a law
be passed for
like purposes
by the legis-
lature of
Pennsylv'a.

SEC. 24. *And be it further enacted,* That if at any time hereafter a company shall be incorporated in the State of Pennsylvania, for the purpose of constructing a rail-road extending from Downingtown in that State, to the line of this State, and uniting at said line, with the rail-road contemplated to be laid out by this act, and when the two companies respectively shall have fully completed the construction of the two roads from the respective places of beginning to the point of termination and union at the said line, and the debts and expenses contracted by the said companies respectively shall be fully paid and discharged, so that each company shall stand free and discharged from all debts, liens and incumbrances, that then and in such case it shall be the duty of the president, managers and company hereby incorporated, and they are hereby required to offer and propose to the said company, which shall then have been incorporated in the State of Pennsylvania, to form a union of the capital stock of the said companies respectively, and if such proposal shall be accepted to form such union, so that the capital stock of the respective companies shall be a common stock, and the two companies shall in all respects constitute one company, which shall be entitled to all the rights, privileges, and immunities conferred by this act.

A union of
the two com-
panies may
be made—
how.

Limitation of
this act.

SEC. 25. *And be it enacted,* That the State hereby reserves the right to alter or abolish this charter, at any time after the period of fifty years from the completion of said road, and providing that such compensation shall be made to the stockholders as the Legislature shall deem reasonable.

Passed at Dover, Jan. 26, 1831.

CHAPTER LXXXIV.

AN ACT *making provision for the support of Government for the year one thousand eight hundred and thirty-one,*

SEC. 1. *Be it enacted by the Senate and House of Representatives* \$12,000 to be of the State of Delaware in General Assembly met, That the sum of raised.
 twelve thousand dollars shall be raised and paid into the treasury of this State within the time, and in the manner directed by an act of the General Assembly entitled "An act concerning the auditor (Dig. p. 54.) of accounts;" which said sum of twelve thousand dollars shall be How appor-
 apportioned, assessed and levied on the amount of the aggregate tioned.
 valuation of the real and personal property within this State, made in pursuance of the act of the General Assembly of this State, entitled "An act authorising and directing a general assessment of (Dig, p. 502.) the real and personal property of this State," passed in February, in the year of our Lord one thousand eight hundred and sixteen, and it shall be the duty of the auditor of accounts, and he is here- Auditor's
 by authorised and required to ascertain and apportion upon the duty.
 aforesaid amount of the aggregate valuation, the sum per centum necessary to raise, clear of all allowances for delinquents, according to the best estimate that he can make of such allowances; and also of all charges of collecting the taxes hereby granted and laid,

SEC. 2. *And be it further enacted by the authority aforesaid,* That the aforesaid sum of money shall be appropriated and applied in the following manner, that is to say: so much as may be necessary shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Supreme Court and Court of Common Pleas, Attorney General, Secretary of State and Auditor of Accounts, up to the first day of January, which will be in the year of our Lord one thousand eight hundred and thirty-two; so much as may be necessary shall be applied to the payment of the daily allowances of the members of the General Assembly, their clerk and other expenses, and for printing the laws passed at the session of this General Assembly and the proceedings thereof; and so much as may be necessary to the payment of the daily allowance of the delegates to the convention, to be held in November next, and the allowance to the clerk and officers thereof, as well as the other expenses incurred by the convention as authorised by law, and the residue to be applied to the payment of any claim or claims against the State, for which provision is or shall be made by law. How the money shall be appropriated,

Passed at Dover, Jan. 27, 1831,

CHAPTER LXXXV.

3 vol. 121,
828. 5 vol.
198. 6 vol.
353. 8 vol.
30.

A FURTHER SUPPLEMENT to the act entitled "*An act to authorise 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, to cut a ditch or drain through the same.*"

Preamble.

Whereas, it has been represented to this General Assembly, that in consequence of numerous lateral ditches and drains having been opened into the Tappahannah Marsh ditch, which was formerly laid out and opened under the act to which this is a further supplement, the said ditch is found not to be of sufficient width and depth to discharge the waters from the lands which were intended to be drained by it, in consequence of which said lands and low grounds are overflowed and rendered much less beneficial to the owners of them than they would be, were the ditch or drain of sufficient width and depth to drain them sufficiently: Therefore,

Com. Pleas
or Sup. Court
may appoint
freeholders.

Owner of the
marsh to
view the
same.

Their oath
and duties.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall and may be lawful for the Justices of the Court of Common Pleas or the Supreme Court at any time hereafter, to appoint three good and substantial freeholders of the county and neighborhood, who shall be owners of said Tappahannah Marsh and taxables for the support of said ditch, to go upon and view said marsh and ditch and to determine how much wider and deeper the said ditch or drain ought to be made, and whether any other lateral ditches or drains are necessary to prevent the said marsh from being overflowed. And the said freeholders so appointed as aforesaid, before they go upon and view the marsh and ditch as aforesaid, shall be sworn or affirmed before some judge or justice of the peace of the county, faithfully and impartially, to the best of their skill and judgment, to perform the duties enjoined on them by this act; and the said freeholders shall then go upon and view the marsh and ditch as aforesaid, and if they deem it necessary shall, with the assistance of a surveyor, to be appointed by them and sworn or affirmed in manner aforesaid, proceed to determine how much the aforesaid ditch shall be widened and deepened; and also, to lay out any lateral ditches or drains which they may deem necessary, of such breadth, depth, length, course or courses, distance or distances, as will be sufficient to clear the said marsh of water. The said freeholders shall also have power to determine what sum of money will be necessary to effect the purposes designed by this act, and to levy the same by way of tax upon the owners and possessors of the aforesaid marsh and low grounds, and also to apportion the same according to the relative value of their respective shares.

Proceedings
to be return-
ed to court.

SEC. 2. *And be it further enacted*, That the freeholders to be appointed as aforesaid, shall make return of their proceedings under their hands or the hands of a majority of them, to the court

which may have appointed them as aforesaid, upon the first day of the next term after they shall have discharged the duties herein enjoined upon them: and it shall be lawful for any person interested or effected by the proceedings of the freeholders as aforesaid, if he is not satisfied with said proceedings, to apply for an order of review, and if the court upon hearing his reasons for such application shall think it necessary, they may appoint three other good and substantial freeholders, owners and taxables as aforesaid, to review the proceedings of the freeholders first appointed, and make return in the same manner and at the same time as is herein prescribed for the freeholders first appointed, and their return shall be conclusive: *Provided however*, that if no order of review shall be applied for within six days after the first return as aforesaid, that the court shall confirm the said proceedings, and they shall be conclusive against all persons whatsoever.

Review may
be had—how.

Provision.

SEC. 3. *And be it further enacted*, That after the return and confirmation of the proceedings as aforesaid, the managers of the aforesaid marsh and low grounds, shall have power to carry into effect the determination of the freeholders as aforesaid, and to enforce the collection of the tax so levied and apportioned as aforesaid, in the same manner as is prescribed in the act to which this is a further supplement; and the said Tappahannah Marsh Company shall have power and they are hereby authorised to choose four managers to superintend the ditching, draining, &c., of the said marsh and low lands, instead of three, the number heretofore directed in the act to which this is a further supplement; such additional manager to be chosen in the same manner as directed by said act for the choosing of said three managers.

Powers of the
managers.

And compa-
ny.

SEC. 4. *And be it further enacted*, That hereafter, each respective owner or possessors of the marsh and low grounds as aforesaid, shall be entitled at all meetings of the company, to have one vote for each plantation which he may possess contiguous to the said marsh and benefited by the said ditch.

Voting regu-
lated.

SEC. 5. *And be it further enacted*, That every freeholder appointed under and by virtue of this act, shall have and receive for each and every day he shall attend in viewing the aforesaid marsh, low grounds and ditch, one dollar; and the clerk of the court aforesaid, for every order made and certified under the seal of his office, one dollar; and for reading the report, indorsing the confirmation of the court thereon and filing the same of record, fifty cents and no more; to be paid by the owners and possessors of the aforesaid marsh and low grounds.

Freeholder's
fees.

Clerk's.

SEC. 6. *And be it further enacted*, That so much of the act to which this is a further supplement as is hereby altered or supplied, be and the same is hereby repealed, made null and void.

What of the
former act
repealed.

Passed at Dover, Jan. 27, 1831.

CHAPTER LXXXVI. (Private Act.)

AN ACT vesting in Mary Molineaux, wife of Noble B. Molineaux and late Mary King and her heirs, the title to a certain piece of land therein mentioned.

Passed at Dover, Jan. 27, 1831.



CHAPTER LXXXVII. (Private Act.)

8 vol. 20. A SUPPLEMENT to an act entitled "*An act to enable the executors of William Lindsey, late of New Castle county, deceased, to sell his real estate.*"

Passed at Dover, Jan. 27, 1831.



CHAPTER LXXXVIII.

AN ACT for the payment of claims against the State.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be, and he is hereby authorised and directed to pay the following claims, to wit: to Daniel Godwin, escheator of Kent county, for holding an inquest in the case of the house of Elizabeth James, forty-one dollars and eighty-seven cents; to Benjamin Potter, jr., for a certain negro named William Toast alias William Collins, seventy-five dollars; to Robert Porter & Son, for printing and other services, forty-two dollars and seventy cents; to Samuel M. Harrington, for making a general index and table of private acts to the 7th volume of Delaware Laws, and for making an index to the session acts of 1830, for having the 7th volume of the Delaware Laws bound, and for collecting copies of the laws of the several States, one hundred and twenty-five dollars; to Marcus E. Capelle, sheriff of New Castle county, for bringing the ballot-boxes to Dover and returning the same, twelve dollars; to Purnal Johnson, sheriff of Sussex, for similar services, twelve dollars; to Henry W. Peterson, by order of Samuel M. Harrington, then Secretary of State, for printing and other services, one hundred and twenty-dollars and fifteen cents; to John H. Harris, for postage on letters, five dollars and seventy-seven cents; to Francis Hoover, a justice of the peace, for five marriage licenses, purchased by Abel Harris on his account of Joseph Smithers, late clerk of the Peace

State Treas-
urer to pay
claims to—

D. Godwin.

B. Potter, jr.

R. Porter &
Son.

S. M. Har-
rington.

M. E. Capelle

P. Johnson.

H. W. Peter-
son.

J. H. Harris,
F. Hoover.

for Kent county, and by the said Harris sent by Hanson Corse and lost, ten dollars; to Joseph B. Adams, clerk of the High Court of J. B. Adams. Errors and Appeals, for furnishing the court with paper, quills, &c. from the June term, 1820, to the June term, 1830, thirteen dollars and fifty cents; to C. P. Comegys, trustee of Delaware College, for C. P. Comegys. postage and advertising, two dollars and fifty cents.

SEC. 2. *And be it enacted*, That the State Treasurer be, and he is hereby authorised to pay to the Secretary of State, the sum of two hundred dollars, to be applied by him to the payment of the contingent expenses of his office, an account of which shall be submitted to the General Assembly at the next January session.

Passed at Dover, Jan. 28, 1831.



CHAPTER LXXXIX.

A SUPPLEMENT to the act entitled "*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.*" 8 vol. 268.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That all that part of Murderkill hundred, in Kent county, which lies northwesterly of a line running with a large ditch leading from Hadden Smith's mill to Philip Marvel's, and from thence with the new road leading from the said Philip Marvel's to the Union Meeting-house, be hereafter detached from said Murderkill hundred, and be attached to and become a part of Dover hundred in said county. What part of Murderkill hundred to be attached to Dover hundred.

SEC. 2. *And be it further enacted*, That all the valuations of property or assessments upon the assessment or levy lists of Murderkill hundred, within or belonging to that part of the said hundred lying northwesterly of the line aforesaid, and detached from Murderkill hundred as aforesaid, shall be transferred by the Levy Court and Court of Appeal to Dover hundred aforesaid, and be duly placed upon the levy or assessment list of said hundred; to enable the said Levy Court to do which, the present assessor of Murderkill hundred shall report to the said Levy Court, on or before the first Tuesday of March next, all the valuations of property or assessments upon the assessment or levy lists of Murderkill hundred, within or belonging to that part of said hundred lying northwesterly of the line aforesaid, and detached from Murderkill hundred aforesaid; and that the Levy Court and Court of Appeal shall have authority to effect all proper transfers in the premises, in order to make the levy or assessment list of Dover hundred correct, and from time to time to rectify all errors therein; that the collector of The assessment of property therein to be transferred to the lists of Dover hundred by the L. Court. Assessor of Murderkill to report to the Levy Court.

Collection of
taxes in case
of omission.

Dover hundred aforesaid, shall have full power and authority to demand, receive and collect all taxes from all persons within that part of Murderkill hundred so detached as aforesaid, or according to the duplicate of the assessment which shall be delivered to him, in the same manner and by the same means and proceedings, which collectors of taxes according to the laws of this State may or can use; and if in consequence of any omission in transferring the valuations or assessments, any valuation or assessment, one or more, within and belonging to that part of Murderkill hundred so detached as aforesaid, shall not be upon the duplicate delivered to the collector of Dover hundred, but shall remain upon the duplicate of the collector of Murderkill hundred; in every such case the collector of Murderkill hundred shall have full authority and power to demand, receive and collect the tax or taxes according to such assessment or assessments upon his duplicate, as fully and effectually as if the same were within Murderkill hundred, and this act had not been passed.

What laws
applicable to
these hun-
dreds.

SEC. 3. *And be it further enacted*, That all laws that apply to hundreds as such, shall hereafter apply to Dover hundred enlarged as aforesaid, and to Murderkill hundred decreased as aforesaid, and to the citizens residing in each respectively.

Passed at Dover, Jan. 28, 1831.



CHAPTER XC.

5 vol. 309. AN ACT supplementary to the act entitled "*An act to improve the navigation of Lewes creek, to survey and regulate the streets of the town of Lewes, and for other purposes.*"

Freeholders
to be appoint-
ed by the
voters—
when.

5 vol. 310.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That if hereafter at any annual election to be held in the town of Lewes under the provisions of the second section of the act to which this is a supplement, the trustees for the time being shall fail to appoint three freeholders to hold the said election as directed by such act to which this is a supplement, then and thereupon, and in all future elections when such failure shall occur, it shall and may be lawful for the qualified voters then and there present, to choose from those present the said three substantial freeholders to conduct such election.

Assessor—
duty of the.

SEC. 2. *And be it further enacted*, That the assessor for the town of Lewes for the time being, shall hereafter at the time of making the annual assessment of the real property within said town, make out and annex to the regular assessment list of said real property, a true and impartial valuation of all houses, stores, sheds and other buildings standing or situated upon any street, vacant land or town

common, and it shall and may be lawful for the said assessor, and he is hereby directed and required to make out a true and impartial list of the yearly rental value of all public grounds, streets, commons or marsh, upon the which such buildings are or may be hereafter erected, and of all that are or may be enclosed or occupied within the corporate limits of said town, stating the names of the persons by whom such property is occupied or enclosed, setting down the name of each, the amount or value held by him, her or them, with a description of the same, and a description of each lot or parcel by him, her or them so occupied or enclosed, with a distinct statement of the yearly value of each lot or parcel respectively. And in case no rental value can be correctly estimated, the said assessor shall and may take and consider six per centum upon the full freehold value thereof as the said yearly value of the same. A duplicate of such list shall be subjoined to and returned with the other assessment of real property to the trustee of the town, and in like manner by them exhibited for public inspection, with the same right of appeal on the part of those who may deem themselves aggrieved, as if it were freehold property.

Where rental value cannot be ascertained.

Duplicate list to be published.

SEC. 3. *Be it enacted*, That it shall be the duty of the said trustees to levy and collect the said rent or tax upon public grounds each and every year, whether a tax be levied upon the freeholders of the town or not. *Provided*, that the said rent or tax shall in no case exceed the amount returned upon the duplicate of the yearly rental valuation of said property.

Tax on public ground collected every year.

SEC. 4. All elections of trustees, treasurer and assessor, shall hereafter be held at the old court-house, where the general elections are now held, at the time appointed by the act to which this is supplementary; and upon the neglect or refusal of the trustees aforesaid to appoint freeholders to conduct any such election, at the time appointed for opening the same, the voters present shall select from amongst themselves the freeholders requisite to hold such election, agreeably to the act to which this is a supplement.

Elections—where to be held.

And all persons paying a tax for any house or store standing upon public ground, and who are qualified to vote for Representatives in the State Legislature, shall be deemed and taken to be qualified voters of said town elections.

Qualification of voters.

SEC. 5. *Be it enacted*, That the trustees of the town of Lewes shall have authority and power to provide a house for the confinement of persons concerned in any riot or breach of the peace in said town, and the several justices of the peace in and for Sussex county shall have full authority, and they are hereby authorised at their discretion, to order the confinement of any such person or persons, for any period of time not exceeding forty-eight hours, at the expiration of which said time he, she or they so confined, shall be discharged or removed to the common gaol of said Sussex county, at the discretion of the justice who shall have ordered his, her or their confinement; and it shall be the duty of the constable into

Trustees may provide a house of correction. Powers of Justices of the Peace.

And Constables. whose custody such person or persons shall have been committed upon any such temporary commitment as aforesaid, to act as keeper of such place of confinement, and provide for the support of such person or persons as are ordered to be lodged therein; such providing to be paid for by the offender or offenders, in the same manner as other costs due from him, her or them upon the process of their confinement, or by the county as the said justice may determine.

Repeal of former act. *Sec. 6. Be it enacted,* That all provisions contained in the act to which this is a supplement which are hereby altered or supplied, be and the same are hereby repealed.

Passed at Dover, Jan. 28, 1831.

RESOLUTIONS.

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CHAPTER XCI.

Resolved by the Senate and House of Representatives of the State Bank direc.
of Delaware in General Assembly met, That the following persons ^{tors.}
 be, and they are hereby appointed directors of the Farmers' Bank
 of the State of Delaware on the part of the State, agreeable to an
 act of the General Assembly in such case made and provided:—
 For the principal bank, Jonathan Jenkins, William K. Lockwood ^{Dover.}
 and Joseph Smithers; for the branch at Wilmington, John J. Milli- ^{Wilmington.}
 gan, Charles I. du Pont and Harry Connelly; for the branch at New
 Castle, John Moody, Thomas Stockton and Samuel Meteer; for ^{New Castle.}
 the branch at Georgetown, John Tennant, Arthur Milby and Da- ^{Georgetown.}
 vid Hazzard.

Adopted at Dover, Jan. 5, 1831.

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CHAPTER XCII.

In the General Assembly, January Session, 1831.

The committee to whom was referred so much of the Governor's
 Message as relates to the tariff and internal improvements, and to
 whom was also referred sundry resolutions of the General Assem-
 blys of the States of Pennsylvania, Connecticut, Louisiana, Ohio,
 and Kentucky, approbatory of the tariff of 1828, have had those
 subjects under consideration, and beg leave to report the following
 resolutions:

Resolved by the Senate and House of Representatives of the State
of Delaware in General Assembly met, That this General Assembly
 do concur in the resolution of the General Assembly of the State
 of Pennsylvania, by which it is declared "that the tariff of eighteen
 hundred and twenty-eight accords with the spirit of the constitu-
 tion of the United States, and that it maintains the true principles
 of protection to the industry of the country against foreign policy
 and legislation;" and also in the opinion of the General Assemblys
 of the States of Louisiana and Vermont, in which they have de-
 clared the law of 1828, on the tariff, to be expedient and harmless
 to the southern States.

*Resolution relating to the tariff of 1828, and to internal im-
 provements,*

Resolved, That the construction of works of internal improvement by Congress is, in the opinion of this General Assembly, not only within the constitutional powers of the Congress of the United States, but that the exercise of such power is highly expedient.

To be forwarded to Congress and the other States.

Resolved further, That the Governor of this State be requested to transmit copies of the above resolutions to our Representative and our Senators in Congress, and also to forward a copy to the Governors of the several States, with a request that they will lay the same before their respective Legislatures.

Adopted at Dover, Jan. 12, 1831.



CHAPTER XCIII.

C. P. Comegys, State Treasurer.

Resolved by the House of Representatives of the State of Delaware, by and with the consent of the Senate, That Cornelius P. Comegys be, and he is hereby appointed State Treasurer.

Adopted at Dover, Jan. 21, 1831.



CHAPTER XCIV.

The presidency of the U. States.

The committee to whom was referred the communication of the Governor, transmitting sundry resolutions of the State of Alabama, appratory of the course of conduct of Andrew Jackson as President of the United States and recommending his re-election, beg leave to recommend the adoption of the following resolutions:

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That this General Assembly do not accord with the views of the Legislature of the State of Alabama, as expressed in said resolutions, nor do they believe "the best interest of the Union" require the re-election of the said Andrew Jackson, after his present term shall expire.

Dissent from the State of Alabama.

Resolved further. That in the opinion of this Legislature, a decided majority of the people of this State are opposed to the re-election of the said Andrew Jackson to the Presidency of the United States, after his present term of office shall expire.

Disapprobation of the rejection of the Maysville bill.

Resolved further, That the conduct of Andrew Jackson as President of the United States, in refusing his signature to the Maysville road bill and other bills for the promotion of internal improvements, in some of which this State was greatly interested, meets.

the most unqualified disapprobation of this Legislature, and that we can but view the same as a wanton exercise of power, regardless of the interests of the people.

And whereas, the State of Alabama, through their Legislature, has thought proper to express their views, as to the person who shall next fill the Presidential chair, we deem it a privilege and perhaps a duty, to declare what we conceive to be the will and wish of our own State: Therefore,

Resolved further, That the able, firm and patriotic course of that talented patriot and profound statesman, HENRY CLAY, exhibited through the course of a long life, mostly spent in the public service, merits and has our fullest approbation and warmest gratitude: that we believe the best interests of the nation would be greatly promoted by his election to the Presidency of the United States, after the term of office of Andrew Jackson shall have expired; and that we therefore recommend him, the said HENRY CLAY, to the people of these United States as a suitable person for their next President.

Henry Clay
nominated as
a candidate.

Resolved, That his Excellency, the Governor, be requested to transmit copies of these resolutions to the Governors of the different States, to be laid before their respective Legislatures.

To be sent to
the several
States.

Adopted at Dover, Jan. 26, 1831.



CHAPTER XCV.

In the Legislature of the State of Delaware, January Session, 1831.

The committee to whom was referred that part of the Governor's Message which relates to the publishing Reports of Cases, adjudged in the High Court of Errors and Appeals, beg leave to report:

Reports of
causes in the
H. Court of
Errors and
Appeals.

That they have conferred with the Hon. Willard Hall, and that he is willing to undertake the service. He will expect that an appropriation should be made to pay for copying, paper and printing; as payment of these would probably be required. As to any further compensation, he states that he has no idea what it might reasonably be, but will be contented that it shall be reasonable, according to the services, of which he can form no estimate. It can be settled when the services have been performed. The committee, therefore, recommend the adoption of the following resolutions:

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer pay to Willard Hall, or his order, the sum of three hundred dollars at such time, or nearly so, as he shall have prepared for print-

State Treas-
urer to pay
to W. Hall
\$300.

ing, a volume of such reports as aforesaid; and that he account for the same, in its application to the purpose aforesaid.

The General Assembly will indemnify W. Hall, &c.

Resolved, That the General Assembly will indemnify the said Willard Hall, the expenses of paper, printing and binding such volume of reports, and other incidental charges which may arise over and above, and in addition to the said sum of three hundred dollars.

Copy of these resolutions communicated to W. Hall.

Resolved, That a duly authenticated copy of the foregoing resolutions be communicated to the Hon. Willard Hall.

Adopted at Dover, Jan. 26, 1831.



CHAPTER XCVI.

In the Legislature of the State of Delaware at the January Session thereof, in the year of our Lord one thousand eight hundred and thirty-one.

The committee to whom was referred so much of the Governor's Message as relates to the surviving officers and soldiers of the revolutionary army, who are not entitled to pensions under any existing law, beg leave to report—

That having examined the memorial signed on behalf of the surviving officers and soldiers of the war of the revolution, from the commencement of hostilities in 1775 to the first day of October, 1780, the period at which the new organization of the army took place, your committee is deeply impressed with the importance of the services rendered by the memorialists and which were prompted by a spontaneous and disinterested patriotism. Your committee would, therefore, recommend the adoption of the following resolutions:

The surviving officers and soldiers of the revolution recommended to the congress, &c.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Legislature of this State do fully accord with his Excellency, and with the sentiments expressed in the memorial by him alluded to, and that they feel that not only a debt of gratitude and respect is due to those venerable patriots of the revolution, but that liberal and ample compensation should be awarded them, and that our Senators in Congress be instructed and our Representative requested to use all proper means for effecting an object at once so laudable, so reasonable and so just.

Resolutions, &c., to be forwarded to our representation in congress.

Resolved, That his Excellency, the Governor, be and he is hereby requested to forward a copy of the above preamble and resolution to each of our Senators and to our Representative in Congress.

Adopted at Dover, Jan. 27, 1831.

CHAPTER XCVII.

In the Legislature of the State of Delaware, at the January Session thereof, in the year of our Lord one thousand eight hundred and thirty-one.

The committee to whom was referred that part of the Governor's Message which relates to the amendments proposed by the General Assemblies of Louisiana and Missouri to the Constitution of the United States, have given to the subject their serious consideration, and it is the opinion of the committee, that it is inexpedient at this time, to make the proposed alterations. They therefore respectfully recommend the adoption of the following resolutions:—

Proposed amendments to the constitution of the U. States.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That this General Assembly does not concur with the General Assembly of the State of Louisiana, in the proposal to amend the Constitution of the United States, so as to extend the term of office of President and Vice-President to six years, and to render the President ineligible.

By Louisiana non-concurred in.

Resolved by the authority aforesaid, That this General Assembly does not concur with the General Assembly of the State of Missouri, in the proposal to amend the Constitution of the United States, so as to provide a uniform mode of electing the President and Vice-President of the United States, without the intervention of electors, and "that the election of President and Vice-President should in no case whatever, be submitted to the decision of the House of Representatives of the United States.

By Missouri non-concurred in.

Resolved, That his Excellency the Governor, be requested to forward copies of the foregoing resolutions to the Executives of the several States, with a request that they be laid before their respective Legislatures.

These resolutions to be sent to the several States

Adopted at Dover, Jan. 28, 1831.



CHAPTER XCVIII.

In the General Assembly, January Session, 1831.

The committee to whom was referred so much of the Governor's Message as relates to the distribution of the revenue arising from the sale of the public lands of the Union among the several States, for the purpose of education, &c., report,

The distribution of the revenue arising from the public lands.

That the citizens of this State view with deep solicitude, the efforts lately made in the national Legislature, to deprive the Atlan-

tic States of their just and equitable rights to the public lands of the Union: rights which they claim to hold in common with all the States, and which were asserted by and conceded to them at the laying of the Constitution of the Union. It is an inheritance they claim as the purchase of their treasures and of their blood, and is too highly appreciated by them to be relinquished without an equivalent, and too dearly bought to be wantonly lavished away. The citizens of Delaware have beheld with pain and anxiety, attempts which have lately been made in Congress thus to deprive them of a conceded right, and to dissipate the revenue derivable from those lands, by forcing sales within a short period of time and at mere nominal prices. They consider such a scheme as nothing less than a virtual alienation of their right, and a wanton sacrifice of their interest, to the cupidity and avarice of speculators, many of whom it would seem are as mercenary and unprincipled in their views, as they are active and vociferous in their support of them. The people of Delaware look forward to the time when the national debt shall have been liquidated, (to the payment of which, the revenue accruing from the sales of the public lands is pledged,) as a suitable and auspicious period, after which the said revenue may be distributed among the several States of the Union, for the purpose of extending the means of education, and thereby promoting the general welfare of the Union, strengthening its bands and perpetuating its blessings. Your committee would, therefore, recommend the adoption of the following resolutions:

A partial distribution decreed.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That this Legislature views with a jealous eye, every attempt to make a partial distribution of the public lands of the Union among the States; whether by direct grant to a State, or by nominal sales at reduced prices to the citizens thereof.

Revenue, &c. should be distributed, &c. for the purpose of education.

Resolved, That in the opinion of this General Assembly, the revenue arising from the sale of the public lands of the Union, ought to be distributed among the several States, for the purpose of extending the means of education throughout the republic, so soon as the liquidation of the national debt shall warrant the same.

Our representation in Congress requested to use their efforts to effect this.

Resolved, That our Senators and our Representative in the national Legislature, be and they are hereby requested to exert themselves to procure such an appropriation of the funds available from the sales of those lands, as shall foster and promote the cause of education throughout the Union.

Conduct of our senators approved.

Resolved, That this General Assembly do approve most heartily, the manly and able stand maintained by our representation in the Senate of the United States, in defending and sustaining the right and interest of the State, upon the question of the disposal of the western domains of the Union.

Resolved, That the foregoing report and resolution be signed by

the speakers of the Senate and of the House of Representatives respectively, and that a copy be transmitted to each of our Senators and to our Representative in Congress, and that the Executive of each State be furnished with a copy by the Governor, and requested to lay the same before their respective Legislatures.

Resolutions to be sent to our representation in Congress, &c.; to the several States.

Adopted at Dover, Jan. 28, 1831.



CHAPTER XCIX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall be the duty of the sheriffs of the several counties in this State, and they are hereby required to furnish to the Legislature, within the first week of the next January session, an account of the number of persons imprisoned in the year eighteen hundred and thirty-one, distinguishing between those imprisoned for debt, and those imprisoned for crime or misdemeanor; also, the time during which they shall have been severally confined, the amount or the offence or cause for which they shall have severally been confined, and the costs in each case, and the ages, sex and color of the imprisoned; also, the amount of payments obtained in each case in consequence of imprisonment for debts.

Sheriffs to furnish the next Legislature with lists of prisoners, &c.

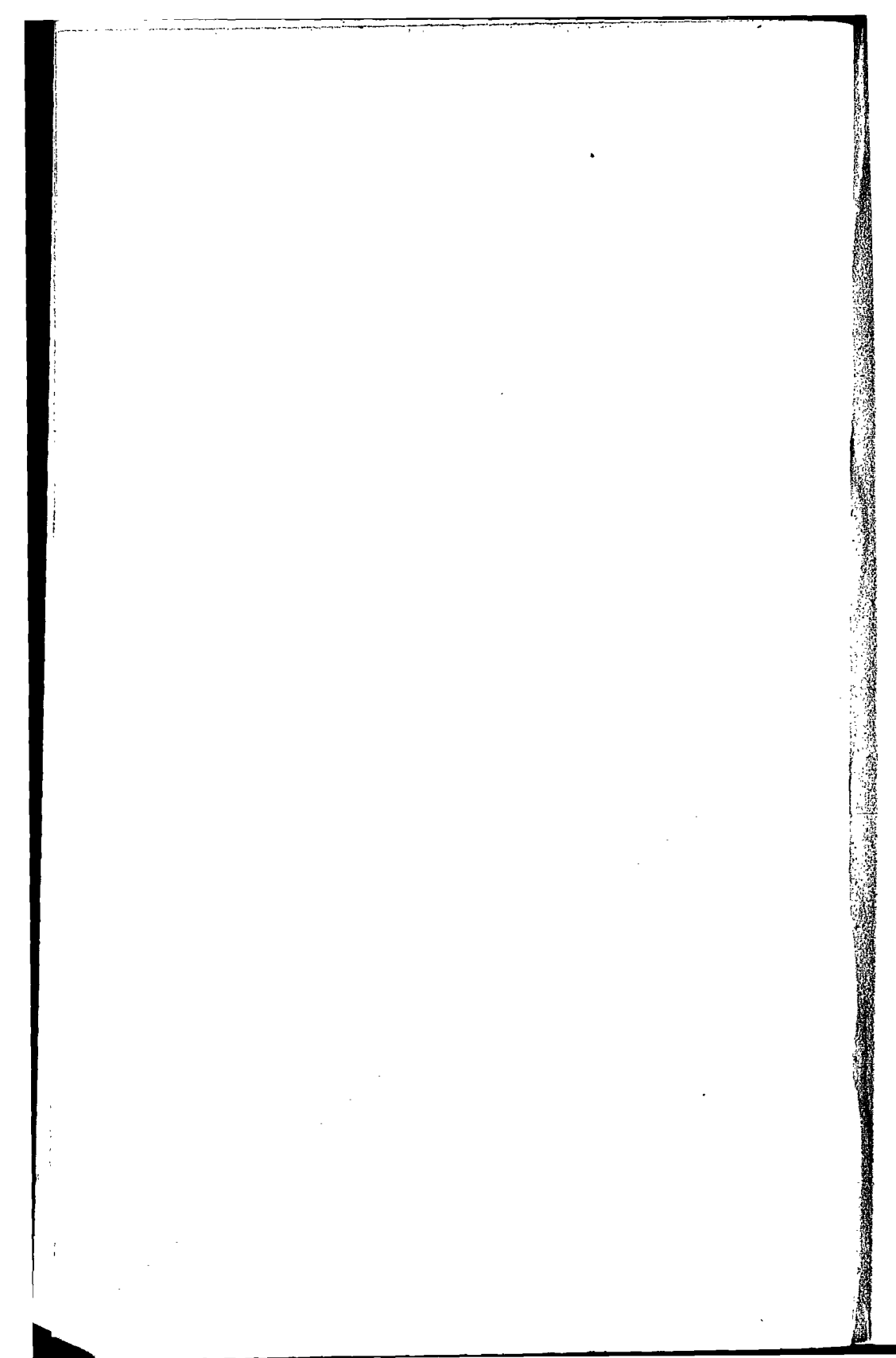
Adopted at Dover, Jan. 28, 1831.

SECRETARY'S OFFICE,

GEORGETOWN, DEL. *April 1, 1831.*

I do certify, that in obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "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," I have collated with, and corrected by, the original rolls, and caused to be accurately printed and published, this edition of the laws of the said State, passed during the last session of the General Assembly, which commenced on Tuesday the fourth, and closed on Friday the twenty-eighth day of January, in the year of our Lord one thousand eight hundred and thirty-one.

CALEB S. LAYTON,
Secretary of the State of Delaware.



L A W S

OF THE

STATE OF DELAWARE.

CHAPTER C.

AN ACT concerning the Seals of the Courts.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the seal of the Court of Chancery shall be taken, adjudged and deemed the seal of the Court of Chancery, established by the amended constitution of this State; and may and shall be made use of and affixed to all writings, papers and copies, to which a seal of office ought to be affixed; and that the seal of the Orphans' Courts shall be taken, adjudged, and deemed the seal of the Orphans' Court established by the amended constitution of this State, and may and shall be made use of and affixed to all writings, papers and copies to which the seal of office ought to be affixed.

The seals of the courts under the old constitution to be used as the seals of the several courts under the amended constitution.

SEC. 2. *Be it enacted by the authority aforesaid,* That John H. Eccleston, Esquire be, and he hereby is authorised to procure, as soon as may be, a seal of steel or brass, to be made of the diameter of one inch at least, for each of the following courts, that is to say: one seal for the Court of Errors and Appeals, one seal for the Superior Court in each county, one seal for the General Sessions of the Peace in each county, and one seal for the Court of Oyer and Terminer in each county; the said seals shall be engraved with the arms of the State of Delaware, or parts of the same, or with such other device instead thereof as the said John H. Eccleston shall order and direct, and a motto or inscription to describe the office to which each seal belongs; a particular description of each seal shall be entered on the docket of the Court of Errors and Appeals, by the said John H. Eccleston, who shall deliver the same to the clerks of the offices to which they respectively belong; the said seals shall be taken, adjudged and deemed to be the seals of the respective courts whose titles they may bear, and they shall be affixed to all writings, papers and copies where a seal of office is required.

John H. Eccleston authorised to procure new seals for the several courts

Description of those seals.

To be entered on the docket of the court of Errors and Appeals and delivered to the respective clerks. How to be used.

SEC. 3. *And be it enacted by the authority aforesaid,* That the State Treasurer shall pay to the said John H. Eccleston, the sum

\$250 appropriated for the purpose of procuring those seals.

An account of the expenses to be laid before the General Assembly.

of two hundred and fifty dollars out of any money in the treasury not otherwise appropriated, to defray the expense of procuring and purchasing said seals, and that the said John H. Eccleston shall lay before the Legislature during the present session if practicable, or if not then, at the next session thereof, an account of his expenses in procuring and purchasing said seals, which said account when adjusted and allowed by the Legislature, shall be deducted from the said sum of two hundred and fifty dollars, and the balance, if any remaining, shall be refunded by the said John H. Eccleston to the State Treasurer.

Passed at Dover, Jan. 7, 1832.



CHAPTER CI.

AN ACT to incorporate the Wilmington Savings Fund Society.

Members of the corporation.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each House concurring therein,) That* Joseph G. Rowland, Richard H. Bayard, William Gibbons, Thomas Garrett, E. W. Gilbert, E. W. Gilpin, D. C. Wilson, Allan Thomson, John Bullock, Samuel Hillis, Henry F. Askew, George Jones, W. A. Mendenhall, Henry Gibbons, James W. Thomson, John Gordon, John Elliott, Samuel Buzby, Henry Whiteley, Robert Porter, James Webb, Samuel Wollaston, Henry Latimer, Willard Hall, Lea Pusey, James Canby, John Wales, William P. Brobson, Joseph Dauphin, Edward Tatnal, John H. Price, Joseph T. Price, Edmond Canby, Samuel Shipley, Eli Hillis, Jacob Alrichs, Mahlon Betts, Samuel Poole, James Price, James J. Brindley, Philip Jones, Thomas C. Alrichs, David Bush, Washington Rice, Benjamin B. Boulden, Harry Connelly, Henry Latimer, James Sidall, J. P. Garesche, Charles I. du Pont, David Smith, Edward Grubb, A. S. Read, Ziba Ferris, Joseph Bringham, Edward Bringham, W. W. Baker, Thomas Gilpin, and all and every other person or persons hereafter becoming members of the Wilmington Savings Fund Society, in manner hereinafter mentioned, shall be, and are hereby created and made a corporation and body politic, by the name and style of the "Wilmington Savings Fund Society," and by that name shall have succession for and during the term or period of twenty years from the time of the passing of this act, and be capable by law to hold property, sue and be sued, plead and be impleaded, answer and defend, and be answered and defended in courts of law and equity or in any other place whatever, and to receive and make all deeds, transfers, contracts, covenants, conveyances and grants whatsoever, and make and have a common seal, and the same to change and renew at pleasure, and generally to do every other act or thing necessary to carry into effect the provisions of this act, and promote the design of said corporation.

Their style and power for 20 years.

SEC. 2. *And be it further enacted,* That the said corporation shall annually on the first Monday in September, in the borough of Wilmington, or at such other time or place as by the by-laws or regulations hereafter to be adopted, may be appointed, elect from the members of said corporation twenty-five managers, to serve for the term of twelve months or until others shall be chosen, who during their term of service shall have the sole management and direction of the concerns of said corporation, elect a president from their own body, and be authorised to make from time to time, as they may deem expedient, such by-laws or other rules for the regulation and government of themselves and the members of said corporation, and the same to change, add to, or amend as may appear necessary or proper: *Provided always,* that such by-laws or rules be not contrary to the constitution and laws of the United States or of the State of Delaware: *And provided also,* that said corporation shall not be authorised to make any bills or notes of the nature or description of bank notes, or to loan any part of the funds deposited to any manager of said corporation.

To elect annually in September 25 managers.

Who will serve for one year.

Their powers.

And restrictions.

Corporation may receive deposits and vest the same in public stocks, &c. Interest allowed to depositors. Surplus profits how disposed of. Members not individually liable for any debt &c. of the corporation.

SEC. 3. *And be it further enacted,* That said corporation shall be capable of receiving from any person or persons any deposit or deposits of money, and that all moneys received or to be received, shall be vested in public stocks or other securities, and such interest shall be allowed to depositors thereof as may from time to time be directed or provided for by the by-laws of said corporation; the surplus profits to be divided every three years among the depositors, in such manner as the managers for the time being may think proper; and that no member shall be liable in his person or property for any debts, contracts or agreements of said corporation, but that the money, rights and credits of said corporation, and nothing more shall be liable for the same.

Managers have power to elect members of the society.

SEC. 4. *And be it enacted,* That the managers of said corporation, or a majority of those attending at any meeting of the board, may elect by ballot any other person or persons as members of the "Wilmington Savings Fund Society."

SEC. 5. *And be it enacted,* That the officers of the Wilmington Savings Fund Society, chosen by the persons named in the first section of this act, under their articles of association in the month of September last, shall be the officers of said society until the first Monday in September next, or until others shall be duly chosen.

The officers elected in Sep. last to serve till next Sept'r., &c.

SEC. 6. *And be it enacted,* That power to revoke this act at any time hereafter is hereby reserved to the Legislature.

The Legislature reserves the right of revoking this act.

Passed at Dover, Jan. 11, 1832.

CHAPTER CII. (Private Act.)

AN ACT *for the relief of William Stradley and David Hammond.**Passed at Dover, Jan. 11, 1832.*

CHAPTER CIII. (Private Act.)

AN ACT *to divorce Lemuel Tam from his wife Hetty Tam.**Passed at Dover, Jan. 13, 1832.*

CHAPTER CIV. (Private Act.)

AN ACT *dissolving the marriage between Silas Fisher and Maria his wife, late Maria Dawson.**Passed at Dover, Jan. 13, 1832.*

CHAPTER CV.

AN ACT *supplying (temporarily) the Courts with Seals.*

Preamble,

Whereas, it appears to be impracticable to procure the necessary seals for the several courts established by the amended constitution of this State, before the time prescribed by the said amended constitution for the said courts to go into operation. Therefore, in order that no inconvenience may arise in consequence of the want of seals for the said several courts:

The seals of the H. Court of E & Appeals, Com. Pleas, Q. Sessions, Sup. Court, &c. to be used till others be provided for the courts under the amended constitution.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the seal of the High Court of Errors and Appeals, heretofore used as the seal of that court shall be taken, adjudged and deemed to be the seal of the court of Errors and Appeals, established by the said amended constitution of this State, and may and shall be made use of and affixed to all writings, papers and copies to which the seal of office ought to be affixed. The seals of the court of Common Pleas for the several counties in this State, heretofore used as the seals of that court in the said several counties, shall be taken, ad-*

judged and deemed to be the seals of the Superior Courts in said several counties, established by the said amended constitution, and may and shall be made use of and affixed to all writings, papers and copies to which the seal of office ought to be affixed.

The seals of the courts of General Quarter Sessions of the Peace for the several counties in this State, heretofore used as the seals of those courts, shall be taken, adjudged and deemed to be the seals of the court of General Sessions of the Peace and Gaol Delivery in the said counties respectively, as established by the said amended constitution, and may and shall be made use of and affixed to all writings, papers and copies to which the seal of office ought to be affixed.

The seals of the Supreme Court for the several counties aforesaid, heretofore used as the seals of that court in the said several counties, shall be taken, adjudged and deemed to be the seals of the Court of Oyer and Terminer in the said counties respectively, as established by said amended constitution, and may and shall be made use of and affixed to all writings, papers and copies, to which the seal of office ought to be affixed.

The seals of the Supreme Courts to be used as the seals of the Courts of Oyer & Terminer in the several counties.

SEC. 2. *And be it further enacted*, That the provisions contained in this act, shall continue and be in force until new seals shall be made, procured and delivered to the clerk of the Court of Errors and Appeals, and to the several and respective clerks of the Superior Court, Court of General Sessions of the Peace and Court of Oyer and Terminer, and no longer.

Dig. p. 466. The provisions of this act to continue till new seals can be procured.

SEC. 3. *And be it further enacted*, That immediately after such new seals shall have been made, procured and delivered to the several and respective clerks, the same shall be the seals of the several courts respectively, for which they shall have been made and procured, and shall be so used, and shall be affixed to all writings, papers and copies, to which the seal of office ought to be affixed.

New seals when procured to be the seals of the said courts, under the amended constitution.

And the seals heretofore used in the several counties as the seals of the Supreme Court, Court of Common Pleas and Courts of General Quarter Sessions of the Peace, shall be delivered to the respective sheriffs of the said counties, to be by them broken; and the seal heretofore used as the seal of the High Court of Errors and Appeals, shall be delivered to the sheriff of Kent county, by him also to be broken.

And the seals heretofore used to be broken by the sheriffs in the respective counties.

Passed at Dover, Jun. 17, 1832.



CHAPTER CVI.

AN ACT to carry into effect the Amended Constitution, and for other purposes.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the Chan-

Salaries of the judges—chief justice \$1,200, chancellor \$1,100, associate judges each \$1,000—payable quarterly. Dig. p. 484.

The several courts to be held for the respective counties at New Castle, Dover, Georgetown. Dig. 121.

Upon appeals from the Orphans' Court to the Sup.

Court, an instrument in the nature of a bill of exceptions to be signed by said O. C. or one of the judges thereof.

Dig. p. 445-6.

Upon questions of law being reserved by the Sup. Court to be heard in the Court of E. and Ap'ls., a statement in writing, &c. to be filed—to be part of the record. The Sup.

Court may direct bond &c. to be given on reserving points, &c.—condition thereof.

Other security may be prescribed. In writs of error of the S. Court, or appeals from Chancery, security as heretofore.

cellor and Judges, whose offices are established by the said amended constitution, shall receive for their services the following salaries, which are hereby fixed and established, that is to say: The annual salary of the Chief Justice of the State, shall be the sum of one thousand two hundred dollars; the annual salary of the Chancellor, shall be the sum of one thousand and one hundred dollars, and the annual salaries of the Associate Judges, shall be the sum of one thousand dollars each. The aforesaid salaries shall be payable quarterly, out of any monies in the treasury.

SEC. 2. *And be it enacted by the authority aforesaid,* That the several courts established by the said amended constitution, shall be held at the following places, that is to say: The Superior Court, the Court of Chancery, the Orphans' Court, the Court of Oyer and Terminer, and Court of General Sessions of the Peace and Gaol Delivery, shall be held in New Castle county at New Castle; in Kent county at Dover; in Sussex county at Georgetown, and the Court of Errors and Appeals at Dover, in Kent county.

SEC. 3. *And be it further enacted by the authority aforesaid,* That whenever an appeal shall be taken, agreeably to the provisions of the said constitution, from the Orphans' Court to the Superior Court of the county, the said Orphans' Court or one of the Judges thereof shall, at the request of the party appealing, sign and seal an instrument, in the nature of a bill of exceptions, presenting fairly and fully the point or points decided, for which the exception is taken.

SEC. 4. *And be it further enacted by the authority aforesaid,* That whenever the Superior Court, upon the application of either party, shall direct a question or questions of law to be heard in the Court of Errors and Appeals; the party making the application shall, if the case require it, state in writing the points reserved, in such form consistent with the truth of the case, as the court shall approve; and such statement in writing shall be signed by one of the judges of the court, and certified by the prothonotary to the Court of Errors and Appeals of five judges as a part of the record; and the Superior Court may, in their discretion, when about to reserve any question or questions of law for decision before all the judges, in the Court of Errors and Appeals, direct the party applying for the exercise of this power to enter into a bond or recognizance before the said court, or any judge of the State, with such sureties as they or he may approve with condition underwritten, that he will abide the judgment of the said Court of Errors and Appeals, and pay the condemnation money and all costs which may be adjudged against him by or in consequence of the said judgment; or the said Superior Court may, in its discretion, prescribe any other security or any other terms, consistent with the justice of the case, on reserving any such question, whenever a writ of error shall be issued by the Court of Errors and Appeals of three judges to the Superior Court, or if an appeal be taken from the Court of Chancery to the Court of Appeals, security shall be given as heretofore.

SEC. 5. *And be it further enacted by the authority aforesaid,* That all causes now pending in the High Court of Errors and Appeals, shall be heard, tried and determined by the Court of Errors and Appeals, consisting of the five judges, or any four of them.

SEC. 6. *And be it further enacted by the authority aforesaid,* That the same number of jurors shall be summoned to attend the Superior Court and the court of General Sessions of the Peace and Gaol Delivery, established by the said amended constitution, as were heretofore summoned to attend the court of Common Pleas and the court of General Quarter Sessions of the Peace and Gaol Delivery; and juries shall be summoned to attend the court of Oyer and Terminer, established by the amended constitution, as they were heretofore summoned to attend the court of Oyer and Terminer; and all the provisions of the law as it now exists regulating "the summoning and returning juries" shall (when said juries are summoned and returned, to attend the said Superior Court, court of General Sessions of the Peace and Gaol Delivery and court of Oyer and Terminer, established as aforesaid by the said amended constitution,) be and remain in full force and effect, except that it shall not be necessary that said jurors shall be freeholders.

Dig. 24, 422. The court of E. & App'ls. have cognizance of all cases in the H. Court of E. & App'ls. Same number of jurors in Sup. Court as in Court of Com. Pleas. Dig. p. 112, &c. And in Court of O. and T. Law regulating the summoning juries, &c., remains in force, except freehold qualification abolished. Dig. 112, &c

SEC. 7. *And be it further enacted by the authority aforesaid,* That the following shall be deemed causes of legal exception to the chancellor or any judge. Interest in the event of the cause, either of himself, or of his parents, grand-parents, children, grand-children, his brother, sister, nephew or niece, uncle or aunt, his brother in law or his son in law; and whenever the chancellor or any judge is directly interested in a question similar to a question presented for decision to the court, of which he is a member, it shall be a sufficient legal exception to him. In all such cases it shall be the duty of the Governor, for the time being, to commission a judge ad litem, if such appointment be necessary to constitute a quorum in any of the courts.

What shall be legal exceptions to the chancellor or a judge sitting in a cause—Interest or relationship to the parties. And a judge ad litem may be appointed. Business in the late court of Oyer and Terminer, transferred to the court of O. & T. under the amended const'n. The clerks of the peace to be clerks of the court of O. & Term. That court called as heretofore & the G. & P. jurors to the court Sess'ns. &c. to be the juries in the court of O. and T.

SEC. 8. *And be it further enacted by the authority aforesaid,* That all indictments, proceedings and matters, which on the third Tuesday in January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the court of Oyer and Terminer, shall be transferred to, and proceeded in, to final judgment and determination in the court of Oyer and Terminer, established by the amended constitution. The clerks of the peace of the several counties shall be clerks of the courts of Oyer and Terminer in their respective counties, and also be commissioned as such. Courts of Oyer and Terminer shall be called as heretofore, but if the court of Oyer and Terminer be in session at the time of the sitting of the court of General Sessions of the Peace, the grand jury, summoned to attend the court of General Sessions of the Peace, shall also be the grand jury of the court of Oyer and Terminer; and the general jurors summoned to attend such court of General Sessions of the Peace, shall form a part of the pannel of jurors summoned to attend the court of Oyer and Terminer.

The chancellor and judges to give their opinion in writing to him the governor, &c.

SEC. 9. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the chancellor and judges, whenever the Governor shall require it, for public information, or to enable him to discharge the duties of his office with fidelity, to deliver to him their opinions in writing, touching the proper construction of any provision in the constitution of this State or of the United States, and touching the constitutionality of any law enacted by the Legislature of this State.

Clerk of the court of E. and Appeals to be appointed for five years. His powers, duties, fees, &c. Subject to same laws, &c. as the late clerk of the H. Court of E. and A. Clerks of the peace to keep their offices in the county towns. Fees of the proth'ys.

SEC. 10. *And be it further enacted by the authority aforesaid,* That there shall be a clerk of the Court of Errors and Appeals, who shall be commissioned for five years, if he shall so long behave himself well, but may be removed by the Governor, within that time, on conviction of misbehavior in office, or the address of both Houses of the Legislature; he shall have the care and keeping of all books, records and papers, belonging to any Court of Errors and Appeals in this State; he shall pay no fee for his commission; he shall receive the same fees and compensation granted by law to the clerk of the High Court of Errors and Appeals; and all laws regulating the clerk of the High Court of Errors and Appeals, shall be applied and extended to the clerk of the Court of Errors and Appeals. The clerks of the peace respectively, shall keep their offices in the town, or place in each county, where the Superior Court is usually held. The prothonotaries of the several counties shall receive the same fees now allowed by law to prothonotaries and clerks of the Supreme Court; and in general, the fees and compensation of clerks shall be as heretofore.

The prothonotaries, clerks of the peace and of the O. Court to become bound with sureties in recognizance etc.

SEC. 11. *And be it further enacted by the authority aforesaid,* That every prothonotary of the Superior Court, clerk of the peace and of the Court of Oyer and Terminer, and clerk of the Orphans' Court, hereafter to be appointed in the several counties of this State, shall in the Superior Court in the county, in and for which he shall be appointed, at the next term after his appointment, with two or more sufficient sureties, being freeholders of such county, become bound to the State of Delaware, by a joint and several obligation, to be, together with the sureties therein, approved by the said court, in the penalty of three thousand dollars, lawful money of the United States of America, with condition according to the following form:—The condition of the above written obligation is such, that if the above named ——— who has been duly appointed to be ——— shall and do well and diligently execute his office of ——— as aforesaid, and duly and faithfully fulfil and perform all the trusts and duties to the said office appertaining, and truly and without delay, deliver to his successor in office, the seal and all the books, records and papers, belonging to said office safe and undefaced, then this obligation shall be void and of no effect, or else shall remain in full force and virtue; 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:—

Form thereof.

How acknowledged.

_____ County, ss. In the Superior Court 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 therein approved. Witness our hands the day and year aforesaid. The said obligations 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, acknowledged and approved as aforesaid, 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.

Certificate thereon.
The obligation to be delivered to the recorder of deeds.
And shall be a lien upon the real estate of the officers alone.

SEC. 12. *And be it further enacted by the authority aforesaid,* That every officer coming within the purview of the eleventh section of this act who shall refuse or neglect to observe and comply with the said section, according to the true intent and meaning thereof, shall for such refusal or neglect, forfeit and pay to the State, a fine of not less than five hundred dollars, nor more than one thousand dollars, to be recovered with costs of prosecution by indictment; and furthermore, such officer so refusing or neglecting shall, *ipso facto*, forfeit his office.

Penalty for neglect to give bond, &c.

SEC. 13. *And be it further enacted by the authority aforesaid,* That the several registers of the court of Chancery, established by the amended constitution, shall enter into the same obligations and recognizances for the discharge of their respective duties, perform the same services, and receive the same compensation, as has been by the laws of this State, heretofore required of, and allowed to the several registers in Chancery in this State; and in general the laws regulating the registers in Chancery heretofore, shall be extended and applied to registers in Chancery, under the amended constitution, hereafter to be appointed.

Reg in chancery to enter into recognizance and receive the same fees, &c as heretofore. And subject to same laws &c. as heretofore.

SEC. 14. *And be it further enacted by the authority aforesaid,* That every prothonotary of the Superior Court, clerk of the peace and clerk of the Court of Oyer and Terminer, clerk of the Orphan's Court and register in Chancery, hereafter to be appointed in the several counties of this State shall, before entering upon the discharge of the duties of their respective offices, take and subscribe an oath or affirmation, before some judge or justice of the peace in the county where they respectively reside, according to the following form, viz:—

The several clerks to take an oath of office, &c.

I, _____ being appointed _____ of _____ Form there-
 in _____ county, do solemnly swear (or affirm) that I will of-
 truly and faithfully enter and record all the orders, decrees, judg-
 ments and proceedings, of the said court, and that I will faithfully

and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding; and that I will support the constitution of the United States, and the constitution of the State of Delaware. (So help me God,) or (so I affirm.)— Signed ———; which said oath or affirmation shall be recorded and certified by the judge or justice of the peace, before whom it is made, and the same shall be filed in the office of the recorder of deeds, in the county where the officer taking and subscribing the same shall hold his office.

Sheriffs and coroners to give recognizances, &c. as heretofore. Dig. pp. 76, 453-4.5-6. Where and how acknowledged. And entered of record in the S. Court, &c.

Coroners obligation approved, &c. Dig. p. 456, 23, 40, 104, 123, 154, 501, 23, 25, 40, 80, 102, 154, 158, 499, 501, 342, 453, 455-6.

Writs of the late courts served before 3rd Tuesday of January. When returned, sheriff's duty.

In service of process after that day.

Words stricken out of certain acts—others used.

Dig. p. 26, 409, 501, 548, 23, 104, 40, 154, 501, 23, 25, 40, 80, 102, 154, 158, 342,

SEC. 15. *And be it further enacted by the authority aforesaid,* That sheriffs shall enter into recognizances, and coroners into bonds as heretofore; and such recognizances and bonds, with the sureties therein, may be approved at any time within thirty days, after the appointment of any sheriff or coroner by the chancellor, chief justice or any judge, residing in the county for which such sheriff or coroner is appointed. The recognizance of the sheriffs shall be entered of record in the Superior Court for their respective counties; and the approval of the sureties of such sheriffs and of the recognizances respectively, shall appear on the record thereof; the entry of said recognizances in the said Superior Court, shall be made at the same time the same are approved by the said chancellor, chief justice or judge. The approval of the obligations of coroners shall be entered on the said obligations, and they shall be recorded as heretofore; and in general all laws enjoining any duty upon, or granting any power to, the Supreme Court or the court of Common Pleas, shall be extended and applied to the Superior Courts for the respective counties, whose acts shall be as valid, to all intents and purposes, as the acts of either of the aforesaid courts.

SEC. 16. *Be it enacted by the authority aforesaid,* That in all cases where any writ, process or proceeding, returnable on the face thereof to the courts, established by the former constitution, hath been served before the third Tuesday in January, eighteen hundred and thirty-two, notice shall be given by the sheriff, or officer who served the same, to the party on whom the service was made, of the proper court to which, and of the time when, the same is now made returnable by the amended constitution and laws of this State; and in all cases where any writ, process or proceeding, hath been or shall be sued out of any court, and not served before the said third Tuesday in January aforesaid, the sheriff or officer to whom the same may be directed, shall in serving the same, notify the party on whom such service is made, of the proper court to which, and of the time when, the same is now made returnable by the amended constitution and laws aforesaid.

SEC. 17. *And be it further enacted by the authority aforesaid,* That the words "High Court of Errors and Appeals" wherever they occur in any act of assembly of this State, shall be stricken out, and the words "Court of Errors and Appeals" inserted in lieu thereof; also, that the words "Supreme Court" and "Court of Common Pleas" wherever they occur in any act as aforesaid, shall be

stricken out, and the words "Superior Court" inserted in lieu thereof; and also, that the words "Court of General Quarter Sessions of the Peace and Gaol Delivery," wherever they occur in any act as aforesaid, shall be stricken out, and the words "Court of General Sessions of the Peace and Gaol Delivery" inserted in lieu thereof. The laws of this State shall hereafter be read and construed according to the foregoing amendments, and in any edition of the said laws hereafter to be published, they shall be printed as amended by this act.

SEC. 18. *And be it further enacted by the authority aforesaid,* That in all cases where notice shall be given by the sheriff or officer as directed in the sixteenth section of this act, the said sheriff or officer so giving or serving such notice, shall have the same fee for performing that duty, as for serving the original process; but the fee for serving such notice as required by the said sixteenth section of this act, shall in all cases be paid by the counties respectively, within which such proceeding shall have been commenced.

453, 56, 499,
501, 23, 26,
88, 101, 112,
157, 150,
143, 101,
115, 292,
412, 268,
626, 442,
468, 473,
71, 518, 265,
402-4.
The laws—
construction
of, &c.
Fees of the
sheriff on no-
tice of pro-
cess by him
to the 3rd
Tuesday, &c
To be paid
by the coun-
ties, &c.

Passed at Dover, Jan. 17, 1832.



CHAPTER CVII.

AN ACT providing (temporarily) a teste day for the Courts.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all writs, subpoenas and other process, which may be issued by the clerk of the Court of Errors and Appeals, the clerks of the Court of Chancery, the clerks of the Orphans' Court, the prothonotaries of the Superior Courts, the clerks of the peace, and the clerks of the Court of Oyer and Terminer, previously to the next session of the several courts, shall bear teste the eighteenth day of January, in the year of our Lord one thousand eight hundred and thirty-two.

The 18th
Jan'y., 1832,
teste day for
all writs.

Passed at Dover, Jan. 18, 1832.



CHAPTER CVIII.

A SUPPLEMENT to the act entitled "An act to alter and re-establish the charter of the borough of Wilmington." Dig. p. 657.

Whereas, the corporation of the borough of Wilmington has, at the request of the inhabitants thereof, by its memorial, represented that certain alterations in its present charter, as also a change of

Preamble.

its name, would be highly conducive to the good government and prosperity of the place.

Name of the city.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each House concurring therein,)* That from and after the passage of this act the said borough of Wilmington shall be called and known by the name of the city of Wilmington.

Officers thereof.

SEC. 2. *And be it further enacted by the authority aforesaid,* That the officers of the said city shall consist of two executive officers, who shall be called mayor and alderman, and not as heretofore first and second burgess, twelve members of council, one high constable, one treasurer and one assessor, and such other officers as may be deemed necessary by the corporation: *Provided*, that no person shall be capable of serving as mayor, alderman, 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 resident in the said city: *And provided further*, that the members of council and assessor shall be freeholders in the said city.

Style of the corporation.
Dig. p. 675.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the style and name of the corporation of the said borough shall be changed from that of "the burgesses and borough council of the borough of Wilmington," to the style and name of "the mayor and council of Wilmington," and by that name they 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 whatsoever, and the same to sell, grant demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law and equity, or any other place whatsoever, and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure, and generally to have all the privileges and franchises incident to a corporation or body politic.

Officers, how elected, etc.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the members of council shall be elected by the citizens by ballot, for the term of three years; immediately after they shall be assembled in consequence of the first election, they shall be divided into three classes; the seats of the members of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year; so that one third may be chosen every year. The treasurer and assessor shall be elected by ballot annually, by the citizens, on the first Tuesday of October, on which day also, the members of council shall be elected. The mayor shall be elected by the city council from the body of citizens, on the third Tuesday of October, for the term of three years, but may be removed by a vote of two-thirds of the whole council, in which case the cause of removal shall be entered on the minutes. The alderman shall be

elected by the city council from the body of citizens, on the third Tuesday of October, for the term of five years, but may be removed by a vote of two-thirds of the whole council, in which case the cause of removal shall be entered on the minutes. The high constable shall be elected annually, on the third Tuesday of October, by the city council.

SEC. 5. *And be it further enacted, &c.*, That the members of council shall constitute the legislative body of the said city, and shall be denominated, when assembled, the city council. The sittings of the council shall be public; they shall be the judges of the election returns and qualifications of their own members, and of all other officers of the corporation; they shall choose their president and other officers, determine the rules of their proceedings, and keep a journal of the same. Eight members shall constitute a quorum to do all business: *Provided*, that no ordinance shall pass the council unless the same shall have the concurrence of a majority of all the members of the city council, and have had at least two readings at a previous stated meeting or meetings thereof, nor shall any ordinance be repealed, unless notice shall have been given and entered on the journal of the council at a stated meeting thereof, that at the next succeeding stated meeting, a motion would be made for the repeal aforesaid.

SEC. 6. *And be it further enacted, &c.*, That all the powers and authorities vested by the act to which this is a supplement, or by any other act of the General Assembly of this State, in the present burgesses, shall be and are hereby vested in the mayor and alderman; and all the powers and authorities that are so vested in the first Burgess, shall be and are hereby vested in the mayor, except so far as the same may be altered or modified by this act. And it shall be the duty of the mayor to take care to have the laws and ordinances faithfully executed, and he shall have the custody of the seal of the corporation and the right of affixing the same.

SEC. 7. *And be it further enacted, &c.*, That the mayor shall have power to take and certify, under his hand and seal of office, the acknowledgment of all deeds and letters of attorney, and the private examination of married women, parties to such deeds, in like manner as two justices of the peace may now do; for which service he shall receive a fee of seventy-five cents and no more, whether there be one or more parties to the deed. He shall also within the city, in like manner as a preacher of the Gospel, have authority to solemnize marriages, and shall keep a like register, and receive the same fee, and be subject to the same penalties as a preacher of the Gospel, according to the act entitled "An act regulating marriage," passed at Dover, February 16, 1829.

SEC. 8. *And be it further enacted, &c.*, That all the powers and authorities vested by the act to which this is a supplement, or by any other act of the General Assembly of this State, in the present borough council shall be, and are hereby vested in the city council.

Their meet-
ings—pow-
ers and du-
ties in levy-
ing taxes.

Dig. 678.

May make
temporary
appointments
to office.

Officer elect-
ed refusing
to serve.

Penalty.

Proviso.

In case the
day of elec-
tion should
pass, &c.,

The powers,
&c., debts,
&c., to re-
main as here-
tofore and be
vested, &c.

Part of for-
mer act re-
pealed.
Dig. 675, etc.

SEC. 9. *And be it further enacted, &c.,* That the city council shall meet on the first Tuesday of November 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 city, for the public uses of the ensuing year; and thereupon the president shall issue his precept, countersigned by the clerk of the council, directed to the assessor of the said city, requiring him to act as is provided in the twelfth section of the act to which this is a supplement, and thereupon the like proceedings shall be had, and the like powers are given as are provided in the said twelfth section; except that the order to the collector to collect and receive from the persons and estates assessed, the several sums in the said lists mentioned, shall be signed by the mayor and two of the council.

SEC. 10. *And be it further enacted, &c.,* That in case of the death, absence, resignation or refusal to act of the mayor, alderman, 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 power to make temporary appointments until the next general election, when such vacancies shall be filled according to the provisions of this act respectively.

SEC. 11. *And be it further enacted, &c.,* That any officer who shall have been duly elected according to the provisions of this act, and shall neglect or refuse to serve as such within the said city, shall forfeit and pay any sum not exceeding fifteen dollars, and the amount of fines accruing hereby shall be recovered for the use of the city, as other debts of like amount are recoverable in (in) this State. *Provided,* that no person 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.

SEC. 12. *And be it further enacted, &c.,* That 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.

SEC. 13. *And be it further enacted, &c.,* That all the powers, privileges, rights or jurisdictions of the corporation shall remain as heretofore; and also all debts and obligations binding on, or due to, or property or other things of value belonging to the corporation under its former name, shall be equally binding on, or due to, and be the property and right of, and be vested in the said corporation under the name of "the mayor and council of Wilmington;" and so much of the act to which this is a supplement, and of the laws of this State, as it regards the said borough or the said corporation, hereby amended or supplied, and no more, shall be and is hereby repealed, made null and void.

SEC. 14. *And be it further enacted, &c.,* That a special election

shall be held for members of council, on the first Tuesday of March next, when twelve members shall be chosen, who shall be divided by lot, according to the provision of the fourth section of this act, into three classes. The seats of the members of the first class shall be vacated on the first Tuesday of October next; of the second class, at the expiration of one year from that time; and of the third class at the expiration of two years from that time. The term of service of the present members of council, of the burgesses, and of the high constable, shall terminate on the said first Tuesday of March next, and the term of service of the treasurer and assessor shall be extended to the said first Tuesday of October next. The election shall be held as elections have heretofore been, by the same officers, in the same manner, and subject to the same regulations; and immediately after the said election, the said members of council shall proceed to elect a mayor, an alderman, a high constable, and such other officers as they shall deem necessary to carry into effect the provisions of this act.

Special election for members of council.

To be divided by lot into three classes—rotation thereon.

Elections—how to be held.

Duties of council hereafter.

The business of the corporation shall be conducted as heretofore, and the same powers, rights and jurisdictions remain and be exercised by the present officers of the said corporation, until after the said election, when the provisions of this act shall immediately take effect. The first year of the term of service of the said mayor and alderman respectively, shall be deemed and taken to expire on the third Tuesday of October next.

Present corporate powers to remain till said election.

SEC. 15. *And be it further enacted, &c.*, That it shall and may be lawful for the said city council, and they are hereby authorised and empowered, when in their discretion they shall deem it right and proper so to do, on the application of five resident freeholders of the said city, to issue their precept, to be signed by the president of the said council, to the commissioner or other person or persons whose duty it shall be to attend to the same, directing and authorising him or them to cause the footways and gutters of any street, lane, or alley of the said city, as applied for, to be paved with bricks or stones, as the case may require, and to fix 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 city; *Provided always*, the owner or owners of the ground, shall have the privilege of paving his, her or their own front or fronts, provided it be completed within twenty days from the day of fixing the curb-stone, and notice thereof given, to such owner or owners, in case such owner or owners reside within the said city, by the said commissioner or other person or persons authorised to pave as aforesaid, by writing under his or their hands, either by personal service, or the same being left at the dwelling-house of such owner or owners; but the curb-stone shall in all cases be furnished and fixed by the said commissioner, or other person or persons authorised as aforesaid: *And provided further*, that no person or persons shall be obliged to pave any footway to a greater breadth than five feet, from the curb-stone, in front of any lot whereon a dwelling-house shall not be erected; but the rest of the space to the

The powers of council in regard to paving, &c., the streets.

The owners of ground—their privileges.

Curb-stones.

Paving in front of vacant lots.

building line shall be covered with gravel, to the depth of at least six inches, and levelled in conformity with the part that is paved.

Expenses,
&c., to be
paid by the
owners.

Within 30
days.

Or execution
to issue, &c.

How levied.

But one
charge for
the curb
stone.

The 5th and
6th sec. of
former act
repealed.
Dig. p. 688.

Powers and
jurisdiction
of the mayor,
&c., in criminal
cases, etc.

May impose
fines, levy the
same.
Take, recog-
nizances, or
commit to
prison—not
accountable
to the State
for fines, etc.,
except.

SEC. 16. *And be it further enacted, &c.,* That the said commissioner, or other person or persons, authorised to pave as aforesaid, shall when the work is done, present a bill of the expenses, whether it be of the furnishing and fixing the curb-stone alone, or of the furnishing and fixing the curb-stone and paving, as the case may be, to the owner or owners according to their respective proportions; and in case the said owner or owners shall not, within thirty days after the presentation of the bill as aforesaid, pay the amount of the same to the said commissioner, or other person or persons authorised as aforesaid, it shall and may be lawful for the mayor of the said city to issue execution for the same, in the name of the said commissioner or other person or persons authorised as aforesaid, to be levied on the goods and chattels of the said owner or owners; but if no goods or chattels of the said owner or owners can be found to satisfy the debt and costs within the said city, then to be levied on the grounds or buildings of the said owner or owners for which the said expenses were incurred; which said grounds or buildings shall be sold at public auction, for the shortest space of time in which the rents and profits will satisfy the debt and costs: *Provided always*, that there shall be but one charge for furnishing and fixing the curb-stone as aforesaid, but that all subsequent expenses of re-setting the curb-stone, unless the same shall be occasioned by some default of the owner or owners of the ground, shall be borne and paid for by the said corporation. The fifth and sixth sections of the act passed in one thousand and seven hundred and ninety-nine, entitled "An act for the better regulation of the borough of Wilmington" hereby supplied, are repealed made null and void.

SEC. 17. *And be it further enacted, &c.,* That the mayor and alderman and president of the city council, or any two of them, shall have full power and authority, and they are hereby vested with full power and authority to inquire of, hear, try and determine, agreeably to the laws and constitution of this State, all larcenies, assaults and batteries, riots, routs and unlawful assemblies, nuisances and other offences, which have been committed or shall be committed within the said city, and to punish all persons who shall be convicted of the same offences or any of them, agreeably to the laws of this State; and also to inquire of, hear, try and determine all offences which shall be committed within the said city against any of the laws, ordinances, regulations, or constitutions of the said city, and to punish the offender and offenders as by the said laws, ordinances, regulations or constitutions, shall be prescribed or directed; and also to impose fines on jurymen and others according to law, and to levy the same, and to award process, take recognizances for keeping of the peace, for being of good behavior, and for appearance, or otherwise; or to commit to prison as occasion shall lawfully require, without being accountable to the State, for any fines or emercements, to be imposed for the said offences or

any of them, except such as are or shall be by law made payable into the State treasury, for offences against the State; and for the purposes aforesaid, the said mayor and alderman and president of the city council, or any two of them, shall have full power and authority, and they are hereby vested with full power and authority to hold and keep a Court of Record within the said city four times in each year, to be regulated by ordinance of the said city council, by the name and style and title of the Mayor's Court for the city of Wilmington, for the inquiring, hearing, trying and determining of the pleas and matters aforesaid, and for the punishing of those who shall be guilty thereof, and for the causing of all encroachments in the streets of the said city, and all nuisances to be removed, and for the punishing the offenders as the law and usage shall in such case require, and for the doing and performing all such other matters and things as are in and by this act made cognizable in the said court. The Court of General Sessions of the Peace and Gaol Delivery shall not have jurisdiction of any of the matters hereby made cognizable in the said Mayor's Court.

To this end may keep a court of record; four times in a year.

Title thereof.

Court of G. Sessions--jurisdiction excluded.

SEC. 18. *And be it further enacted, &c.*, That the said Mayor's Court shall have full power and authority to examine, correct, and punish the contempts, omissions, neglects, favors, corruptions and defaults of all or any of the justices of the peace, sheriffs, coroners, clerks, or other officers; and also shall award process for levying all such fines, forfeitures and amercements as shall be taxed, imposed, or set in the said Mayor's Court or estreated there; and generally shall administer justice and exercise the jurisdictions and powers hereby granted concerning all and singular the premises as fully and amply as the Court of General Sessions of the Peace and Gaol Delivery may do by the amended constitution.

Powers of the mayor's court over certain officers--and in levying process, &c.

SEC. 19. *And be it further enacted, &c.* That the said Mayor's Court shall have full power and authority to inquire of, try, and finally determine, all those criminal matters enumerated in the fifteenth section of the sixth article of the amended constitution, without indictment by grand jury, and with or without trial by petit jury as shall be provided by the ordinances of the said city.

Jurisdiction under the 15 sec. 6 art. of amend. con.

Amend. con. p. 15, 16.

SEC. 20. *And be it further enacted, &c.*, That if any person or persons shall find him, her or themselves, aggrieved by any judgment of the said Mayor's Court, it shall and may be lawful for the party or parties so aggrieved, to sue out and obtain his, her or their writ or writs of error: which shall be granted of course, in like manner as other writs of error are granted, and made returnable in the Superior Court of this State for New Castle county, and shall be proceeded in under the same rules and regulations: *Provided always*, that when any writ of error shall be granted upon any judgment to be given in the said Mayor's Court, the said mayor and alderman and president of the city council and their successors, shall not be compelled thereby, or by any other writ or writs to them directed, to remove, send, or certify into the said Superior

Writs of error may be sued out--when.

Dig. p. 24-5, how returnable.

Proviso.

Tenor transcript of record sent up.

Court or elsewhere any of the indictments, but only the tenors or transcripts thereof, and of the records touching and concerning the same, and of the proceedings thereon under their common seal; and after such judgment shall be reversed or affirmed, it shall and may be lawful for the said mayor and alderman and president of the city council, or any two of them and their successors, to proceed to execution or otherwise as shall, according to law, appertain.

City court.

Jurisdiction of.

Proceedings in q. c. fre-git.

Certified into the S. Court.

Appearance of parties.

Powers of the city court.

Amend. con. p. 12.

Provided its judgments not to be liens on real property, until, &c.

Dig. p. 392-3.

Writs of error from the S. Court to

SEC. 21. *And be it further enacted, &c.,* That the said mayor and alderman and president of the city council shall constitute a court of record within the said city, by the name and style of the City Court, any two of whom may hold the said court, which shall have jurisdiction in all sases of assumpsit, debt, covenant, trover, replevin and trespass vi et armis, where the cause of action shall arise within the said city, or the parties or the defendant shall reside within its limits: *Provided always,* that if in an action of trespass quare clausum fregit, the defendant shall plead that the place wherein the trespass is alledged is in his freehold, or the freehold of a person under whom he claims, and pray that the cause shall be removed to the Superior Court of New Castle county, and shall by himself, his agent, or attorney, be bound in recognizance before the clerk of the said city court, with one or more sureties to be approved by the court in such sum as the said city court shall order, that the damages and costs which the plaintiff shall recover in the said Superior Court shall be satisfied; the the said city court shall thereupon, without delay, certify the record of the said action to the said Superior Court, and the said Superior Court shall receive the same, and hear and determine the cause in the same manner as if the said cause had been originally commenced there, and by the usual process. The docketing of the cause in the said Superior Court shall imply the appearance of the parties, and be a sufficient entry of such appearance.

SEC. 22. *And be it further enacted, &c.,* That the said City Court, touching all the matters concerning or within its jurisdiction, shall have all the powers and authorities which are vested by the amended constitution in the Superior Court: *Provided always,* that its judgments shall not be liens on real property, until they shall have been certified to and recorded by the clerk of the Superior Court for New Castle county, who shall, upon a transcript of the judgment under the seal of the said City Court, docket the same among the judgments of the said Superior Court, and file the certificate among the records of the court; which judgment so docketed shall have the same force and effect as other judgments in the said Superior Court, and process shall issue upon them in like manner. *And provided further,* that it shall not be lawful to levy upon any real property or sell the same by virtue of any execution or executions issuing out of the said city court.

SEC. 23. *And be it further enacted, &c.,* That writs of error may be issued by the said Superior Court for New Castle county, to the

said City Court, which shall be prosecuted as in other cases; and an appeal shall be allowed to the said Superior Court for New Castle county in all cases, which shall be a supersedeas to execution: *Provided*, the party appellant, within twenty days after judgment rendered, shall by himself, his agent or attorney, with one or more sufficient sureties, be bound in recognizance before the clerk of the said Superior Court, the condition of which shall be, that the said appeal shall be prosecuted with effect, and also that any judgment that shall be rendered against the said appellant, his executors or administrators upon such appeal shall be satisfied.

the city court, &c., and appeal allowed, supersedeas to execution. Duty of the party appellant, &c. Recognizance—condition of.

SEC. 24. *And be it further enacted, &c.*, That the city council shall, on the first Monday of February, in each and every year, select from the list of taxable inhabitants of the said city, the names of a sufficient number of intelligent, sober and judicious citizens, lawful men of fair character, to serve as jurors at the several courts to be held in the said city for that year; and they shall write or cause to be written the name of each person so selected, on a small piece of paper, which papers shall be as nearly alike in size and shape as may be, and shall be so folded as that the names thereon shall not appear without unfolding thereof, and they shall put all the papers so folded into a wheel or box provided for the purpose; and ten days before every term of the said City Court, or of the said Mayor's Court, it shall be the duty of the clerk of the said court, together with a member of the said city council, to draw from the said wheel or box, having first turned the same so as to mingle the papers, the names of thirty-six persons to serve as jurymen at the ensuing term, who shall be summoned five days before the first day of the term, and returned to serve as jurymen during that term, in case of a writ or writs of venire shall issue for that purpose in any cause, and the names of jurors to serve in each cause shall be drawn in like manner by the clerk of the said court from those so summoned and returned: *Provided always*, that no person shall be obliged to serve more than one term in the year. The said clerk of the court and member of council shall, at the time of making the first drawing for jurymen in each year, in the first instance, draw from the said wheel in manner aforesaid, the names of twenty-three persons, to serve as grand jurymen throughout the year, who shall in all cases be summoned and returned to serve as grand jurymen in that year, and shall receive five days notice previous to the day of appearance.

Jurors to the several courts, how chosen.

SEC. 25. *And be it further enacted, &c.*, That the said City Court shall hold four terms in the course of the year; one to begin on the first Monday of March; the second on the first Monday of June; the third on the first Monday of September; and the fourth on the first Monday of December; and shall have full power and authority and are hereby enjoined, to hold adjourned courts whenever the state of business shall require it, and also to make such regulations in relation to the practice and pleadings in the said court, as may most facilitate the progress of justice.

City court to hold four terms in a year. And adjourned courts. And regulate practice in court.

Clerk of the court.

Power of the council in regard to.

SEC. 26. *And be it further enacted, &c.,* That the clerk of the city council shall act as clerk of the said Mayor's Court, and also of the said City Court, and shall have the care and preservation of the records of the same. *Provided always,* that it shall be in the power of the said city council to make any other appointment to those offices or either of them.

Fee of jurors.

Of witnesses.

SEC. 27. *And be it further enacted by, &c.,* That the fee for the services of a jurymen within the limits of the said city shall be fifty cents per day: *Provided,* that no person shall be summoned to serve as a jurymen in the said Mayor's Court or in the said City Court, but inhabitants of the said city; the fee for the service of witnesses in attending the said courts, or either of them, provided the witness is an inhabitant of the said city, shall be twenty-five cents. In all other cases, and for all other services, the fees shall be the same as are provided by the general fee-bill of the State.

Division of Christiana hundred as respects the roads, &c.

SEC. 28. *And be it further enacted, &c.,* That from and after the passage of this act, the said city shall be deemed and taken to be a separate and distinct hundred from Christiana hundred, so far as respects the expenses and charges for opening and making public roads, and of repairing and keeping the same in good order, but each division shall hereafter bear the expenses and charges for such purposes within its own limits.

Seals of the courts to be procured.

SEC. 29. *And be it enacted by the authority aforesaid,* That the city council shall, within one month after the passing of this act, procure seals of silver, steel, brass or copper, to be made of the diameter of one inch at least, and cause the same to be engraven with the arms of the State of Delaware, or such other device as they may think proper, and a motto or inscription to describe the court to which such seals belong, which shall respectively be the seals of the said Mayor's Court and the said City Court, and the said city council shall in like manner cause a seal as aforesaid, to be engraven with such device as they shall think proper, with a motto or inscription, to describe the office to which such seal belongs, and which shall be the seal of the mayor's office.

First selection of jurors on the 1st Monday of May next.

SEC. 30. *Be it further enacted by the authority aforesaid,* That for as much as the duty prescribed to the said city council by the twenty-fourth section of this act in relation to the selection of jurors cannot be performed in this year at the time therein limited, therefore: *Be it enacted,* that the said city council shall perform the duty prescribed by the said twenty-fourth section, for this year, on the first Monday of May next.

Prosecuting officer of the city.
Att'y. General, right of fee for prosecution.

SEC. 31. *Be it enacted by the authority aforesaid,* That the solicitor of the said corporation for the time being shall be ex officio, the prosecuting officer in the said Mayor's Court: *Provided always,* that the Attorney General of the State shall have the right of prosecuting in person or by his deputy. The fee in every prosecution, whether it be by indictment or information, or otherwise, shall be

three dollars and no more, and no other fee or fees shall be allowed for services in relation to such prosecution.

SEC. 32. *And be it further enacted, &c.,* That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such, by all judges and justices and all other persons whatsoever, without the same being specially pleaded; and every matter and thing herein contained, shall be construed and taken most favorably and beneficially for the said corporation. This to be a public act. And construed most favorably for the corporation.

Passed at Dover, Jan. 18, 1832.



CHAPTER CIX. (Private Act.)

AN ACT to divorce Eleanor Pennell and her husband Jackson Pennell from the bonds of Matrimony.

Passed at Dover, Jan. 17, 1832.



CHAPTER CX.

AN ACT to incorporate the Wilmington and Susquehanna Rail Road Company.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring,)* That Edward Tatnall, John Wales, James Canby, William Seal, William P. Brobson, Benjamin Boulden, James Price, Ashton Richardson, Harry Connelly, Abraham Egbert, Allan Thompson, Joseph G. Rowland, William Chandler, Eli Hillis, James Gardner, William Townsend and John Gordon, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they or any three of them shall, on or before the first Monday of October next, procure a sufficient number of suitable books, one of which shall be opened in the city of Wilmington, and the others if it be deemed advisable by the said commissioners, at such other place or places as they shall think proper, and in each of which they shall enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president and directors of the Wilmington and Susquehanna Rail-road Company the sum of fifty dollars for every share of stock set opposite to our respective names, in such manner and proportions and at such times as shall be determined by the president and directors of the said company, in pursuance of an act of the General Assembly of the State of Dela- Commission-
ers.

To open
books and
their duties
therein.

ware entitled "An act to incorporate the Wilmington and Susquehanna Rail-road Company." Witness our hands this _____ day of _____ in the year of our Lord one thousand eight hundred and _____. And shall thereupon give notice in two of the newspapers printed in the city of Wilmington, and in one or more newspapers printed in such other place or places as they may deem it proper and necessary to open books in, at least twenty days, of the time and places when and where the said books shall be kept open to receive subscriptions for the stock of said company; at which respective times and places, two or more of the commissioners shall attend, and permit all persons of lawful age who shall offer to subscribe in the said books, in their own name, or in the name of any other person who shall authorise the same, for any number of shares in the said stock; and the said books shall be kept open at least six hours in every juridical day, for the space of six days, or until there shall have been subscribed eight thousand shares. And if at the expiration of six days, the books aforesaid shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time and transfer the book or books elsewhere, until the whole number of eight thousand shares shall be subscribed; of which adjournment and transfer the commissioners aforesaid shall give such notice as the occasion may require; and when the whole number of shares shall be subscribed then the books shall be closed. But no subscription shall be valid, unless the person so subscribing shall pay to the said commissioners at the time of making the same, the sum of five dollars on each share for the use of the company.

SEC. 2. *And be it enacted by the authority aforesaid,* That when and as soon as four thousand shares shall be subscribed, the subscribers, their successors and assigns shall be, and they are hereby declared to be incorporated by the name style and title of "the Wilmington and Susquehanna Rail-road Company," and by the same name the subscribers shall have *perpetual* succession, and be able to sue and be sued, plead and be impleaded in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy to them and their successors, lands, tenements and hereditaments, goods, chattels, and all estate, real, personal and mixed of what kind or quality soever, and the same from time to time to sell, mortgage, grant, alien or dispose of, and to make dividends of such portion of the profits as they may deem proper; and also to make and have a common seal, and the same to alter or renew at pleasure; and also to ordain, establish and enforce such by-laws and regulations as shall be deemed necessary and convenient for the government of the said corporation, not being repugnant to the constitution and laws of this State and of the United States; and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well being and ordering of the same: *Provided*, that nothing herein contained shall be considered as in any way giving to the said corporation any banking privileges whatsoever, or any other liberties, privileges or

franchises, but such as may be necessary or incident to the making and proper management of the said rail-road.

SEC. 3. *And be it further enacted*, That the commissioners aforesaid as soon as conveniently may be, after four thousand shares shall be subscribed as aforesaid, shall give notice in two of the Wilmington newspapers and in such other newspapers as they shall deem proper, at least twenty days, of the time for the said subscribers to meet in the city of Wilmington, in order to organise the said company, and to choose by a majority of votes of the said subscribers by ballot, to be given in person or by proxy, one president and seven directors, a majority of whom shall be residents of this State, a treasurer and such other officers as shall be deemed necessary; and the president and directors aforesaid shall conduct the business of said company until the second Monday of January, in the year one thousand eight hundred and thirty-four, and until like officers shall be chosen; and may make such by-laws, rules and regulations as are not repugnant to the constitution and laws of this State and of the United States, and that may be necessary to the well governing the affairs of the company.

Officers, how to be chosen.

Majority of residents of this State.

Term of office.

SEC. 4. *And be it further enacted*, That the stockholders shall meet on the second Monday of January, one thousand eight hundred and thirty-four and in every year thereafter, at the city of Wilmington, of which notice shall be given at least twenty days by the secretary, in the newspapers before mentioned, and choose by a majority of votes present, their officers for the ensuing year as mentioned in the third section of this act, who shall continue in office for one year, and until others are chosen; and at such other times as they may be summoned by the directors, in such manner and form as shall be prescribed by the by-laws; at which annual or special meetings they shall have full power and authority to make, alter or repeal by a majority of votes in manner aforesaid, all such by-laws, rules and regulations as aforesaid, and to do and perform every other corporate act; and the number of votes to which each stockholder shall be entitled shall be according to the number of shares he shall hold, each share entitling him to one vote; but no share shall confer a right of suffrage which shall not have been held three calendar months prior to the day of election, nor unless it be holden by the person in whose name it appears absolutely and bona fide in his own right or in that of his wife, or for his or her sole use or benefit, or as executor or administrator, trustee or guardian, or in the right and for the use and benefit of some copartnership, corporation or society of which he or she may be a member, and not in trust for and to the use and benefit of any other person; and in all voting by proxy the attorney shall be legally constituted under the hand and seal of the party, and the authority properly authenticated, when according to the laws of this State such authentication is necessary.

Annual meetings.

Notice of

Officers, how chosen—
Term of office.
Powers at the annual meetings.

Voting.

By proxy.

SEC. 5. *And be it further enacted*, That the election of officers provided for in the preceding section shall be conducted in the following manner.

Elections, how conducted.

- Judges of—
their duty. lowing manner, that is to say: the directors for the time being shall appoint two of the stockholders, not being directors, to be judges of the said election, and to conduct the same after having severally taken and subscribed an oath or affirmation before a judge or justice of the peace well and truly and according to law, to conduct such election; and the said judges shall decide upon the qualifications of the voters, and when the election is closed, shall count the votes and declare who has been elected; and if it shall at any time happen that an election of president, directors, treasurer or other officers shall not be made, the corporation shall not for that cause be deemed to be dissolved; but it shall be lawful to hold and make such election of president, directors, treasurer, or other officer, on the same day, or on any day thereafter, by giving at least ten days notice, signed by the president or secretary in the newspapers before mentioned, of the time and place of holding said election, and the president, directors and other officers of the preceding year, shall in that case continue to act and be invested with all the powers belonging to their respective situations until another election shall take place; in the case of the death, resignation or removal from the State of any president, director or other officer, his place shall be filled by the board of directors until the next annual election: *Provided*, the removal of a director from this State may not operate to vacate his place should there be a majority of the directors still residing in the State.
- In case an election be not held.
Other meeting—notice of.
Vacancy.
Proviso.
- Annual meeting in Wilmington.
Quorum.
Secretary.
Directors—powers of.
- SEC. 6. *And be it further enacted*, That the said president and directors shall hold their meetings in the city of Wilmington, and when met five shall be a quorum, who in the absence of the president may choose a chairman; and the said directors shall annually appoint a secretary, who shall keep minutes of their transactions fairly entered in a book; and a quorum of the said directors being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary to carry on the intended work; and to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the moneys due on their respective shares; to draw orders on the treasurer for the same, which shall be signed by the president, or, in his absence, by a majority of the directors present, and countersigned by the secretary, and generally to do all such other acts, matters and things, as by this act and by the by-laws and regulations of the company they are authorised to do.
- Certificates of stock.
Transferable.
- SEC. 7. *And be it further enacted*, That the president and directors first chosen, shall procure certificates or evidence of stock for all the shares of the said company, and shall deliver one such certificate signed by the president and countersigned by the treasurer, and sealed with the common seal of the said company, to each person for every share by him subscribed and held; which certificate or evidence of stock shall be transferable at his pleasure, in person or by attorney duly authorised in the presence of the president or

treasurer, each of whom shall keep a book for that purpose, (sub- Book for.
ject, however, to all payments due or to become due thereon;) and
the assignee holding any certificate, having first caused the assign- Assignee.
ment to be entered in a book of the company to be kept for the
transfer of stock, shall be a member of the said corporation; and
for every certificate assigned to him as aforesaid, shall be entitled
to one share of the capital stock and of all estates and emoluments Rights of.
incident to one share, and to vote as aforesaid at the meetings
thereof, and subject to all penalties and forfeitures, and of being
sued for all the balance and penalty due or to become due on each
share, as the original subscriber would have been.

SEC. 8. *And be it further enacted,* That if after thirty days' notice Noglect to
in the public papers aforesaid, of the time and place appointed for pay instal-
the payment of any proportion or instalment of the said capital ment.
stock in order to carry on the work, any stockholder shall neglect
to pay such proportion or instalment at the place appointed, for the
space of thirty days after the time so appointed, every such stock-
holder or his or her assignee, shall, in addition to the instalment so
called for, pay at the rate of two per centum per month, for the Forfeiture.
delay of such payment; and if the same and additional penalty
shall remain unpaid for such space of time as that the accumulated
penalty shall become equal to the sum before paid in part and on
account of such shares, the same shall be forfeited to the said com-
pany, and may be sold to any person or persons willing to purchase,
for such price as can be obtained for the same; or in default of Or proceed-
payment by any stockholder of any such instalment as aforesaid, ing before of
the president and directors may, at their election, cause suit to Pres., &c.
be brought before any justice of the peace, mayor or alderman of
the city of Wilmington, or in any court having competent jurisdic-
tion of the same, together with the penalty aforesaid: *Provided,*
That no stockholder, whether original subscriber or assignee, shall
be entitled to vote at any election, or at any general or special In case of ar-
meeting of the said company, on whose share or shares any instal- rearages on
ments or arrearages may be due and payable more than thirty stock.
days previously to the said election or meeting.

SEC. 9. *And be it further enacted,* That the president and direc- Officers to
tors of the said company shall demand and require of and from the give bond,
said treasurer, and all and every other the officers and other persons &c.
by them employed, bond in sufficient penalties, and with such sure-
ties as they shall by their by-laws, rules and regulations require,
for the faithful performance of the several duties and trusts to them
or any of them respectively committed.

SEC. 10. *And be it further enacted,* That dividends of so much Dividends
of the profits of the company as shall appear advisable to the di- twice a year.
rectors, shall be declared at least twice a year in every year, and Payment to
paid to the stockholders on demand, at any time after the expira- the stock-
tion of ten days therefrom; but they shall in no case exceed the holders.
amount of the nett profits actually acquired by the company, so Not to exceed
that the capital stock shall never be thereby impaired: if the said profits.

Liability of directors. stock of said company, the directors consenting thereto, shall be liable in their individual capacities to said company, for the amount of the stock so divided; and each director present when such dividend shall be made, shall be adjudged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders at the declaring of such dividend; nor shall any dividend exceed twelve per cent. per annum, nor shall the contingent fund of said company at any time exceed one-fourth of the capital stock.

Unless protest be entered.

Dividend not to exceed 12 per cent.

Directors to exhibit a statement of affairs. Special meetings. SEC. 11. *And be it further enacted*, That at each annual meeting of the stockholders, the directors of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for such year, and that special meetings of the stockholders may be called by order of the directors, or by stockholders holding one-fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying moreover the object of the meeting; but no business shall be transacted at such special meeting, unless a majority in value of the stockholders shall attend in person or by proxy.

Company to construct a rail-road. SEC. 12. *And be it further enacted*, That the said company be, and they are hereby authorised, as soon as they conveniently can, to locate and construct a rail-road of one or more tracts, from a point at the Pennsylvania State line on, or near the rout of the post road leading from Wilmington to Philadelphia, thence along the said post-road, or as near thereto as the ground will admit, to the city of Wilmington; thence to the line of this State towards the Susquehanna in the direction of Baltimore, having due regard to the situation or nature of the ground and of the buildings thereon, the public convenience and the interest of the stockholders, and so as to do the least damage to private property; and the said road shall not be more than five rods wide, and shall not pass through any burying ground or place of public worship, nor any dwelling-house, without the consent of the owner thereof, nor shall it pass through any out-building of the value of three hundred dollars, without such consent; and where the track of the post-road shall be used for said rail-road, the latter shall not be so located as to interfere with the post-road; and the president and directors shall, within six months after ascertaining the rout of the rail-road, cause an accurate survey of the lines of the said road to be made, a map or plot of which survey they shall cause to be filed in the Secretary's office of this State; which map or plot, or a certified copy thereof, shall be sufficient evidence of the course of said road which may then be opened, and all the expenses incurred thereby shall be defrayed by said company.

Location of.

Regulation of.

Not to pass through burying ground &c.

Survey of the road. Filed with the Secretary of State.

The powers of the company, &c., in entering, &c. SEC. 13. *And be it further enacted*, That it shall be lawful for the said company and their agents and all persons employed by or under them for the purposes contemplated by this act, to enter upon any land which they shall deem necessary for laying out said road,

and also for the purpose of searching for stone, sand, gravel or wood for constructing said road; but no stone, sand, gravel or wood, shall be taken away from any land without the consent of the owner thereof, until the rate of compensation for the same be ascertained and paid; which rate of compensation, if the parties cannot agree thereon, shall be ascertained in the manner hereinafter prescribed, as to the compensation for lands over which the said road may be laid.

Compensation for stone, gravel, &c.

How to be ascertained.

SEC. 14. *And be it further enacted*, That the said company are hereby empowered to erect, make and establish all works, edifices and devices as may by the said company be deemed expedient for the purpose of carrying into effect the objects of their incorporation, and also to contract or agree with the owner or owners for the purchase of any lands or tenements which may be necessary for the purpose of constructing the said rail-road.

Necessary works, &c. for said road.

SEC. 15. *And be it further enacted*, That whenever it shall be necessary for the said company to enter in and upon, and occupy lands for the purpose of making said rail-road, any lands upon which the same may be located, if the owner or owners of said land shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for any injury or supposed injury that may be done to said land by such entry and occupation, it shall and may be lawful for the parties to appoint five suitable and disinterested persons to estimate such damage, who shall be under oath or affirmation fairly and impartially to estimate the same, and shall reside within the county of New-Castle; and the expenses incurred by the said appraisers, shall be defrayed by the said rail-road company; but if the parties cannot agree upon such persons, or if the persons so chosen shall not decide upon the matter, or if the owner of such land shall refuse or neglect to join in such appointment, within twenty days after requisition upon him or her for that purpose made, or if such owner shall be feme-covert, under age, non compos mentis, out of the State, or unknown, then it shall be lawful for the Superior Court of said county, on application of either party, and at the costs and charges of the said company, to appoint five disinterested men of said county to view, examine and survey the said lands, tenements or hereditaments, and estimate the injury or damage, if any, that in their apprehension will be sustained, as aforesaid, by reason of said rail-road; and report the same under their oaths or affirmations to the said court, the agreement of any three of them to said report being sufficient; which report being confirmed by the said court, judgment shall be entered thereon; and the viewers shall be entitled to one dollar per diem for their services, to be paid by said company; and it shall be the duty of the viewers, in estimating such injury or damage, to take into consideration the advantages that will be derived by the owner or owners of the said lands from the said rail-road: *Provided*, That either party may appeal to the said court within thirty days after such report shall have been filed

Injuries to lands, &c.

Referees—their duties.

Expenses.

In case of disagreement to refuse.

Sup. Court to appoint 5 disinterested men—their duties.

Report being confirmed.

Appeal granted.

And regulated. in the prothonotary's office of said county, and have the matters in issue decided in the same manner in which appeals from the judgment of justices of the peace are decided, and such decision shall be final; and upon the coming in of such report and the confirmation thereof, or upon final judgment on appeal therefrom, and the said company paying to such owner the sum in said report or judgment specified, in full compensation for said lands, or for the injury sustained as aforesaid, the said company shall become seised of the same estate in the said lands which the owner held in the same; and they, and all who act under them, shall be acquitted and freed from all responsibility for or on account of such damage: *Provided*, That the payment of damages aforesaid for lands through which the said road may be made, shall be made before the said company, or any person in their employ, shall be authorised to break ground or enter on the premises, except for the purpose of surveying and laying out said road, unless the consent of the owner of such land be first obtained.

In case the road should pass over any navigable creek—draw. **SEC. 16.** *And be it further enacted*, That if in the location of the said rail-road, it shall be found necessary to pass over any navigable river or creek by a bridge or other edifice, it shall be the duty of said company to construct and keep in repair a sufficient pass or draw in said bridge or edifice, over the channel or deepest part of said river or creek, for the purpose of letting vessels pass and re-pass through the same; which draw shall at all times, on the approach of any masted vessel or vessels, be drawn at the cost of said rail-road company, so as to admit the free passage of such vessel or vessels; and it shall also be the duty of the said company, to construct and keep in repair good and sufficient passages across said rail-road, where any public road shall intersect and cross the same, so that the passage of carriages, horses, persons and cattle, along the said roads, shall not be obstructed; and likewise, when the said rail-road shall intersect any farm, to provide and keep in repair a suitable passage for the use of said farm.

The road when completed, a public highway. **SEC. 17.** *And be it further enacted*, That on completion of the said rail-road, the same shall be esteemed a public highway for the conveyance of passengers and transportation of merchandise and commodities, under such regulations as shall be prescribed by the directors; and it shall and may be lawful for the said company to demand and receive such sum or sums of money, for tolls, of persons and property, as they shall from time to time think reasonable: *Provided*, That the toll on any species of property shall not exceed eight cents per ton per mile; nor on passengers, four cents each per mile.

Passing toll house. **SEC. 18.** *And be it further enacted*, That if any owner or driver of any car, carriage, wagon, or conveyance upon the said rail-road, shall pass by any place appointed for receiving tolls, without making payment thereof, with intent to defraud said company, he, she, or they, so offending, shall forfeit and pay for every such offence, for the use of said company, the sum of twenty dollars, to be sued for

Penalty.

and recovered by action of debt, before any justice of the peace, ^{How recovered.} in like manner and subject to the same rules and regulations as debts under fifty dollars may be sued for and recovered, together with costs of suit.

SEC. 19. *And be it further enacted,* That no suit or action shall ^{Limitation of} be brought or prosecuted by any person or persons for any penal- ^{action under} ties incurred under this act, unless such suit or action shall be ^{this act.} commenced within six months next after the offence shall have been committed, or the cause of action shall have accrued; and the defendant or defendants in such suit or action, may plead the ^{Defendants} general issue, and give this act and the special matter in evidence, ^{may plead} and that the same was done in pursuance and by the authority of ^{the general} issue. ^{this act.}

SEC. 20. *And be it further enacted,* That if any person or per- ^{Injury to any} sons, shall wilfully and knowingly, break, injure, or destroy the ^{of the works.} rail-road, or any part thereof, or any work, edifice, or device, or any part thereof, to be erected by the said company, in pursuance of this act, or shall in any manner obstruct the free passage along the said rail-road, he, she, or they, shall forfeit and pay to the said ^{Penalty.} company, three times the actual damages so sustained, to be sued for and recovered with costs of suit, before any justice of the peace, ^{How reco-} or in any court having cognizance thereof, by action of debt, in ^{vered.} the name and for the use of the said company.

SEC. 21. *And be it further enacted,* That if the said company ^{In what case} shall not carry into effect the objects of their charter, within the ^{this charter} term of ten years from the passing of this act, or if after the com- ^{to be null.} pletion of the said rail-road, the said company shall suffer the same to go to decay, and be impassable for the term of two years, then this charter shall become null and void, except so far as it compels the said company to make reparation for damages.

SEC. 22. *And be it enacted,* That in case the said company shall ^{Legislature} hereafter misuse or abuse any of the privileges hereby granted, ^{may revoke} and shall be lawfully convicted of such misuse or abuse, the Legis- ^{this charter.} lature shall have power to revoke this charter and to resume all the rights and privileges hereby granted.

SEC. 23. *And be it further enacted,* That after the said rail-road shall be completed and in full operation, the president, secretary, ^{Annual state-} or treasurer, shall annually, on the first Monday in December, ^{ment to the} transmit to the auditor of accounts of this State, a full statement ^{auditor of} of the affairs, under oath or affirmation, of the said company; and ^{accounts.} pay annually into the treasury of this State, a tax of eight per centum on all dividends which may exceed six per centum on the ^{Tax to the} capital stock actually paid in. ^{State.}

Passed at Dover, Jan. 18, A. D. 1832.

CHAPTER CXI. (Private Act.)

AN ACT for the relief of Jacob Trader. (Negro.)

Passed at Dover, Jan. 19, 1832.

CHAPTER CXII.

AN ACT for the preservation of a certain Record of the Orphans' Court of Kent County.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, it shall and may be lawful for the clerk of the Orphans' Court of Kent county, to transcribe or copy or cause to be transcribed or copied, the appeal docket of the said court, in which entries were made from the year of our Lord one thousand eight hundred and three, to the year one thousand eight hundred and twenty-eight inclusive, into a well-bound book, made of good paper, which shall be procured by the said clerk for that purpose: and after the said clerk shall have transcribed or copied, or caused to be transcribed or copied, the said docket, it shall be the duty of two commissioners that shall be appointed by the associate judge of the Superior Court of Kent county, to compare and correct the same by and with the original; and after so comparing and correcting the same, to certify thereon that the said docket is a true copy thereof, and the copy made, examined and certified as aforesaid, shall have and receive in all respects the same faith and credit as the original now may or can have and receive.

Clerk. to transcribe certain records.

In a book by him to be procured.

Commissioners—their duties.

Effect and authority of the copy.

Commissioners to be sworn.

Certificate.

SEC. 2. *And be it enacted,* That the said commissioners shall before entering upon the performance of the duties assigned to them by this act, be sworn or affirmed before some judge of this State, or the chancellor, faithfully to perform the duties imposed upon them by this act, and they shall file a certificate thereof in the office of the recorder of deeds for Kent county, to be by him recorded, kept and preserved.

Their compensation.

How allowed.

To clerk of O. Court.

SEC. 3. *And be it enacted,* That each of the said commissioners shall have and receive for each and every day's attendance in performing the trust reposed in them by this act, a sum not exceeding two dollars, to be allowed by the Levy Court of Kent county, to be paid by the county treasurer, out of any moneys in his hands belonging to the said county; and the said Levy Court shall allow such reasonable compensation as may be deemed just and right to the aforesaid clerk of the Orphans' Court for the services by him to be performed under this act, to be paid in like manner.

SEC. 4. *And be it enacted*, That if either or any of the said com-^{Vacancy.} missioners, to be appointed as aforesaid, shall die, or refuse or neglect to perform the duties herein required of him or them, it shall be lawful for the said associate judge of the Superior Court to appoint some other person or persons in his or their places or stead.

SEC. 5. *And be it enacted*, That the said appeal docket, herein^{Appeal} directed to be transcribed or copied, shall, after such transcribing^{docket to be} or copying, be safely and carefully kept by the said clerk of the^{kept.} Orphans' Court in his office.

Passed at Dover, Jan. 20, 1832.

CHAPTER CXIII.

AN ACT to change the name of Mahon's Ditch to Mahon River.

Be it enacted by the Senate and House of Representatives of the Mahon river.
State of Delaware in General Assembly met, That the river or stream in Kent county, in this State, which empties into the Delaware bay, and heretofore known and called by the name of Mahon's Ditch, shall hereafter be known and called by the name of "Mahon River," and that the harbor at the mouth of the same, shall hereafter be known and called by the name of "Port Mahon."

Passed at Dover, Jan. 20, 1832.

CHAPTER CXIV.

AN ACT to incorporate the Trustees of the Self-supporting School in Brandywine Hundred, New Castle County.

SEC. 1. *Be it enacted by the Senate and House of Representatives* Trustees in-
of the State of Delaware in General Assembly met, (two-thirds of corporated.
each branch concurring,) That Gregory T. Bedell, Stephen H. Tyng, George Boyd, Cyrus H. Jacobs, John B. Clemison, Joseph H. Coit, Thomas Robinson, John M. Clayton, James W. Thompson, James Booth, Thomas Mitchell, John W. Odenheimer, John Farr, John R. Brinckle, John C. Pechin, Cornelius Stephenson, Jacob Lex, Israel Kinsman, Phineas E. Hamm, and John W. Downing, and their successors, shall be, and they are hereby constituted a body-politic and corporate by the name of "The Trustees^{Style.} of the Self-supporting School in Brandywine Hundred," and by^{Corporate} that name shall have succession, may sue and be sued, plead and^{powers.}

be impleaded, and may have a common seal and possess all the privileges and franchises incident to a corporation.

And privileges.

SEC. 2. *And be it further enacted,* That the said trustees and their successors in office, by the name aforesaid, shall be capable in law to purchase, receive, hold and enjoy, any lands, tenements, rents, goods, chattels and personal estate, not exceeding twenty thousand dollars, which may be conveyed, given, granted, or devised to them, for the support, use and extension of the Self-supporting School now established near Wilmington, in Brandywine Hundred aforesaid, and other self-supporting schools, which the said trustees, or their successors, may hereafter establish elsewhere; and to and for no other use, intent or purpose whatsoever.

Over the lands, &c.

SEC. 3. *And be it further enacted,* That the said trustees and their successors, shall have power and authority to sell, rent, or dispose of all or any of said lands, tenements, rents, goods, chattels and personal estate, in such manner as to them shall seem most beneficial to and for such school or schools aforesaid, and not otherwise.

And to make by-laws, &c.

SEC. 4. *And be it further enacted,* That the said trustees and their successors, or a majority of them, shall have power from time to time, to make and establish such by-laws, rules, and ordinances, not contrary to the laws and constitution of this State, as they shall judge necessary and proper for the good government of such school or schools aforesaid.

Books, &c.

SEC. 5. *And be it further enacted,* That the books and minutes of the said trustees and their legally authorised agents, being verified upon oath or affirmation of the person keeping the same, shall be received as competent evidence in all courts of law and equity within this State, of the accounts, matters, things and transactions, which they import on the face of them, touching and relating to the affairs and business of the said corporation, in the same manner as the books of private persons are now received in evidence under the existing laws of this State.

Evidence.

Election of officers.

SEC. 6. *And be it further enacted,* That successors to the trustees before named, shall be annually elected by the contributors to the said school, in such manner, time and place, as shall be prescribed by the by-laws, rules and ordinances of the said trustees, or their successors.

Limitation of time of incorporation.

SEC. 7. *And be it further enacted,* That this present act of incorporation, shall not continue in force for a longer period than twenty years, without the re-enactment of the Legislature.

SEC. 8. *And be it further enacted,* That the power to revoke this act, is hereby reserved by the Legislature.

Passed at Dover, Jan. 20, 1832.

CHAPTER CXV. (Private Act.)

AN ACT to enable John Janvier, jun'r., trustee of Sarah Ann McDonough, lunatic, to sell and convey certain lands of said lunatic therein mentioned.

Passed at Dover, Jan. 20, 1832.



CHAPTER CXVI. (Private Act.)

AN ACT for the relief of Susanna Robinson.

Passed at Dover, Jan. 23, 1832.



CHAPTER CXVII. (Private Act.)

AN ACT to enable Turpin, Charles and Jacob Wright, and John Gibbons, of Sussex county, to locate certain vacant lands in North West Fork hundred in said county, and to complete their title to said lands.

Passed at Dover, Jan. 23, 1832.



CHAPTER CXVIII. (Private Act.)

AN ADDITIONAL SUPPLEMENT to an act entitled "An act to enable the owners and possessors of the marsh meadows on the north side of the Christiana river, called Middleburg marsh to keep the banks, dams and sluices in repair, and raise a fund to defray the expenses thereof," passed in the year 1769.

Passed at Dover, Jan. 23, 1832.



CHAPTER CXIX. (Private Act.)

A SUPPLEMENT to the act entitled "An act to carry into effect certain provisions contained in the last will and testament of John Wilson, carpenter, deceased, late of Sussex county."

Passed at Dover, Jan. 23, 1832.

CHAPTER CXX.

AN ACT *for the protection of the Pivot Bridge over Broadkilm creek, at Paynter's landing, in Sussex county.*

For any injury to.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That if the captain of any schooner, sloop or other vessel, or any other person, for the time being, having the command or charge of the same, shall wilfully cause or permit any injury or damage to be done to the pivot bridge over Broadkilm creek, at Paynter's landing in Sussex county, in this State, in passing or in endeavoring to pass such schooner, sloop or other vessel through said bridge, every such captain or other person having command or charge of such schooner, sloop or other vessel as aforesaid so offending, shall be deemed guilty of a misdemeanor, and for every such offence, upon conviction thereof before any justice of the peace of Sussex county, shall forfeit and pay all the actual damages so done to said bridge as aforesaid, and also a fine of six dollars, together with the costs of prosecution; to be proceeded for and recoverable before any justice of the peace of Sussex county, in the name of the State, in the same manner, and under the same regulations as debts are now recoverable under the act entitled "An act providing for the recovery of small debts," one-half of the said fine to go to the informer who shall prosecute for the same, and the other half thereof, together with all the damages to be paid to the treasurer of Sussex county for the use of the said county.

Penalty.

How applied.

Passed at Dover, Jan. 23, 1832.



CHAPTER CXXI. (Private Act.)

AN ACT *to divorce Sarah Morris and her husband Endless Morris from the bonds of matrimony.*

Passed at Dover, Jan. 23, 1832.



CHAPTER CXXII. (Private Act.)

AN ACT *dissolving the marriage between William Trimble and Hannah Trimble.*

Passed at Dover, Jan. 24, 1832.

CHAPTER CXXIII.

AN ACT to re-enact and continue in force an act entitled "*An act to incorporate the subscribers of the New Castle Library Company, their heirs and assigns.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*An act to incorporate the subscribers of the New Castle Library Company, their heirs and assigns,*" passed at Dover on the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and twelve, shall be and is hereby re-enacted and declared to be in full force from and after the twenty-fourth day of January, one thousand eight hundred and thirty-two, for and during and until the period of twenty years thereafter shall be fully completed and ended; excepting so much of the said act as is altered in the second section of this act. Former act extended to 20 years.

SEC. 2. *And be it further enacted,* That nothing contained in the said act herein before re-enacted and declared to be in full force as aforesaid, shall be construed or taken in anywise to prohibit the said New Castle Library Company from purchasing, taking, holding and possessing books, papers, maps and charts to any amount, although the same may exceed eight thousand dollars. And provisions explained.

Passed at Dover, Jan. 24, 1832.



CHAPTER CXXIV. (Private Act.)

AN ACT for the relief of *Barkley Townsend.*

Passed at Dover, Jun. 24, 1832.



CHAPTER CXXV.

AN ACT incorporating the *Cat-Tail Marsh Company, and for other purposes.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the owners of all the marshes and low grounds adjoining and contiguous to Cat-Tail Branch, situate in Mispillion hundred, Kent county and State of Delaware, or which are or will be benefitted or improved by the ditch or ditches that may be cut in pursuance of this act, Company.

CHAPTER CXX.

AN ACT *for the protection of the Pivot Bridge over Broadkilk creek, at Paynter's landing, in Sussex county.*

For any injury to.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That if the captain of any schooner, sloop or other vessel, or any other person, for the time being, having the command or charge of the same, shall wilfully cause or permit any injury or damage to be done to the pivot bridge over Broadkilk creek, at Paynter's landing in Sussex county, in this State, in passing or in endeavoring to pass such schooner, sloop or other vessel through said bridge, every such captain or other person having command or charge of such schooner, sloop or other vessel as aforesaid so offending, shall be deemed guilty of a misdemeanor, and for every such offence, upon conviction thereof before any justice of the peace of Sussex county, shall forfeit and pay all the actual damages so done to said bridge as aforesaid, and also a fine of six dollars, together with the costs of prosecution; to be proceeded for and recoverable before any justice of the peace of Sussex county, in the name of the State, in the same manner, and under the same regulations as debts are now recoverable under the act entitled "An act providing for the recovery of small debts," one-half of the said fine to go to the informer who shall prosecute for the same, and the other half thereof, together with all the damages to be paid to the treasurer of Sussex county for the use of the said county.

Penalty.

How applied.

Passed at Dover, Jan. 23, 1832.



CHAPTER CXXI. (Private Act.)

AN ACT *to divorce Sarah Morris and her husband Endless Morris from the bonds of matrimony.*

Passed at Dover, Jan. 23, 1832.



CHAPTER CXXII. (Private Act.)

AN ACT *dissolving the marriage between William Trimble and Hannah Trimble.*

Passed at Dover, Jan. 24, 1832.

CHAPTER CXXIII.

AN ACT to re-enact and continue in force an act entitled "*An act to incorporate the subscribers of the New Castle Library Company, their heirs and assigns.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act ^{Former act extended to 20 years.} entitled "*An act to incorporate the subscribers of the New Castle Library Company, their heirs and assigns,*" passed at Dover on the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and twelve, shall be and is hereby re-enacted and declared to be in full force from and after the twenty-fourth day of January, one thousand eight hundred and thirty-two, for and during and until the period of twenty years thereafter shall be fully completed and ended; excepting so much of the said act as is altered in the second section of this act.

SEC. 2. *And be it further enacted,* That nothing contained in the said act herein before re-enacted and declared to be in full force ^{And provisions explained.} as aforesaid, shall be construed or taken in anywise to prohibit the said New Castle Library Company from purchasing, taking, holding and possessing books, papers, maps and charts to any amount, although the same may exceed eight thousand dollars.

Passed at Dover, Jan. 24, 1832.



CHAPTER CXXIV. (Private Act.)

AN ACT for the relief of *Barkley Townsend.*

Passed at Dover, Jan. 24, 1832.



CHAPTER CXXV.

AN ACT incorporating the *Cat-Tail Marsh Company, and for other purposes.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the owners ^{Company.} of all the marshes and low grounds adjoining and contiguous to Cat-Tail Branch, situate in Mispillion hundred, Kent county and State of Delaware, or which are or will be benefitted or improved by the ditch or ditches that may be cut in pursuance of this act,

shall compose a company to be called "The Cat-Tail Marsh Company," and shall hold a meeting on the third Monday in April in the present year and every year hereafter at _____, or at such other place as the said owners and possessors of the said marsh and low ground shall have determined by a resolution adopted at a previous meeting of the said company, at which annual meeting the said company shall choose by ballot and by a majority of votes, one treasurer and three managers, and may do and determine all such matters and things as the said company may deem requisite for effectually draining and reclaiming the said marshes and low grounds; and such annual meeting of the said company may be adjourned from time to time, and occasional or stated meetings may be called from time to time by the managers for the time being, or a majority of them, or by the survivor or survivors of them, if any of them be dead, at such times and places as the said managers, or a majority of them, or the survivors of them, may appoint, by giving ten days public notice by advertisements put up in at least five of the most public places in Mispillion hundred aforesaid; and if the managers and treasurer shall not all or any of them be chosen at the stated annual meeting for the current year, and if any manager or treasurer shall die, resign, refuse or neglect to act, such vacancies may be filled at an adjourned or occasional meeting by ballot and majority of votes as aforesaid; and if any manager or treasurer shall remove from the neighborhood of the said marsh and low ground, the said company may at any of their meetings declare the place of such manager, or treasurer, vacant, and elect another in his place; *And further*, the said owners and possessors of the said marsh and low ground, at an adjourned or occasional meeting, may do all such acts as may or might be done at an annual meeting; and at all meetings of the said Cat-Tail Marsh Company, every owner of marsh or low ground within the company's boundaries may vote; and every guardian to an infant owner may vote if present, for such infant, and every owner may vote by proxy regularly constituted by a note in writing signed by such owner.

SEC. 2. *And be it enacted*, That any manager and treasurer chosen in pursuance of this act, shall continue in office until the third Monday of April next ensuing his election, and until a successor to him shall be duly elected.

SEC. 3. *And be it enacted*, That Benjamin Herrington, William Tharp and Samuel Graham, be, and they are hereby appointed commissioners to make a valuation of the said marshes and low grounds; and the said commissioners, or a majority of them, are hereby authorised and empowered to enter upon and view all the said marsh or low ground adjacent to the said canal or canals and shall ascertain all the owners, and determine who will be benefitted by any canal or canals which they shall direct to be opened or cut under the power hereinafter given to them, and the quantity held by each owner, or by joint owners, if any be held undivided, and shall appraise all the said marshes and low grounds which, in their

opinion, or the opinion of a majority of them, are, or will be benefited or improved by the said canal or canals, having regard to the unimproved value of said marsh, so that the said appraisement may be made on such principles as will do equal justice to all the owners and possessors of said marsh; which said appraisement shall be the valuation upon which all the taxes, assessed and levied by virtue of this act, shall be assessed and levied; and the said commissioners, or a majority of them, shall make a certificate, under their hands, or the hands of a majority of them, containing the names of the respective owners of the said marsh and low ground; the quantity held by each owner and by joint owners, if any be held undivided, and the appraisement of the said several quantities or parcels so by the said commissioners to be made as aforesaid; and shall make return of the said certificate into the prothonotary's office for Kent county aforesaid; which said certificate shall be final and conclusive upon all parties, and shall remain and be the true appraisement and valuations upon which all and every the tax or taxes which may be necessary for the purposes of this act shall be assessed, levied and raised. Each commissioner, before he enters upon the duties required of him by this act, shall be sworn or affirmed by some judge of the State, or justice of the peace in and for Kent county, to exercise the said duties faithfully and impartially, according to the best of his skill and judgment; and the said commissioners, or a majority of them, are hereby further authorised and empowered to go upon the said marsh and low ground, and to view, examine, locate, lay out, and direct to be cut a canal, beginning at a point near Marshy-Hope bridge on the north-west branch of the Nanticoke river, and running up to Cat-Tail branch through lands of James Hopkins, John Hopkins and others, until it comes to lands belonging to the heirs of James Ross, deceased; thence up to the north-east prong of said branch through the lands of John Morgan, John Ferrins, Major Wyatt and others, until it crosses the State road, leading from Vincent's causeway to Punch Hall, through lands of Archibald Cahall and Shadrack Rauleigh; thence through lands of the said Rauleigh and the lands of the heirs of John Baynard, Charles Jewel and others, until it arrives to the Maryland line near Punch Hall—also embracing a prong of said Cat-Tail branch called Horse-Pond, and running up said prong through lands of John Booth and others, until it heads on lands of Daniel Wyatt. And the said commissioners, or a majority of them, are hereby authorised and required, after having located and laid out the said canals, to direct the width and depth of which they shall respectively be made; to estimate the probable cost of cutting and completing the same, and to certify to the managers for the time being, the amount of such estimate, and furnish them with a plot describing the courses, distance and rout of said canals respectively, together with the width and depth which the same are to be cut; which plot the managers, for the time being, shall cause to be recorded in the office for recording deeds in and for Kent county; which record, or a certified copy thereof, shall be competent evidence in all the courts of law and equity in this State. If

Taxes, how assessed.

Certificate returned in the prothonotary's office in Kent—and be conclusive.

Commissioners sworn.

Canal, how to be cut.

Beginning.

Its course.

Width and depth.

Expenses of, certified to the managers.

Plot to be recorded.

Vacancies, how supplied. either of the said commissioners shall die, resign, remove from the county, or refuse to act before all the duties of the said commissioners shall have been performed, then, and in that case, the said Cat-Tail Marsh Company may, at any annual, adjourned or occasional meeting, choose a commissioner or commissioners to fill the vacancy or vacancies, and so from time to time, until all the duties of the said commissioners under this act, shall have been performed and completed.

Taxes, how levied.

SEC. 4. *And be it enacted,* That for the purpose of raising the necessary sums of money under this act for answering the purposes by this act intended, it shall and may be lawful for the managers for the time being, or a majority of them, and they are hereby authorised and required (after the appraisement and valuation aforesaid, shall be made and returned as aforesaid, and the estimate of probable expense shall be made and certified to them as aforesaid) to lay and assess, upon the value of the said marshes or low grounds mentioned in said return to the prothonotary, such sums of money as the said commissioners, or a majority of them, shall have estimated and judged to be necessary for the completion of said canals;

Apportioned.

which sum shall be apportioned among the several owners of the said marshes and low grounds, which shall be mentioned in said return to the prothonotary, according to and upon the value of the respective quantities or parcels of the said marshes and low grounds which such owners respectively shall hold, according to a certain rate upon and for each and every dollar of said value and so pro rata and for the raising of any further or other sum or sums of money which may be necessary, either for the completion of the work, or to keep the canals open and in good repair. It shall and

Further powers of the managers in levying tax.

may be lawful for the managers for the time being, or a majority of them, and they are hereby authorised and required to lay and assess upon the value of the said marshes or low grounds mentioned in the return to the prothonotary aforesaid, all and every such sum or sums of money as the company, at any of its meetings, shall by a majority of votes at any such meeting or meetings from time to time determine, ought to be levied and raised; and all such sums of money or taxes, shall be apportioned in the same manner as is herein directed for the apportionment of the first tax to be levied and raised under this act; and the said managers, or a majority of

Duplicate lists of assessment.

them, shall, from time to time, make out duplicate lists under their hands of all the assessments and taxes by them to be made and laid as aforesaid; which lists shall also contain a minute of all changes of ownership and transfers of any of the said marshes and low grounds; and one of the said lists shall be delivered to the treasurer for the time being, and the other shall be retained by the managers;

To be final. Treasurer, warrant to collect.

and such assessments and lists shall be final and conclusive upon all parties; and the said lists so delivered to the treasurer, shall be a sufficient warrant to him or his successor in office for levying and collecting all and every the sums of money or taxes in said lists

Further power in cutting canals.

mentioned; and furthermore, it shall be the duty of the managers, and they are hereby vested with full power and authority, to cut

such canals as the said commissioners shall by their return direct to be cut and opened under this act, and generally the managers shall carry into full effect all directions of the said company which shall from time to time be given them in relation to their aforesaid trust: for which purpose the said managers shall have power to employ such workmen as may be necessary for completing the work assigned to them at the common expense of the company; and all hire, wages and expenses in and about said work, shall be paid by orders drawn by the managers, or a majority of them, on the treasurer; every order shall specify the services, wages, or expense for which it is drawn; and an exact account shall be kept by the managers of all orders drawn by them, or a majority of them; and such accounts shall be particular, specifying the services or expenses for which each order is drawn, and said accounts shall be laid before the annual meetings, or other meetings, of said company, as said company may direct.

To employ
workmen.

Expenses,
how paid.

Account of,
to be kept.

SEC. 5. *And be it enacted*, That the managers laying the taxes, shall appoint the time for the payment of them; and it shall be the duty of the owners respectively, to pay to the treasurer the taxes (which according to the lists aforesaid to be delivered to the said treasurer from time to time as aforesaid they shall be liable to pay) at the time or times appointed for such payment by the managers as aforesaid.

Time of pay-
ment of taxes.

SEC. 6. *And be it enacted*, That the treasurer for the time being, and every treasurer to be chosen as aforesaid for the time being, shall have full power and authority to demand and receive, levy and make all and every the taxes which shall be laid and assessed pursuant to this act by the managers, or a majority of them, according to the certificate or the lists which shall be delivered to such treasurer; and in case any tax or taxes so laid and assessed, or any part thereof, shall remain unpaid for the space of ten days after the time appointed for the payment thereof, the treasurer for the time being, may and shall proceed to make and levy all such taxes so remaining unpaid, or any part thereof remaining unpaid, in the same manner and by the same means as are provided by law for the recovery of public taxes, except that the said treasurer shall advertise at least thirty days before the day of sale.

Treasurer—
powers of in
collecting,
&c.

SEC. 7. *And be it enacted*, That the treasurer for the time being, and every treasurer for the time being, before he enters upon the duties of his office, shall give bond with surety or sureties, to be approved by the managers, or a majority of them, to and in the name of the company aforesaid, in the penalty of two thousand dollars, upon condition to be void if he shall pay all orders drawn on him by the managers for the time being, or a majority of them, as far as he shall have funds for that purpose, and shall well and truly account for all monies which shall come into his hands as such treasurer, at every annual meeting of the company, or otherwise, as the company may direct, and shall pay any balance or sum that shall be due from him on such account to his successor in office,

To give bond.

Condition of.

or otherwise, as the company shall direct, and shall perform all the duties of his office with fidelity.

Lands adjacent to the canal, how to be drained.

SEC. 8. *And be it enacted*, That every person holding any ground adjacent to the said canal or canals rateable and liable to be assessed by act, shall have full power and liberty, without any interruption or hindrance, to cut any ditch or ditches into the canals to be cut under this act: *Provided*, That if the said ditch or ditches shall pass through the lands of any other person, the place for cutting the same, shall be fixed by two disinterested freeholders, to be chosen by any two of the managers aforesaid.

Suits, how to be instituted.

SEC. 9. *And be it enacted*, That suits may be brought and prosecuted in the name of the said "Cat-Tail Marsh Company," upon any bond given to the said company.

Compensation to commissioners and managers.
And treas'r.

SEC. 10. *And be it enacted*, That every commissioner and manager shall, for each and every day's service in and about the business of the said company, under this act, be entitled to receive of the company the sum of one dollar; and every treasurer shall be allowed a commission of five per centum on all monies by him collected.

Passed at Dover, Jan. 24, 1832.



CHAPTER CXXVI.

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 the bay or river Delaware, or the waters thereof.

Preamble.

Whereas the Chesapeake and Delaware Canal Company, in the formation of a canal have found it expedient and necessary to overflow certain lands within the embankments and limits of said company: Therefore

Lands overflowed exempt from taxation.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the passage of this act, the lands belonging to the Chesapeake and Delaware Canal Company, within the embankments of the canal of said company; or used as reservoirs for the same, shall and are hereby declared to be exempt from taxation by any marsh Company during the time they are overflowed with water, and occupied as aforesaid.

False acc't. of cargo.

SEC. 2. *And be it enacted*, That in case any master, shipper or agent, shall fraudulently present to the collector of tolls or other agent of the canal company a false manifest or account of cargo of any vessel or boat about passing through the canal, or give a

false statement of the toll thereon, or otherwise attempt to defraud in the said tolls, on conviction thereof before any justice of the peace for New Castle county, he or they so convicted, after paying to the canal company the toll due and cost of ascertaining the same, shall forfeit and pay double the amount of tolls so charged on which the fraud had been attempted; one moiety of said forfeiture shall enure to the person giving information and prosecuting the offender to conviction, the other moiety to enure to the State of Delaware. Penalty.

Passed at Dover, Jan. 31, 1832.



CHAPTER CXXVII. (Private Act.)

AN ACT *dissolving the marriage between Alexander Palmer and his wife Mary Ann Palmer, late Mary Ann Daniel.*

Passed at Dover, Jan. 24, 1832.



CHAPTER CXXVIII.

AN ACT *fixing the time of holding the Courts of Law and Equity in this State.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Superior Court and the Court of General Sessions of the Peace and Gaol Delivery, shall commence and be held in Sussex county, on the second Monday in April and second Monday in October; in Kent county on the fourth Monday in April and fourth Monday in October; in New Castle county on the second Monday after the commencement of the April term in Kent county, and on the third Monday in November. The Court of Chancery and the Orphans' Court shall commence and be held in New Castle county on the second Monday in February, and third Monday in September; in Kent county on the third Monday in March, and first Monday in December; in Sussex county on the first Monday in March and third Monday in December. Sup. Court and Sessions of the Peace in Sussex, Kent, New Castle.
Chancery & Orphans' Court in N. Castle, Kent, Sussex.

SEC. 2. *And be it further enacted,* That the Court of Errors and Appeals shall be held once in every year, at the town of Dover, in Kent county, on the first Tuesday in June. Errors and Appeals.

SEC. 3. *And be it further enacted,* That no writ or process issued from the Superior Court after the third Tuesday of January, and before the twenty-eighth day of the same month, in the year of our

Want of a
teste day in
writs, &c., no
error.

Lord one thousand eight hundred and thirty-two, shall be considered defective and void by reason of having no teste or return day, or a wrong teste or return day mentioned therein.

Passed at Dover, Jan. 24, 1832.



CHAPTER CXXIX.

AN ACT to amend the act entitled "*An act directing the election of Assessors and Inspectors.*"

Amended.

By striking
out.

How read
and construed.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "An act directing the election of Assessors and Inspectors," be and the same is and shall be altered, amended and supplied, by striking out all of the first section after the enacting clause and the word "that" to the words "in each hundred of this State," and inserting in place thereof, the words "an election shall be held on the second Tuesday of October in the present year and every second year thereafter;" also, by striking out the words "— day of September," in the second section, and inserting in place thereof the words "second Tuesday of October." The act before mentioned shall be read and construed according to the foregoing amendments, and in any edition of the laws of this State hereafter to be published, the act aforesaid shall be printed as amended by this act.

Passed at Dover, Jan. 25, 1832.



CHAPTER CXXX.

A SUPPLEMENT to the act entitled "*An act to restrain persons from suffering swine to go at large within certain limits.*"

Swine not to
go at large in
Canterbury.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That no swine shall be suffered to go at large within the distance of half a mile in every direction, from the house now occupied by William Thomas as a tavern, in the village of Canterbury, in Kent county, and all the provisions of the first and second sections of the act to which this is a supplement shall be in force and extend to this act.

Passed at Dover, Jan. 25, 1832.

CHAPTER CXXXI. (Private Act.)

AN ACT *to divorce Sarah Williams and her husband Samuel Williams from the bond of matrimony.*

Passed at Dover, Jan. 26, 1832.



CHAPTER CXXXII. (Private Act.)

AN ACT *dissolving the bonds of matrimony between Thomas B. Emory and Mary N. Emory his wife, late Mary N. Barber.*

Passed at Dover, Jan. 27, 1832.



CHAPTER CXXXIII. (Private Act.)

AN ACT *granting to Levick Palmer of Kent county, a certain tract or parcel of marsh therein described.*

Passed at Dover, Jan. 27, 1832.



CHAPTER CXXXIV.

A SUPPLEMENT *to the act entitled "An act for the preservation of certain records of the Court of Common Pleas, and of the Supreme Court of Kent County."*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That John Adams, late clerk of the Supreme Court in Kent county, be and he is hereby authorised to finish the transcribing or copying, or cause to be finished, transcribed and copied, the judgment and continuance dockets of the Supreme Court of Kent county, meant and mentioned in the act to which this act is a supplement, and all the provisions of the original act shall be in force and extend to this act.

John Adams
to transcribe
the judgment
and continu-
ance docket.

Provisions of
the former
act.

Passed at Dover, Jan. 27, 1832.

CHAPTER CXXXV.

AN ACT to amend the act entitled "*An act concerning the Levy Court, Clerk of the Peace, Assessors, Collectors and County Treasurers.*"

Act how to be amended. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "An act concerning the Levy Court, clerk of the peace, assessors, collectors and county treasurers" be, and the same is and shall be altered, amended and supplied, by striking out of third line of the first section the words "last Tuesday of September," and inserting in place thereof, the words "first Tuesday of November;" also by striking out the words "last Tuesday of September" in the third section of said act, and inserting in place thereof, the words "first Tuesday of November;" and in any edition of the laws of this State hereafter to be published, the said act shall be printed as herein amended.

By striking out the words &c.

How printed.

Passed at Dover, Jan. 31, 1832.



CHAPTER CXXXVI.

AN ACT for the relief of the owners and possessors of certain marsh and low grounds, generally called and known by the name of "*Big Marsh of Marshy-hope,*" and to enable the owners and possessors of said marsh and low grounds, and the marsh and low grounds contiguous thereto to ditch, drain and reclaim the same.

Preamble.

Whereas, it is represented to this General Assembly that by virtue of a former act of this Legislature, the owners and possessors of certain marsh and low grounds containing eight or ten thousand acres, principally in Mispillion hundred in Kent county, called and known by the name of Big Marsh of Marshy-hope, have gone on to a considerable extent and at great expense, to ditch and reclaim the same, according to the provisions of said act.

And whereas, it is further represented that the said former act of the Legislature has been misplaced or taken out of the office of the Secretary of State, by some person or means unknown to said owners and possessors, and has not for two years past been seen, and cannot now be found; in consequence whereof, the said owners and possessors cannot any longer enjoy the benefit of said act, and are in danger of entirely losing the large sums heretofore expended in the improvements of said marsh and low grounds, which without further aid from this General Assembly, must necessarily return to their wild, unreclaimed and unproductive condition; and this General Assembly considering the draining, reclamation and im-

provement of so large a quantity of lands rendered unproductive by standing water, not only as promoting the interest of the owners and possessors thereof, but as an important public improvement; contributing essentially to the health and prosperity of the country: Therefore,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Zachariah Jones, William Tharp and Robert W. Reynolds be, and they are hereby appointed commissioners to make a valuation of said marsh and low grounds; and the said commissioners, or a majority of them, are hereby authorised and empowered to enter upon and view the said marsh and low grounds, known by the name of Marshyhope, or Big Marsh of Marshyhope, and adjacent to them, and which are or may be benefitted by the said ditches heretofore cut or opened under the said former and lost act; or those which they shall direct to be opened or cut under the power and authority in this act given to them; and shall ascertain all the owners, and the quantity held by each owner, or by joint owners, if any be held undivided: and shall decide and determine who will or may be benefitted by the said ditches heretofore cut and opened, or which they shall direct to be cut or opened, and shall appraise all the said marsh and low grounds, which in their opinion, or the opinion of the majority of them, are or may be benefitted by the said ditch or ditches, or any of them, having regard to the original or unimproved value of the said marsh and low grounds, and the amount of benefit to be received by each owner, so that the said appraisement may be made on such principles as will do equal justice to all persons concerned; which said appraisement shall be the valuation, upon which all taxes assessed and levied by virtue of this act shall be assessed and levied, until the valuation hereinafter provided for, shall be fully made and completed; and the said commissioners, or a majority of them, are further hereby authorised and empowered to go upon the said marsh and low grounds, and to view, examine and direct the extension of the said ditches or drains already cut or opened as much farther up from the present heads thereof, as they may deem necessary for the draining of that portion of said marsh and low grounds, and may locate and lay out such extended ditch or ditches of such width and depth as the said commissioners, or a majority of them, shall deem requisite and proper; and the said commissioners may, and they are hereby authorised and empowered to go upon, view and examine so much of the said marsh and low grounds, not heretofore drained, as lie and are situated between the lower or southern and western extremities of the said marsh and low grounds, heretofore either partially or entirely ditched and drained under the said lost act, and the State line dividing the State of Delaware from the State of Maryland; and may, and if the said commissioners, or a majority of them, think right and proper so to do, shall locate, lay out and direct to be cut and opened a ditch or canal, of such width and depth as they, or a majority of them shall deem necessary and proper for carrying into full effect the objects

Commissioners—their duties, &c.

To view the marsh.

Appraisement.

To extend the ditches.

A further view.

Open a ditch.

contemplated by this act, commencing said ditch or canal, so to be located and laid out, at the extremity of the principal ditch heretofore cut under the said lost act, which is nearest the said undrained marsh and low grounds, and extending it therefrom through a portion of the county of Sussex, by such rout as they or a majority of them shall deem best and fittest, towards the said line dividing the States of Delaware and Maryland; and the said commissioners are hereby further authorised and required to examine and view the said ditch or ditches, and prongs of ditches heretofore cut or opened under the said lost act, and if they or a majority of them shall deem it requisite for the complete reclamation or improvement of said marsh and low grounds so to do, they or a majority of them shall direct the said ditch or ditches, or prongs of ditches heretofore cut or opened, or such of them as in their opinion may require it, to be enlarged by increasing either the depth or width thereof, or both; and shall particularly direct the extent to which, and the places where, such depth and width shall be increased; and the said commissioners, or a majority of them, are hereby authorised and empowered to divide the said canals, ditches, or prongs of ditches, which they shall direct to be cut, opened, extended or enlarged, under the authority given them by this act, into as many sections or divisions as they may deem right and proper for facilitating the work, and doing justice to the said owners and possessors, and may direct what proportion, or how much of the money, to be assessed or raised under this act, shall be applied to the cutting, opening, extending or enlarging each of the said sections or divisions; and the said commissioners or a majority of them, shall estimate the probable expense of cutting, opening, extending and enlarging all the canals, ditches, or prongs of ditches, which they or a majority of them shall direct to be cut, opened, extended or enlarged, under the authority hereby given to them; and also the probable expense of cutting, opening, extending, or enlarging each section or division into which they, or a majority of them, shall divide the same; and the said commissioners, or a majority of them, shall make a certificate under their hands, or the hands of a majority of them, containing the names of the respective owners of the said marsh and low grounds, and the quantity held by each owner and by joint owners, if any be held undivided, and the appraisement of said several quantities or parcels, so by the said commissioners to be made as aforesaid, and a plot and a description of all the canals, ditches and prongs of ditches, which they or a majority of them, shall direct to be cut, opened, extended or enlarged, and the width and depth thereof, and the divisions or sections into which they shall have divided the same as aforesaid; and the said sections or divisions shall be designated on said plot by numbers, as section No. 1., section No. 2 and so on, until the whole are numbered, beginning at the section nearest to the line dividing the States of Delaware and Maryland aforesaid, and shall make return thereof into the office for recording deeds in and for Kent county, to be there recorded; which said return shall be final and conclusive upon all parties, and shall remain and be the true appraisement and valuation, upon which all

Ditches here-
tofore opened.

May be en-
larged.

Expenses,
&c.

Certificate.

And plot.

To be return-
ed into the
recorder's of-
fice for Kent
county.

taxes and assessments under this act shall be assessed, levied and raised, until the appraisement and valuation hereinafter provided for, shall be completed, and a copy of said return duly certified under the seal of said office, shall be competent evidence in all trials at law, or in equity in this State, where the original certificate could be admitted as such. Taxes, how ascertained.

SEC. 2. *And be it enacted*, That the said commissioners, or a majority of them, shall, within thirty days after they shall have performed the duties enjoined on them by the first section of this act, call a meeting of the owners and possessors of all the said marsh and low grounds which they shall have valued or appraised as aforesaid, at some suitable place near to said marsh and low ground, by advertisements posted up at least ten days, before the day of meeting, in at least five of the most public places in the vicinity of said marsh and low grounds in Kent county, and in at least five of the most public places in the vicinity of said marsh and low grounds in Sussex county, and in such other places as said commissioners, or a majority of them, shall deem necessary for giving full and ample notice to said owners and possessors; and shall give notice in said advertisements of the time and place of meeting, and shall state therein that the object of said meeting is to adopt such measures, and do such things as are required by this act, in order to carry its provisions for draining and reclaiming said marsh and low grounds into effect; and the said owners and possessors of said marsh and low grounds shall hold a meeting at the place, and on the day, appointed in said advertisements; at which meeting the said owners and possessors shall choose by ballot and by a majority of the votes of the persons present and entitled to vote, one treasurer and such number of managers as will make one for each section or division, into which the said commissioners shall have divided the said canals, ditches, or prongs of ditches which they shall have directed to be cut, opened, extended, or enlarged under this act, and may do and transact all such matters and things as the said owners and possessors may deem requisite to be then done towards effectually draining and reclaiming said marsh and low grounds, and the said owners and possessors shall then and thereafter become and compose a company to be called the "Marshy-hope Improvement Company," and may adjourn said meeting to such day and place as they may by a resolution of that meeting determine; but the said company shall hold a meeting on the second Monday in April, which will be in the year of our Lord one thousand eight hundred and thirty-three, which shall be the first annual meeting, and on the second Monday in April every year thereafter, at which annual meeting in every year the said company shall choose by ballot and by a majority of the votes present, a treasurer and the same number of managers as by this act is directed to be chosen at the first meeting, and at all annual meetings of the said company the voters present may do and determine all such acts and things as a majority of them may deem requisite and proper for carrying fully into effect the provisions of this act, and

Meeting called.
On ten days notice.
Officers chosen.
Their powers.
Company—style of
First annual meeting.

Occasional
meetings.

such annual meetings of said company may be adjourned from time to time, and occasional meetings may be called by the managers for the time being or the majority of them, or the survivors of them if any of them be dead, at such times and places as the said managers or the majority of them, or the survivors of them, may appoint by advertisements put up in at least five of the most public places, contiguous to said marsh and low grounds in Kent and Sussex counties; the first annual meeting shall be held at such place as the company at its first meeting shall by resolution appoint, and every subsequent annual meeting shall be held at the place designated by a resolution of the next preceding annual meeting; but if no place be thus designated then at the place where the next preceding annual meeting shall have been held; if the managers or treasurer shall

Vacancies.

not all nor any of them be chosen at the stated annual meeting for the current year, or if any manager or treasurer shall die, resign, refuse or neglect to act, such vacancies may be filled at an adjourned or occasional meeting by ballot and majority of votes as aforesaid; and if any manager or treasurer shall remove from the neighborhood of said marsh and low grounds, the said company may at any of its meetings declare the place of such manager or treasurer vacant, and elect another in his place. *And further*, the owners and possessors of the said marsh and low grounds may at an adjourned or occasional meeting do all such acts as may or might be done by them at an annual meeting; at all the meetings of said "Marshy Hope Improvement Company," every owner of marsh or low grounds liable to be taxed by said company may

Voters.

vote if present, and every absent owner may vote by proxy regularly constituted by a note in writing signed by such absent owner; and the guardian of an infant owner may vote for that infant.

Terms of
office.

SEC. 3. *And be it enacted*, That every manager and treasurer chosen in pursuance of this act shall continue in office (except as herein before is excepted) until the second Monday in April next ensuing his election, and until a successor be duly elected.

Taxes.

SEC. 4. *And be it enacted*, That for the purpose of raising the necessary sums of money under this act, for answering the purposes by this act intended, it shall and may be lawful for the managers for the time being or a majority of them, and they are hereby authorised and required (after the appraisement and valuation aforesaid shall be made and returned as aforesaid, and the estimate of probable expense shall be made and certified to them as aforesaid,) to lay and assess upon the value of the said marshes or low grounds mentioned in said return to the office for recording deeds, such sum of money as the said commissioners or a majority of them shall have estimated and judged to be necessary for the completion, extension and enlargement of said canals, ditches or drains, which sum shall be apportioned among the several owners of the said marsh and low grounds who shall be mentioned in said return, to the office for recording deeds aforesaid, according to and upon the value of the respective quantities or parcels of the said marsh

How apportioned.

and low grounds which such owners respectively shall hold according to a certain rate upon, and for each and every dollar of said value, and so pro rata; and for the raising of any further or other sum or sums of money which may be necessary for the completion of the work, it shall and may be lawful for the managers for the time being or a majority of them, and they are hereby authorised and required to lay and assess upon the value of the said marsh and low grounds mentioned in the return to the office for recording deeds aforesaid, all and every such sum or sums of money as the company at any of its meetings shall by a majority of votes at any such meeting or meetings from time to time determine ought to be levied and raised, and all such sums of money or taxes shall be apportioned in the same manner as is herein directed for the apportionment of the first tax to be levied and raised under this act; and the said managers or a majority of them, shall from time to time make out duplicate lists under their hands or the hands of a majority of them, of all the assessments and taxes by them to be made and laid as aforesaid; which list shall also contain a minute of all changes of ownership and transfers of any of the said marsh and low grounds, and one of the said lists shall be delivered to the treasurer for the time being, and the other shall be retained by the managers, and such assessments and lists shall be final and conclusive upon all parties; and the said list so delivered to the treasurer, shall be a sufficient warrant to him or his successor in office, for levying and collecting all and every the sums of money or taxes in said list mentioned. And furthermore, it shall be the duty of the managers, and they are hereby vested with full power and authority to cut and open a new canal or ditch from the said line dividing the States of Delaware and Maryland, or such point as said commissioners shall determine, to the nearest point of the said principal ditch heretofore cut and opened under the said lost act, upon such rout, and of such width and depth as the said commissioners shall have directed, (if the said commissioners or a majority of them by the said return shall have laid out and directed the cutting of such canal or ditch) and to extend, enlarge and open such ditch or ditches or prong of ditches as the said commissioners or a majority of them shall have directed to be extended, opened or enlarged, and generally the managers shall carry into full effect all the directions of the company in relation to their aforesaid trust, at the common expense of the company; for which purpose the said managers shall have power to employ the necessary workmen and laborers, and purchase the necessary materials, to fix from time to time the prices or wages to be paid to workmen to be employed on said canal, ditches or prongs of ditches or any of them, either by measurement, by the day or otherwise, as the said managers or a majority of them may deem most for the interest of said company, and shall from time to time, and as often as any change or changes shall be made in the prices or wages to be paid, make as many certificates under the hands of a majority of them, as there shall be managers of said company; one of which certificates shall be delivered to, and kept by each manager, subject to these regulations; the company may,

Duplicate assessments and lists.

How disposed of.

To be final,

Warrant to treasurer,

New canals may be opened.

General powers of managers.

Workmen,

Labor divided.

at any of its meetings, appoint to each manager the superintendence and direction of the cutting, opening, extending or enlarging (as the case may be) one section of the said canal, ditches or prongs of ditches; but such appointment shall be by resolution adopted by a majority of the voters present, a copy whereof signed by the president and countersigned by the secretary of the meeting at which the same was adopted, shall be delivered to the managers respectively, and shall be to each of them, his sufficient warrant to go on with the work, to the superintendence and direction of which he is appointed, and for that purpose to employ laborers and workmen, and to draw on the treasurer in payment for the work done by him, or under his said superintendence or direction, but all other expenses of said company shall be paid by orders on the treasurer, signed by a majority of the managers, or under such other regulation as the company at some of its meetings shall adopt by resolution; every order whether drawn by a single manager or by a majority of the managers, shall particularly specify the services, wages or expense for which it is drawn; and every single manager shall keep an exact account of all orders drawn by him, and the managers collectively shall keep a just and true account of all orders drawn by them or a majority of them, on the treasurer under this act, which account shall be laid before the annual or other meetings of said company as said company shall direct.

Expenses, how paid.

Orders for.

Account of.

Time for payment of taxes.

SEC. 5. *And be it enacted*, That the managers laying the taxes shall appoint the time for the payment of them, and it shall be the duty of the owners respectively, to pay to the treasurer the taxes, (which according to the lists aforesaid, to be delivered to the said treasurer from time to time as aforesaid, they shall be liable to pay,) at the time or times appointed for such payment by the managers aforesaid.

Treasurer, powers of in collecting.

SEC. 6. *And be it enacted*, That the treasurer for the time being and every treasurer to be chosen as aforesaid for the time being, shall have full power and authority to demand and receive, levy and make all and every the taxes which shall be laid and assessed pursuant to this act by the managers or a majority of them, according to the certificates or lists which shall be delivered to such treasurer; and in case any tax or taxes so laid and assessed, or any part thereof, shall remain unpaid for the space of ten days after the time appointed for the payment thereof, the treasurer for the time being and every treasurer for the time being, may and shall proceed to make and levy all such taxes so remaining unpaid, or any part thereof remaining unpaid, in the same manner and by the same means as are provided by law for the recovery of public taxes, except that the said treasurer shall advertise at least thirty days before the day of sale.

To give bond.

SEC. 7. *And be it enacted*, That the treasurer for the time being and every treasurer for the time being, shall before he enters upon the duties of his office, give bond with surety or sureties to be approved by the managers or a majority of them, to and in the name

of the company aforesaid, in the penalty of two thousand dollars, ^{Penalty of—}
upon condition to be void if he shall pay all orders drawn on him ^{condition.}
in pursuance of this act and according to the provisions thereof, as
far as he shall have funds for that purpose, and shall well and truly
account for all monies that may come into his hands as such trea-
surer at every annual meeting of the company, or otherwise as the
company may direct, and shall pay any balance or sum that shall
be due from him on such account to his successor in office, or other-
wise as the company may direct, and shall perform all the duties
of his office with fidelity; and every treasurer for the time being
shall have the same power to collect and levy all taxes upon a list
delivered to a former treasurer, which have not been paid to such
former treasurer as the said treasurer had to whom the said list
was originally delivered.

SEC. 8. *And be it enacted*, That the managers chosen under the ^{Expenses}
provisions of this act or a majority of them, shall have power and ^{heretofore in-}
authority to draw upon the treasurer for the time being, for claims ^{curring.}
upon the said company for services already performed, or expen-
ses incurred in cutting, opening or clearing out of any of the said
ditches or prongs of ditches heretofore opened and cut by authority
of the said lost act; but no claims shall be allowed of longer stand-
ing than four years; and all claims of longer standing than twelve
months must be proved by the oath or affirmation of the claimant,
or of some other person, that the same has never been paid by the
treasurer of said company, out of the funds of said company.

SEC. 9. *And be it enacted*, That every person holding any ground ^{Owners of}
adjacent to any of the said ditches or prongs of ditches rateable ^{lands adja-}
and liable to be assessed by this act, shall have full power and lib- ^{cent to the}
erty, without any interruption or hindrance, to cut other ditches or ^{lands, privi-}
drains into the said ditches or prongs of ditches already opened or ^{leges of}
which may be opened in pursuance of this act: *Provided*, that if
the said drains shall pass through the lands of any other person,
the place for cutting the same shall be fixed by two disinterested
freeholders, to be chosen by any two of the managers aforesaid.

SEC. 10. *And be it further enacted*, That when, and as soon as the ^{After com-}
said canal or canals, ditch or ditches and prongs of ditches, (which the ^{pletion of ca-}
aforesaid commissioners or a majority of them, in and by their afore- ^{nals a review}
said return to the office for recording deeds aforesaid shall direct ^{&c.}
to be cut, opened, extended or enlarged) shall have been cut, open-
ed, extended and enlarged, according to the directions in said re-
turn contained, and the true intent and meaning of this act, the said
commissioners shall, upon the application of the managers for the
time being or a majority of them, again go upon the said marsh
and low grounds and view and examine the same, and view and
examine the canal or canals, ditch or ditches, and prongs of ditches
which shall have been cut, opened, extended or enlarged under this
act; and if the said commissioners or a majority of them shall be of
opinion that such canal or canals, ditch or ditches, and prongs of

ditches as are directed to be cut, opened, extended or enlarged, in and by the aforesaid return, are (at the time of their said second view and examination) cut, opened, extended and enlarged according to the directions of said return, and the true intent and meaning of this act, the said commissioners or a majority of them shall proceed to make a re-valuation of all the marsh and low grounds, which the said commissioners or a majority of them, shall be of opinion are or may be benefitted by the said canal or canals, ditch or ditches, or prongs of ditches, according to the then value of said marsh and low grounds, and the amount of benefit to be received by each owner, in such manner as to do equal justice to all concerned; and the said commissioners or a majority of them, shall make a certificate under their hands or the hands of a majority of them, of the said re-valuation so to be made by them; in which certificate they shall carefully set forth the names of all the owners of said marsh and low grounds, and the quantity held by each owner or by joint owners, if any be held undivided, and the appraisement or valuation of the quantities or parcels so held by said owner or joint owners respectively, and generally all their proceedings in the premises; and shall deliver the same into the said office for recording deeds in and for Kent county aforesaid, there to be recorded by the recorder of deeds; which said certificate shall be final and conclusive upon all parties, and a copy of the record thereof certified under the hand and seal of the said recorder shall be good and sufficient evidence in trials at law and in equity; which said appraisement or re-valuation shall be and remain the valuation upon which all taxes which shall be assessed and levied under this act from and after the return of the said certificate or re-valuation to the said office for recording of deeds as aforesaid shall be assessed and levied forever. And if either of the said commissioners shall die, resign, remove from the State, or refuse to act before all the duties of the said commissioners under this act shall have been completed, any two justices of the peace in and for either of the counties of Kent or Sussex may, upon the application of the managers for the time being or a majority of them, in writing, appoint a commissioner or commissioners to fill the vacancy or vacancies thus happening toties quoties, and until all the duties assigned to said commissioners under this act shall be fully performed; and the said commissioner or commissioners so to be appointed shall have the same powers and be required to do the same acts, and his or their acts shall be as valid and effectual to all intents and purposes, as fully and amply as the acts of the said commissioner or commissioners in the place of whom he or they may be appointed, and a majority shall in like manner be capable of doing all things required of said commissioners by this act appointed; the said commissioners by this act appointed, and the said commissioners which shall be appointed in pursuance of this act (if any) shall before entering upon the duties herein assigned them, be respectively sworn (or affirmed) before some judge of the State or justice of the peace of one of the counties, to execute the duties enjoined on them by this act faithfully and impartially according to their best skill and judgment.

Re-valuation.

Certificate of

How disposed of.

The effect of.

Vacancies among commissioners.

Commissioners to be known.

SEC. 11. *And be it enacted*, That if any person shall wilfully fill up or in any manner obstruct the canal or canals, ditch or ditches, or prongs of ditches aforesaid or any of them, or shall stop, obstruct or impede the course of the water or waters from running down the said canal or canals, ditch or ditches, or prongs of ditches, every person so offending shall forfeit and pay to the said company the sum of twenty dollars; to be recovered as debts of a like amount are recoverable in this State. Penalty for injury to said canals, &c.

SEC. 12. *And be it enacted*, That every commissioner and manager shall, for each and every day's service in and about the business of the said company under this act, be entitled to receive of the company the sum of one dollar; and every treasurer shall be allowed a commission of five per centum on all monies by him collected. Compensation of commissioners and managers.

SEC. 13. *And be it enacted*, That the said "Marshy-hope Improvement Company" shall by that name have power to sue and be sued in courts of law or equity, to do all acts and things pursuant to the provisions of this act, which are requisite for cutting, opening, extending and enlarging all and every the canal or canals, ditch or ditches, or prongs of ditches, which the aforesaid commissioners or a majority of them shall direct to be cut, opened, extended or enlarged under this act, and for keeping the same open and in good order forever; and the managers for the time being or a majority of them are hereby authorised and empowered to carry into effect the orders of said company, made at any of its meetings by a majority of votes present, for levying and raising from time to time such sum or sums as said company shall deem necessary and proper to be raised, and for doing such other acts and things as said company shall direct to be done for effectually opening and keeping perpetually said canal or canals, ditch or ditches, or prongs of ditches, according to the true intent and meaning of this act. Corporate power of the company.

SEC. 14. *And be it enacted*, That the said lost act mentioned in the preamble to this act, and all acts heretofore passed, touching the ditching, draining or reclaiming said marsh and low ground to be ditched, drained or improved under this act, be and the same are hereby repealed. Repeal of the former act.

Passed at Dover, Feb. 2, 1832.



CHAPTER CXXXVII.

AN ACT to incorporate a company to erect a drawbridge over the river Nanticoke, at Seaford, and for other purposes therein mentioned.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of*

Subscription books opened. Capital. Managers. *each House concurring therein,)* That it shall and may be lawful to open books for receiving and entering subscriptions to the amount of four thousand dollars, in shares of ten dollars each, under the management of Samuel Laws, Turpin Wright, Jacob Wright, Henry Cannon, Henry Little, John Gibbons and Curtis J. Ross, for the purpose of erecting a draw-bridge across the river Nanticoke at Seaford, and for keeping the said bridge in good and sufficient repair.

What purpose.

When opened.

General meeting—on notice.

Books to be laid before the subscribers.

If the stock be not all taken.

SEC. 2. *And be it further enacted,* That the said books shall be opened on the first Monday in March next, upon ten days' public notice being previously given by the commissioners aforesaid, or a majority of them, and shall continue open for three days successively; that on the first Monday in April thereafter, there shall be a general meeting of the subscribers at the town of Seaford, of which meeting notice shall be given by the said commissioners, or a majority of them, in the newspaper called the National Republican, published at Georgetown in Sussex county, at least ten days before the said meeting; and the acting commissioners, at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the books by them kept containing the state of the said subscriptions; and if the capital sum aforesaid should, upon examination, appear not to have been subscribed, then the said commissioners, at the said meeting, are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said commissioners, or a majority of them, under their hands, to the Superior Court of Sussex county, to be there kept and recorded.

First installment.

Money to be deposited in bank.

How drawn out.

Company incorporated.

Name.

Corporate powers.

SEC. 3. *And be it further enacted,* That there shall be paid into the hands of the commissioners, at the time of subscribing, two dollars on each and every share so subscribed for, by him or her who subscribed for such share or shares, which shall be deemed and taken to be in part and on account of said share or shares so subscribed for as aforesaid; which money so received by the commissioners as aforesaid, after deducting the reasonable expenses of taking the subscriptions aforesaid, shall be by them deposited in the Farmers' Bank of the State of Delaware at Georgetown, and there to remain, subject to the draft or drafts of the president and directors of the Seaford Bridge Company, to be chosen as hereinafter directed.

SEC. 4. *And be it further enacted,* That in case one-half of the said capital, or a greater sum shall be subscribed as aforesaid, the subscribers and their heirs and assigns, from the time of their said first meeting shall be, and they are hereby declared to be incorporated by the name of the "Seaford Bridge Company," and may have succession, and sue and be sued, and make and use a common seal as such, which they may alter, break, or renew from time to time at pleasure, and shall have all the privileges and franchises incident to a corporation, and such of the said subscribers as shall

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

Directors.

President.

Rotation in office.

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

Oath of office.

SEC. 6. *And be it further enacted,* That the more effectually to enable the president, directors and company aforesaid, to execute and complete the purposes aforesaid authorised by this act, it shall and may be lawful for the Superior Court for Sussex county, to appoint three good and judicious men, standing indifferent between the parties, who shall and may take with them some skilful surveyor and go upon, view and locate, not more than one acre of land on the south side of the river Nanticoko, where the ferry is now kept by Hugh Martin, and value the same, and declare what sum or sums shall be paid to the owners thereof, and return a plot of the said lands so by them located and valued, into the office of the prothonotary of the Superior Court aforesaid; and the said Seaford Bridge Company "when they shall pay, or cause to be paid, to the owners of the said lands aforesaid, to be surveyed and located and valued as aforesaid, shall own, possess and enjoy said lands for the use of the said Seaford Bridge Company," and their successors and assigns forever: *Provided always nevertheless,* that if the said president, directors and company shall locate the said bridge at or near the place where the said ferry is kept and owned by the said Hugh Martin, they shall pay or cause to be paid to the said Hugh Martin, the sum of six hundred dollars.

Sup. Court to appoint three disinterested men.

Their duties.

Company's title in lands.

Proviso.

SEC. 7. *And be it further enacted,* That the said president and directors, or a majority of them, shall have full power and authority from time to time, as money may be wanted, to make and sign orders for that purpose, and direct at what time and in what proportion the subscriptions shall be advanced and paid; which orders shall be advertised in the public newspapers or otherwise, at least twenty days before the time of payment so appointed; and they are hereby authorised and empowered to demand and receive from the several proprietors from time to time, the sums of money so ordered to be advanced, for carrying on and executing, or repairing and keeping in order the said bridge, until the sums subscribed are fully paid in; and to order the said sums to be deposited in the hands of the treasurer, to be by him disbursed and paid out, as the said president and directors, or a majority of them, shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said

How subscription money to be paid in.

And disbursed.

Neglect to pay in.

Shares for-
feited, and
sold.

proportions, within one month after the time of payment so ordered and advertised as aforesaid, then the share or shares of the said proprietors, and all monies thereon paid shall be forfeited to the company, and shall be sold by them to any person willing to purchase, for such price as can be obtained therefor; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the sale and conveyance had been made by the original proprietors.

Draw bridge.

Dimensions.

Free passage
for vessels,

SEC. 8. *And be it further enacted*, That the president, directors and company of the "Seaford Bridge Company," shall at their own proper costs and charges, erect a draw-bridge across the river Nanticoke at Seaford aforesaid, of the following dimensions, viz: the bridge shall be of the width of not less than twenty feet, to be built of timber of the most durable kind that can be procured, with a draw of the length of forty feet, over the channel or deepest part of the said river, for the purpose of letting vessels pass and repass through the same; which draw shall at all times, at the approach of any masted vessel or vessels be drawn, at the expense of the said bridge company, and that without any let or hindrance to the said vessels in passing and repassing at all times, and without any charge or costs to such masted vessels for drawing said bridge, under and subject to the penalties and forfeitures hereinafter provided.

Power of the
president and
directors in
building, &c.

To pay, &c.

Treasurer
and other
officers.
Wages and
accounts.

General pow-
ers.

Treasurer's
bond.

SEC. 9. *And be it further enacted*, That the said president and directors so elected and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons, on behalf of the said company, to erect such bridge, make wharves, and perform such other works as they shall judge necessary to the proper and profitable construction of said bridge, and from time to time, and upon such terms and in such manner as they shall think fit; and, out of the money arising from the subscriptions and tolls, and other aids hereinafter given to pay for the same, and to repair and keep in order the said bridge and other works necessary thereto, and to defray all incidental charges; and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers and servants, as they shall judge requisite, and to agree for and settle their respective wages and allowances; and to settle, pass, and sign their accounts; and also to make and establish rules of proceeding, and to transact all other business and concerns of said company in and during the intervals between the general meetings of the same; and they shall be allowed, and as a satisfaction for their trouble therein, such sum of money as shall by a general meeting of the stockholders be determined: *Provided always*, that the treasurer shall give bond in such penalty, and with such security as the president and directors, or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services, shall not exceed two dollars in the hundred, for the disbursements by him made; and that no officer in the said company shall have any vote in the settlement or passing his own account.

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

For every single horse and rider	- - - - -	0½ Tolls.
For every foot-passenger	- - - - -	1
For every horse and gig, chair, sulkey, or other two-wheeled pleasurable carriages	- - - - -	12½
For every coach or other four-wheeled, stage or pleasurable carriage	- - - - -	31
For every one-horse cart, with horse and driver, when the same is loaded	- - - - -	12
For every one-horse cart, &c., empty	- - - - -	6
For every wagon with two horses, loaded	- - - - -	18½
“ not loaded	- - - - -	10
For every wagon with four horses, loaded	- - - - -	37½
“ not loaded	- - - - -	18½
For every loaded cart with two or three horses or oxen	- - - - -	12½
“ not loaded	- - - - -	6
For every sled or sleigh loaded	- - - - -	10
“ not loaded	- - - - -	6
For driven or led horses, mules or other cattle, each	- - - - -	3
For every sheep or hog	- - - - -	1

SEC. 11. *And be it further enacted*, That if the president, directors and company, or any person or persons having the keeping of the said bridge, shall exact or demand any greater prices or rates than what are hereinbefore prescribed and specified, he or they so offending shall, for every such offence, forfeit and pay any sum not exceeding ten dollars; one moiety thereof to the party grieved, and the other moiety to the trustees of the poor, for the use of Sussex county; to be recovered as debts of a like amount are recoverable by the laws of this State. Illegal tolls.
Penalty.

SEC. 12. *And be it further enacted*, That it shall and may be lawful for every of the said proprietors, to transfer his or her share or shares, by deed executed before two or more witnesses, and registered after proof of the execution thereof, in the said company's books and not otherwise, except by devise; which devise shall also be exhibited to the president and directors, and registered in the said company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls or pontage: *Provided*, that no transfer whatever shall be made, except for one or more whole share or shares. Transfer of stock—how made.
Proviso.

Refusal to
pay toll.

SEC. 13. *And be it further enacted*, That if any person or persons shall refuse or neglect to pay the rate of pontage or toll as aforesaid, it shall and may be lawful for the person or persons having the care and collection of the pontage or toll of the 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.

Lamps on the
bridge.

SEC. 14. *And be it further enacted*, That the president, directors and company of the said bridge, shall for the safety of the navigation, place or cause to be placed, two lamps, on posts to be erected on said bridge, one on each side of the draw aforesaid; which lamps shall be lighted every evening after the erection of 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 a like amount are recoverable by the laws of this State, and applied as other fines and forfeitures under this act are directed to be.

Penalty for
neglect.

Injury to the
bridge or
works.

SEC. 15. *And be it further enacted*, That if any person or persons shall cut, or injure, or destroy any piece or pieces of timber, or any plank or planks, or other things belonging to said bridge, or shall remove the same from the said bridge, or shall in anywise voluntarily damage the same, or shall voluntarily extinguish or injure the lamps aforesaid, or shall cut down or otherwise destroy any part of the said bridge, he, she or they so offending, and being thereof convicted before any justice of the peace of Sussex 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 twenty 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 Sussex county.

Penalty.

Draw to be
kept in good
repair.

SEC. 16. *And be it further enacted*, That the president and directors of the said Seaford 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 and sufficient repair; and at all times, after the erection of the said bridge and during its continuance, give or cause to be given good attendance at the said bridge, to draw and raise the same when required, and peaceably, freely and quietly, suffer every vessel and all vessels to pass and 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 said bridge and draw shall, at any time after the erection of the said bridge, neglect or refuse to keep the said 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, such person or persons, or the president and directors of said bridge company, so neglecting or refusing shall, for each and every such offence, forfeit and pay to the person or persons so aggrieved, for every fifteen minutes his, her or their vessels or vessel shall be detained by the default or neglect of the parties aforesaid, the sum of ten dollars, ^{Penalty for} to be recovered as debts of a like amount are recoverable by the neglect. laws of this State.

SEC. 17. *And be it further enacted,* That, the said bridge in this ^{Bridge a public} act directed to be erected, shall after the erection of the same, be ^{highway.} and the same is 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 ^{On payment of tolls.} of the said Seaford Bridge Company, or their agent or agents, shall at all times, after the said bridge is erected, 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, they paying therefor, the toll or pontage aforesaid.

SEC. 18. *And be it further enacted,* That no toll or pontage shall ^{No tolls till} be demanded or paid for crossing the said bridge, until the said ^{bridge be} bridge is fully completed, and made fit for the passage of persons ^{completed.} and property over and along the same.

SEC. 19. *And be it further enacted,* That the said State hereby ^{Tolls may be} reserves the power to alter and lower the rates of the toll or pontage ^{reduced.} for crossing the said bridge whenever the nett profits arising or accruing to the said bridge company, from the tolls or pontage established by this act, shall exceed the sum of twelve per cent. ^{When.} per annum on the capital stock of the said bridge company; and, after the completion of said bridge, it shall be the duty of the president, secretary or treasurer, of said company biennially, on the ^{Biennial statement to the auditor.} first Monday of December, to transmit under oath or affirmation to the auditor of accounts of this State, a full statement of the affairs of the said company, stating fully and clearly, the amount of money received for tolls or pontage, as well as the amount expended in keeping the said bridge and draw in good order, and in lighting the same, and paying the keeper thereof.

Passed at Dover, Feb. 2, 1832.



CHAPTER CXXXVIII. (Private Act.)

AN ACT to enable Susan Baleman to locate certain vacant land situate in Dover hundred in Kent county, and to complete her title to the said lands.

Passed at Dover, Feb. 3, 1832.

CHAPTER CXXXIX.

Dig. p. 85. AN ACT to amend the act entitled "*An act concerning Constables.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That hereafter, the Levy Court and Court of Appeal within each county, shall have power to appoint the constables for such county, and shall every year at the meeting of the said Levy Court and Court of Appeal in the month of March, in each county, appoint such constables; and the said Levy Court and Court of Appeal may, at any meeting fixed by law, fill any vacancy in the office of constable in the county where such vacancy shall happen; but if the office of constable for any county shall become vacant when the said Levy Court and Court of Appeal are not in session, in any county, the Governor shall have power to fill said vacancy, provided he make the appointment to fill the same, at least ten days before any day fixed by law for the meeting of the Levy Court and Court of Appeal, next after the happening of said vacancy.

Bond and security to be first given. Dig. p. 86. SEC. 2. *And be it further enacted by the authority aforesaid,* That no person shall enter upon the execution of the office of constable until he shall have, with two or more sufficient sureties, being freeholders of the county for which he shall be appointed constable, before the Levy Court and Court of Appeal of said county, if the said Levy Court and Court of Appeal are in session at the time, or if the said Levy Court and Court of Appeal are not in session at the time, before two commissioners of the said Levy Court and Court of Appeal, become bound to the State of Delaware in a joint and several obligation to be, together with the sureties, therein approved by the said Levy Court and Court of Appeal, or if the said Levy Court and Court of Appeal are not at the time in session, by two of the commissioners of the said Levy Court and Court of Appeal, in the penalty of two thousand dollars, with condition according to the following form:—

Condition of. Dig. p. 86. "The condition of the above obligation is such, that if the above bound ——— being a constable for ——— county, shall and do well and diligently execute all process which shall come to his hands as such constable, and shall punctually apply and pay over according to law, all monies which he shall receive pursuant to any legal process, and shall and do faithfully in all things fulfil and perform all the duties of his said office of constable, then this obligation shall be void." Upon said obligation being acknowledged and approved, a certificate thereof shall be thereon indorsed under the hands of the Levy Court commissioners present, if the said Levy Court and Court of Appeal are at the time in session, or if the said Levy Court and Court of Appeal are not at the time in session, under the hands of two of the Levy Court commissioners; said certificate may be in the following form:—

Form of. "—— County, ss. On the day of —— 18——, this obligation

was acknowledged by _____ therein named, to be their act and deed respectively, and the same with the sureties therein, approved by the Levy Court and Court of Appeal within said county. Witness the hands of the commissioners present." Or if the obligation be taken by two commissioners as aforesaid, the said form may be varied from by substituting after the word "approved" before the subscribers, commissioners of the Levy Court and Court of Appeal. Witness the hands of the said commissioners. The said Levy Court and Court of Appeal, or the said commissioners as the case may be, before whom said obligation was acknowledged and approved, shall cause said obligation, with the said certificate indorsed thereon, to be immediately delivered to the recorder of deeds, for the county for which such constable is appointed; and the said recorder shall record the same and carefully preserve the original in his office, the obligations for each year in a separate bundle, with a label of the year. If any person who shall be appointed constable, shall not, within five days, next ensuing the day of his appointment, become bound with sureties therein approved as before prescribed, the appointment shall become absolutely void, and the office shall become vacant.

To be recorded.
Dig. p. 86.

Originals preserved.
Neglect to give bond in five days.
Dig. p. 87.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the constables now in office shall, unless appointed to fill a vacancy, hold their offices for the full term of one year from their respective appointments, and such as have been appointed to supply vacancies shall hold their respective offices for the term of one year from the time of the appointment of the persons whose places they were appointed to supply; and the constables to be appointed in March, one thousand eight hundred and thirty-two, under the provisions of this act, shall hold their respective offices from the expiration of the terms of office of the constables whom they shall be appointed to succeed, until the meeting of the Levy Court and Court of Appeal to be held in the several counties in the month of March, one thousand eight hundred and thirty-three; and the constables to be appointed in the month of March, in the year one thousand eight hundred and thirty-three, shall hold their respective offices for one year from the time of their appointment, and so for all appointments of constables to be made thereafter.

Term of the constables now in office.

Officers under this act, their term.

SEC. 4. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the clerks of the peace in the several counties of this State, to cause a copy of this act to be laid before the Levy Court and Court of Appeal at their meeting in each county, to be held in the month of February, in the year one thousand eight hundred and thirty-two.

Copy of this act to be laid before the L. Court.

SEC. 5. *And be it further enacted by the authority aforesaid,* That the second and seventh sections of the act entitled an act concerning constables, be and the same is hereby repealed made null and void.

Repeal of 2, & 7 secs, of former act.
Dig. p. 86, 88.

Passed at Dover, Feb. 3, 1832.

CHAPTER CXL. (Private Act.)

AN ACT *granting to Abel Harris of Kent county, a certain tract or parcel of marsh therein described.*

Passed at Dover, Feb. 3, 1832.



CHAPTER CXLI.

AN ACT *to amend the act entitled "An act directing the manner of suing out attachments within this government."*

Dig. p. 46.
"Freehold-
ers" to be
stricken out.

Dig. p. 48.
"Citizens"
inserted.

Laws hereaf-
ter published.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act which this is intended to amend, be and the same hereby is and shall be altered, amended and supplied, by striking out the word "freehold-ers" in the fifth line of the eighth section thereof, and inserting the word "citizens" in place of it; and the said act shall hereafter be read and construed according to the amendment contained in this act, and in any edition of the laws hereafter to be published, the said act shall be printed according to the amendment contained in this act.

Passed at Dover, Feb. 3, 1832.



CHAPTER CXLII. (Private Act.)

AN ACT *for the relief of William James, of the county of Sussex.*

Passed at Dover, Feb. 3, 1832.



CHAPTER CXLIII.

Dig. p. 122. AN ACT *to repeal the act entitled "A further supplement to the act entitled An act to alter the times for holding the courts of law and equity in this State."*

Former act
repealed.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "A further supplement to the act entitled An act to alter the times of holding the courts of law and equity in this State," passed*

at Dover on the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and twenty-six, be and the same is hereby repealed made null and void.

Passed at Dover, Feb. 3, 1832.



CHAPTER CXLIV.

AN ACT regulating Divorces.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Superior Court shall have the sole cognizance of granting divorces, where either of the parties had a former wife or husband living at the time of solemnizing the second marriage; or where either of the parties shall be wilfully absent from the other, with the intention of abandonment, three years; or in case of adultery; or where the male party is actually impotent at the time of the marriage; or in case of extreme cruelty.

Jurisdiction
of Sup. Court.
Causes of di-
vorce.

SEC. 2. *And be it further enacted by the authority aforesaid,* That in all cases where the divorces shall be applied for, the complainant shall file his or her petition in the office of the prothonotary of the Superior Court, in the county where the said complainant resides, two months before the sitting of the said court, and shall also serve the adverse party with a copy of said petition, within one month after filing the same in the office aforesaid, unless the party is not resident in the county; in which case public notice shall be given in one of the newspapers of the State for three months, which petition shall state the true cause of complaint; whereupon, if the party complained of reside within the county, a summons shall issue, requiring the party to appear before the judges of the said court, and answer the allegations of said petition, which answer shall be received without oath; and if the party complained of shall not appear, or appearing shall deny the fact or facts stated in said petition, the court shall thereupon proceed to hear and determine the same.

Complaint on
petition.
Two months
before court.
Notice to de-
fendant.
If not resi-
dent, three
months no-
tice.
Petition shall
state.
Summons
shall issue.
Party to an-
swer with-
out oath.

SEC. 3. *And be it further enacted by the authority aforesaid,* That if upon trial it shall appear by disinterested testimony to the satisfaction of the court, that the party complained against had a husband or wife of a former marriage living, or was guilty of adultery, wilful absence for the space of three years, with the intention of abandonment, extreme cruelty, or where the male party shall have been impotent at the time of the marriage, then and in any such case the court may proceed by sentence or decree in the same court, to pronounce the marriage between the parties dissolved: *Provided,* that the confession of neither of the parties shall be received in testimony.

Decree of
divorce.

Legitimacy
of children
not affected.

The care of.

Divorce from
bed and
board.
Alimony.

Husband ag-
gressor—
rights of
wife.

When the
wife is the
aggressor.

Wife barred
of dower—
when.

Alimony to
the wife pen-
ding the pe-
tition.

When the
petition shall
be dismissed
and suit
barred.

Husband or
wife guilty,
not to marry
his or her
paramour.

SEC. 4. *And be it further enacted by the authority aforesaid, That* the dissolution of such marriage as aforesaid shall in no wise effect the legitimacy of the children thereof, and the court shall take such order for the distribution, care and maintenance of the issue of such marriage (if any there be) as shall appear just and reasonable, and the circumstances of the parties may require: *Provided however,* that the court in their discretion, and where the evidence shall justify such divorce, may grant alimony, and a divorce from bed and board or either, instead of a dissolution of the marriage contract.

SEC. 5. *And be it further enacted by the authority aforesaid, That* when a divorce shall be decreed in the case of the aggression of the husband, the woman shall be restored to all her lands and tenements, and be allowed out of the husband's real and personal estate, such share as the court shall think reasonable, having regard to the personal property that came to him by the marriage, and his estate at the time of the divorce; but if the divorce shall arise from the aggression of the wife, the court may order to her restoration of the whole or part of the lands, tenements and hereditaments, (as to them shall appear just and right,) and also such share of the husband's personal property as may appear reasonable, all circumstances considered.

SEC. 6. *And be it further enacted by the authority aforesaid, That* when the cause of divorce shall arise from the adultery of the wife, she shall be barred from her right of dower, and all demands in the husband's lifetime, or as his widow after his death, upon his real or personal estate, and any estate, charge or benefit settled upon her or upon trust for her use in lieu of dower.

SEC. 7. *And be it further enacted by the authority aforesaid, That* the said court shall have power to grant alimony to the wife for her sustenance during the pendency of a petition, filed for any of the causes aforesaid; and in all the cases aforesaid, where she may file a petition of alimony alone, without the prayer for the dissolution of the bonds of matrimony.

SEC. 8. *And be it further enacted by the authority aforesaid, That* in any action or suit commenced in the said court for a divorce for a cause of adultery, if the defendant shall alledge and prove that the plaintiff has been guilty of the like crime, or has admitted the defendant into conjugal society or embraces, after he or she knew of the criminal fact, or that the complainant (if the husband) allowed of the wife's prostitution, or received hire therefor, or exposed his wife to lewd company, whereby she became ensnared to the crime aforesaid, it shall be a good defence and a perpetual bar against such action or suit.

SEC. 9. *And be it further enacted by the authority aforesaid, That* the husband or wife who shall have been guilty of the crime of adultery, shall not marry the person with whom the said crime was committed.

SEC. 10. *And be it further enacted by the authority aforesaid,* That before a summons shall issue upon such petition aforesaid, the complainant shall exhibit with such petition an affidavit upon oath or affirmation, to be taken before the prothonotary of the said court, in the county where such petition shall be filed, that the facts contained in said petition are true, to the best of his or her knowledge and belief; and that the said complaint is not made out of levity or by collusion between the said husband and wife, or for the mere purpose of being freed and separated from each other, but in sincerity and truth, for the causes mentioned in said petition.

Petition supported by the oath of the petitioner.

SEC. 11. *And be it enacted by the authority aforesaid,* That this act shall take effect and be in force after the first day of June, one thousand eight hundred and thirty-two.

This act goes into operation 1st June next.

Passed at Dover, Feb. 3, 1832.



CHAPTER CXLV.

AN ACT directing the manner in which certain public records shall be kept.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That no record book in the Court of Errors and Appeals, Superior Court, Court of Chancery, Orphans' Court, Court of Oyer and Terminer, Court of General Sessions of the Peace and Gaol Delivery or Register's Court, or in any office for recording of deeds within this State, shall contain more than three hundred leaves; but this section shall not apply to books of record in which entries have already been made.

Records not to contain more than 300 leaves.

SEC. 2. No entry in writing, figures or otherwise, shall be made in any such book of record as aforesaid, within one inch and one-fourth of an inch of the inner or binding margin thereof.

Margin.

SEC. 3. The Superior Court shall have power and the justices thereof are hereby required, upon receiving information of the existence of any such record-book or books as aforesaid, containing a greater number of leaves or any entry or entries, contrary to the provisions of this act, and within one inch and one-fourth of an inch of the inner or binding margin of said book or books, to cause the same to be brought before them: and if upon inspection, the said court shall find that any such book or books shall contain a greater number of leaves than by this act is limited, or any entry or entries contrary to the provisions of this act, the said court shall thereupon impose upon the officer, clerk, or person who shall have introduced into any such court or office aforesaid any such book or books, so containing a greater number of leaves than is by

Power of the Sup. Court in transgressions against this act.

To impose
fines.

this act limited, or which shall contain any entry or entries which shall have been made contrary to the provisions of this act, a fine of not less than fifty cents for every leaf so contained as aforesaid, and bound in any such book, over and above the number hereinbefore limited; and for every leaf in any book or books of record of any of the before-mentioned courts or officers, on which shall be found any entry or entries contrary to the said provisions of this act, the said court shall impose on the officer, clerk, or person whose duty it shall have been to make such entry or entries, a fine of not less than ten dollars, for the first entry which shall have been so made in any such book or books, with an addition of fifty cents for every leaf therein, which shall have upon it any entry or entries so as aforesaid, contrary to the provisions of this act.

How collect-
ed.

And applied.

SEC. 4. All fines imposed under the provisions of this act, shall be collected in the same manner as other fines imposed by the said Superior Court are, or shall be usually collected: one-half thereof in each and every case to the use of the person so giving information to the court as aforesaid, and the other half to the use of the county in and for which the record shall have been kept, or in case of the record of the Court of Errors and Appeals, the said other half to the use of the State.

Passed at Dover, Feb. 3, 1832.



CHAPTER CXLVI.

AN ACT for the preservation of the Records of the Court of Chancery and Orphans' Court of Sussex county.

Commission-
ers.

To examine
the records.

Certificate.

Register in
Chancery to
transcribe.

Copies com-
pared.

Their effect.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Edward Wootten and Matthew Rench be, and they are hereby appointed commissioners, whose duty it shall be to examine the records of the Court of Chancery, and of the Orphans' Court of the county of Sussex, and to make out a certificate, under their hands, which and how much of the said records it is necessary to transcribe or copy, and to deliver the said certificate to the register of the said Court of Chancery, who is hereby authorised and required, as soon thereafter as conveniently may be, to transcribe or copy, or cause to be transcribed or copied, such records; and after the said register shall have transcribed or copied the said records, it shall be the duty of the said commissioners to compare and correct the same by and with the originals; and after so doing to certify thereon, that they are true copies thereof; and all copies made, examined, and certified as aforesaid, shall have and receive in all respects, the same faith and credit as the originals now may or can have and receive.*

SEC. 2. *And be it further enacted,* That the said commissioners shall, before entering upon the performance of the duties assigned to them by this act, be sworn or affirmed before the judge or some justice of the peace of the said county, faithfully to perform the said duties, and shall file certificates thereof in the said courts; that each of the said commissioners shall have and receive, for each and every day's attendance in performing the duties enjoined on them by this act, a sum not exceeding two dollars, to be allowed by the Levy Court of Sussex county aforesaid, at their meeting in the month of March thereafter; and that in case any vacancy shall happen by the death or refusal to serve, of any of the said commissioners, the Governor of this State be, and he is hereby authorised to fill such vacancy or vacancies.

Commissioners to be sworn.
Certificates thereof.
Their compensation allowed by the L. Court.
Vacancy—how filled.

SEC. 3. *And be it enacted,* That the said register shall provide good, substantial, and well bound books for the purposes aforesaid; and also one other good and substantial and well bound book for each of the said courts, in each of which he shall make a full and complete direct and reverse index to all of the records of the court to which they respectively belong; that he shall be repaid the costs of said books by the said Levy Court, and shall receive for his other services in and about the premises, a just and reasonable compensation, to be allowed by the said Levy Court.

Register to provide good books.
Index.
Costs of the books, and compensation by the Levy Court.

Passed at Dover, Feb. 3, 1832.



CHAPTER CXLVII.

AN ACT to incorporate the Wilmington Fire Insurance Company.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch thereof concurring,)* That James Canby, Edward Tattall, E. J. du Pont, Thomas Stockton, Jesse Mendenhall, Joseph C. Gilpin, Jacob Pusey, Harry Conelly, Lea Pusey, William P. Brobson, Washington Rice, James Price and Edward W. Gilpin, or any three of them, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they shall, on or before the first Monday of May next, procure one or more books, one of which shall be opened in the city of Wilmington, and in which they shall enter as follows: We whose names are hereunto subscribed, do promise to pay to the president and directors of the "Wilmington Fire Insurance Company" the sum of twenty-five dollars, for every share of stock set opposite to our respective names, in such manner and proportions and at such times, as shall be determined by the president and directors of the said company, in pursuance of an act of the General Assembly of this State entitled "An act to incorporate the Wilmington Fire In-

Commissioners.
To open subscription book in Wilmington—entry therein.

suranee Company." Witness our hands this ——— day of ——— in the year of our Lord one thousand eight hundred and thirty ———. And shall thereupon give notice in two of the newspapers printed in the city of Wilmington, and such other place or places as they may deem it advisable to open books in, at least twenty days of the time and place when and where the said books shall be opened to receive subscriptions for the stock of said company; at which time and place, two or more of the commissioners shall attend, and permit all persons of lawful age who shall offer, to subscribe in the said books in the manner following, that is to say: on the first day on which the said books are opened, no person shall subscribe for more than twenty shares, either in his own name, or as attorney for another; and in like manner on the second day on which the said books shall be opened, the same restriction shall apply; and if, at the expiration of the second day, the whole number of six thousand shares shall not have been subscribed for, then on the third or any following day on which the said books shall be opened, it shall be lawful for any person or persons of lawful age, in their own name or as attorney for another, to subscribe for any number of shares in the said stock, until the whole number of six thousand shares shall be subscribed. The said commissioners shall keep the said books open at least three days, and at least six hours in each day, unless the whole number of six thousand shares shall have been before that time subscribed for, upon ascertaining which they may close the books. And if it should so happen that more than six thousand shares shall be subscribed for, then the commissioners, or a majority of them, are hereby authorised and directed to apportion the shares among the several subscribers, by deducting from the highest subscriptions until they be reduced to the proper number.

Capital stock. SEC. 2. *And be it enacted*, That the capital stock of the said company shall not exceed the sum of one hundred and fifty thousand dollars, divided into six thousand shares of twenty-five dollars each.

Payment of instalments. SEC. 3. *And be it further enacted*, That each subscriber to the stock of said company shall pay to the commissioners aforesaid, at the time of subscribing for the same, the sum of five dollars on each share that shall be by him or her subscribed for; and it shall be lawful for the president and directors of the said company, appointed in the manner hereinafter prescribed, to call in and demand of the stockholders respectively, all such sums of money as are by them subscribed, by instalments not exceeding ten dollars, upon giving sixty days' previous notice to the stockholders, in two or more of the newspapers published in the city of Wilmington; and in case of failure in the payment of all or any part of the said instalment or instalments at the time appointed, every share on which such failure shall have taken place, and the interest or dividends due on such share, shall be forfeited to the said company, or they may sue for the instalment or instalments so becoming due, at their option.

In case of failure so to do. Shares forfeited.

SEC. 4. *And be it further enacted*, That when and as soon as the whole number of six thousand shares shall be subscribed, the subscribers, their successors and assigns shall be, and they are hereby declared to be incorporated by the name, style and title of "The Wilmington Fire Insurance Company," and by the same name shall have succession for the term of twenty years from the date of this act; and be able to sue and be sued, plead and be impleaded, in all courts of record and elsewhere, and to purchase, receive, have, hold and enjoy, to them and their successors lands, tenements and hereditaments, goods, chattels, and effects of whatsoever kind; and the same to sell, grant, alien, mortgage or dispose of, and to make dividends of such portions of the profit as they may deem proper; and also to make and have a common seal, and the same to alter and renew at pleasure; and also to ordain, establish and enforce such by-laws and regulations, not repugnant to the constitution and laws of this State and of the United States, as shall be deemed necessary and convenient for the government of the said company; and generally, to do all and singular the matters and things which to them it shall lawfully appertain to do for the well-being and ordering the affairs of the same: *Provided*, that nothing herein contained, shall be considered as in any way giving to this corporation any banking privileges, or any other privileges, or any other liberties, privileges or franchises, but such as may be necessary or incident to the proper management of the business of the said fire insurance company.

Incorporation.

Style.

Term.

Power of.

Not to exercise banking powers.

SEC. 5. *And be it further enacted*, That the commissioners aforesaid, as soon as conveniently may be after the whole number of shares shall be subscribed as aforesaid, shall call a meeting of the said subscribers in the city of Wilmington, by advertisements in two of the Wilmington newspapers, and in such other newspapers as they shall deem proper, at least fifteen days before such meeting; at which meeting the said subscribers shall proceed to organise said company, and choose by a majority of votes of the said subscribers, by ballot, to be given in person or by proxy, twelve directors; the directors so chosen shall elect one of their number president, and shall conduct the business of said company until the first Monday of May, in the year one thousand eight hundred and thirty-three, and until like officers shall be chosen; and may make such by-laws, rules, orders and regulations, as may be necessary for the well-governing the affairs of the company.

Meeting of the stockholders.

On notice.

Officers, how chosen.

Directors.

Make rules.

SEC. 6. *And be it further enacted*, That the stockholders shall meet on the first Monday of May, in the year one thousand eight hundred and thirty-three, and in every year thereafter in the city of Wilmington, of which at least fifteen days' notice shall be given in the newspapers before mentioned, and choose by a majority of votes present, in person or by proxy, by ballot, their directors for the ensuing year, as mentioned in the fifth section of this act, who shall continue in office for one year and until others are chosen; and at such other times as they may be summoned by the presi-

Annual meeting.

Notice of.

Business of.

Term of office.

Special meetings. Powers of the stockholders thereat.	dent and directors, in such manner and form as shall be prescribed by the by-laws; at which annual or special meeting, they shall have full power and authority to make, alter or repeal, by a majority of votes, all such by-laws, rules, orders and regulations as aforesaid; and the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold in the proportions following, that is to say: for each share, not exceeding twenty, one vote; for every five shares, above twenty and not exceeding fifty, one vote; and for every ten shares, above fifty, one vote; but no share shall confer a right of voting which shall not have been held three calendar months prior to the day of election; nor unless it be holden by the person in whose name it appears, absolutely and bona fide in his own right or in that of his wife, or for his or her sole use and benefit, or as executor or administrator, trustee or guardian, or in the right and for the use and benefit of some copartnership, corporation or society, of which he or she may be a member, and not in trust for and to the use and benefit of any other person: <i>Provided</i> , that in voting by proxy, the attorney shall be duly constituted under the hand and seal of the party, and the authority properly authenticated according to the laws of this State, when such authentication is necessary.
Manner of voting.	
Proviso.	
Quorum of directors.	SEC. 7. <i>And be it further enacted</i> , That not less than five directors shall form a quorum for the transaction of business, of whom the president shall be one; but in case of his sickness or necessary absence, his place may be supplied by another director to be appointed by a majority of those present.
Subordinate officers, how appointed.	SEC. 8. <i>And be it further enacted</i> , That the president and directors shall have power to appoint a secretary and surveyor, and such other officers, clerks and agents under them, as shall be deemed necessary for executing the business of the said company, and allow them such salaries or compensation as they may deem reasonable.
Allowances.	
Fire insurances.	SEC. 9. <i>And be it further enacted</i> , That the president and directors shall, after sixty thousand dollars of their capital shall be actually paid in, have full power and authority to make all kinds of insurances against fire, and insurances on inland transportation of goods, wares and merchandise, and country produce; and generally to transact and perform all business relative to the objects aforesaid; and also to invest the capital and surplus funds of the company, from time to time, in the public funds of the United States, or in any incorporated bank or banks, or other incorporated company, or to loan the same to any individual or individuals upon good security, and to dispose of the money and property of the company (not being contrary to law) as to them shall appear most advantageous in prosecuting the objects of their institution; they shall also keep regular books, containing full, fair and correct entries of all their business and transactions, to be open at all times to the inspection of the stockholders.
Capital stock invested.	
Books of accounts.	

Sec. 10. *And be it further enacted,* That all policies of insurance made by the company, shall be signed by the president and sealed with the common seal; and all losses on any such policy or policies shall be adjusted by the president and board of directors, and paid agreeably to the terms of the policy, out of the funds of the company; and in case of the absence, death, resignation or disqualification of the president, the directors shall appoint a president pro. tem. to execute the several duties assigned to him, until the vacancy is filled up as provided for in this act.

Policies of insurance, how exercised.
Losses, how paid.
Vacancy of the office of president.

Sec. 11. *And be it further enacted,* That the said company shall from time to time, apply all sums of money received by them for premiums, to the payment of losses in the first instance, and to make up the amount of their original capital whenever it shall have suffered any diminution by losses; and that dividends shall be made of the nett profits arising on the capital stock, at such periods as the president and directors may deem proper, not oftener than once in six months, and the same shall be paid to the stockholders or their legal representatives; but if at any time, a dividend shall be declared of a greater amount than the nett profits of the said company at the time of making the same, each and every director consenting thereto, shall and hereby is declared to be liable in his individual capacity, and bound to contribute to make good the deficiency in the capital stock, occasioned by such improper dividend, and every director present shall be adjudged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders of the declaring of such dividend; and to form a quorum for the making of a dividend there shall be present at least seven directors including the president.

Premiums applied to losses.
Dividends, when and how made.
Not to exceed the nett profits.
Liability of directors.
Protest.
Quorum necessary.

Sec. 12. *And be it further enacted,* That the stock of the company is hereby declared to be personal and not real estate, and may be assigned and transferred on the books of the company, in person or by power of attorney, only in such manner as shall be prescribed by the by-laws; but no transfer of stock shall be binding upon the company, if made within thirty days after a loss shall have occurred, or if not made in a book or books kept by the company for that purpose; and no stockholder indebted to the company shall be permitted to make a transfer or receive a dividend, until such debt is paid or secured to the satisfaction of the president and directors.

Stock personal estate.
Transfers, how made.
Restrained.

Sec. 13. *And be it further enacted,* That the said company shall not be competent to purchase or hold any real estate, other than such as may be recovered by them for premiums or debt, or may be necessary for their accommodation in the regular transaction of their business.

Company not to purchase real estate, except.

Sec. 14. *And be it further enacted by the authority aforesaid,* That as a condition of the passing of this act "The Wilmington Fire Insurance Company" shall from and after the first day of January, in the year of our Lord one thousand eight hundred and

Tax to the State.

Acceptance
of this act to
be certified to
the Governor.

forty-one, semi-annually pay to the treasurer of the State, for the use of the State, at the rate of one quarter of one per centum per annum on the stock actually paid in, for and during the continuance of the present charter; and the president and directors of the said company shall signify their acceptance of this act through their president to the Governor of this State, within six months from the first day of January, eighteen hundred and thirty-three, and if they neglect or refuse so to signify their acceptance, this act shall be void and of no effect.

Limitation of
this act.

SEC. 15. *And be it further enacted*, That this act of incorporation shall not continue in force for a longer period than twenty years from the time of passing thereof without the re-enactment of the Legislature, and the power of revocation by the Legislature is hereby reserved.

Passed at Dover, Feb. 4, 1832.



CHAPTER CXLVIII. (Private Act.)

AN ACT to enable William N. Polk and John Sorden to locate certain vacant lands, situate in North West Fork hundred in Sussex county, and to complete their title to said lands.

Passed at Dover, Feb. 4, 1832.



CHAPTER CXLIX.

A SUPPLEMENT to the act entitled "*An act providing for the recovery of small debts.*"

Dig. p. 330.
Any citizen
of fair cha-
racter may
be referee.
Dig. p. 334.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passing of this act, it shall and may be lawful for any citizen of fair character to act as a referee or appraiser under the provisions of the act to which this is a supplement; passed at Dover on the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and twenty-five.

Passed at Dover, Feb. 4, 1832.

CHAPTER CXLX.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act to enable the President, Directors and Company of the Commercial Bank of Delaware, to close the concerns of that bank.*"

Del. L. 7 vol.
p. 199. Cor-
poration ex-
tended to 1st.
March, 1835.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring,)* That the corporation and body politic created and made by the act of the General Assembly of this State entitled "*An act to establish a bank and to incorporate a company under the name of the Commercial Bank of Delaware,*" and passed at Dover on the ninth day of February, in the year of our Lord one thousand eight hundred and twelve, and the act to which this is an additional supplement, passed at Dover on the sixth day of February, in the year of our Lord one thousand eight hundred and twenty-two, shall be and the same is hereby revived, renewed, continued and extended, by and under the same name of "*The President, Directors and Company of the Commercial Bank of Delaware,*" from the first day of March, which was in the year of our Lord one thousand eight hundred and thirty, until the first day of March, which will be in the year of our Lord one thousand eight hundred and thirty-five and no longer; and that the powers, privileges, rights and immunities, heretofore granted to the said corporation by law, are hereby revived, renewed, granted, continued and extended to the same corporation and body politic hereby now revived, renewed, continued and extended, under the name aforesaid, until the said first day of March, which will be in the year last aforesaid, to be used only for the settling and closing the concerns of said corporation, and not otherwise; and subject to the restrictions enacted by the act to which this is an additional supplement.

4 vol. 584.

6 vol. 199.

With same
powers, &c.

In closing the
concerns.

SEC. 2. *And be it further enacted by the authority aforesaid,* That all and every the transactions, acts and doings of said corporation, and of the individuals heretofore composing or representing the same, and all and every the acts and proceedings of third persons against the said corporation, or the individuals heretofore composing or representing the same, which have been had, done or transacted since the first day of March, in the year of our Lord one thousand eight hundred and thirty, shall be and the same are hereby declared to be as good, binding and valid, in every respect, as if the same transactions, acts, doings and proceedings had happened and taken place during the existence and continuance in force of the said act entitled "*An act to establish a bank, and to incorporate a company under the name of the Commercial Bank of Delaware,*" and the said act to which this is an additional supplement.

Certain acts
of the corpo-
ration valid,

SEC. 3. *And be it further enacted by the authority aforesaid,* That for the purpose of finally closing the concerns of the said Commercial Bank of Delaware, the said president and directors of the said

Power of the
president and
company in
settling the
concerns.

Sell the debts. bank, by and with the consent of a majority of the stockholders of the said bank, shall have full power and authority to sell and dispose of the debts due the said bank, in the same manner and under the limitations as are provided in the second section of the act to which this is an additional supplement, the said second section being hereby revived and adopted as a part of this act.

7 vol. p. 41,
42.

Power of re-
peal reserved. SEC. 4. *And be it further enacted by the authority aforesaid, That the power and right to revoke and repeal this act be, and the same is hereby reserved to the Legislature.*

Passed at Dover, Feb. 4, 1832.



CHAPTER CXLXI.

Dig. p. 22,
327. AN ACT *allowing for a limited time, an additional Justice of the Peace in the county of New Castle.*

One justice
of the peace. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of the members of each House consenting,) That the county of New Castle shall be entitled to one justice of the peace, in addition to the number now allowed by law, who shall be appointed and continue to reside in the hundred of Red Lion, and within one mile of the village of St. Georges: Provided however, that this act, and the appointment of the justice of the peace made under and in pursuance of its provisions, shall continue and remain in force for seven years from the time of issuing the commission to the said justice of the peace, and no longer.*

To reside in
Red Lion
hundred.

Limitation of
this act.

Passed at Dover, Feb. 4, 1832.



CHAPTER CXLXII.

Dig. 479. AN ACT *respecting the Road Commissioners of New Castle hundred, in New Castle county.*

Preamble. *Whereas, New Castle hundred is entitled to three hundred and thirty shares in the original stock of the New Castle and Frenchtown Turnpike and Rail-road Company, and has the right to convert into stock of the said company, the loan of monies made recently to the said company, by the road commissioners of the said hundred, amounting to the sum of eighteen hundred and fifty-six dollars and twenty-five cents, or thereabouts:*

And whereas, the amount of the said loan was raised by the road

commissioners of said hundred, by their borrowing in their individual capacity, the said amount from the president, directors and company of the Farmers' Bank of the State of Delaware, for the payment of which, the said road commissioners have given their note, and are now individually responsible for the same; and it is but just, that the repayment thereof should be secured to the said road commissioners: Therefore,

Money borrowed, the debt of N. C. hundred.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the amount aforesaid of the said loan, so borrowed of the said bank in manner aforesaid, shall be taken and considered as the debt of New Castle hundred; and that the said loan shall be converted into shares of the capital stock of the New Castle and Frenchtown Turnpike and Railroad Company aforesaid, by the road commissioners of the said hundred; and the same when so converted into shares of said capital stock of the said company, and also the said shares in the original capital stock of the said company, shall be held by the road commissioners of the said hundred and their successors in office, in trust for the use and benefit of the said hundred: and it shall be lawful for the said road commissioners and their successors in office, from time to time, to receive the dividends of all such shares of stock in trust for the said hundred, and apply such dividends from time to time to the following purposes, and in the following order: 1st. To the repairs of the roads and bridges in the said hundred: 2dly. To the payment of all or a proportional part of the poor taxes of the people of the said hundred: 3dly. To the payment of all or a proportional part of the county taxes of the people of the said hundred: 4thly. To the payment of all or a proportional part of the State taxes of the people of the said hundred.

Converted into bank stock.

For the use of said hundred.

Dividends.

How applied.

Note due the bank, how paid.

SEC. 2. *And be it further enacted,* That it shall and may be lawful for the road commissioners of the said hundred and their successors in office, and they are hereby required to pay off and discharge the said note due to the said bank, with its interest, by raising money for that purpose in the manner prescribed by law, for assessing and collecting road taxes within the several hundreds of New Castle county: *Provided,* that not more than one-fourth of the said note with its interest, shall be raised in any one year by taxation.

Taxation.

Dig. p. 475. Restriction.

Dividends may be applied.

SEC. 3. *And be it further enacted,* That it shall be lawful for the said road commissioners or their successors in office, if a majority of them shall deem it advisable, to apply the aforesaid dividends, if any be made, to the payment of said note with its interest, before applying the same to any other purposes mentioned in the first section of this act, or to sell at any time within six months from the time of passing of this act, the aforesaid loan so to be converted into stock as aforesaid, and apply the proceeds of such sale to the payment of the said note and its interest; any thing herein-before contained, to the contrary notwithstanding.

Or stock sold and applied to said note.

Passed at Dover, Feb. 6, 1832.

CHAPTER CXLXIII.

AN ACT *defining the duty of the Clerks of the Peace in dispensing marriage licenses.*

Clerk Peace
to furnish
any justice
peace with
marriage
license.

On payment
of State fee.

Dig. p. 264.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passing of this act, it shall be the duty of the clerks of the peace of this State, and they are hereby required, upon the application of any justice of the peace of either of the counties of this State, to furnish such justice with any number of blank marriage licenses which such justice may call for, upon said justice paying the fee established for marriage licenses by the act entitled "An act establishing certain fees for the use of the State" passed at Dover, January 26, 1826, any thing contained in the said recited act to the contrary notwithstanding.

Passed at Dover, Feb. 6, 1832.



CHAPTER CXLXIV. (Private Act.)

AN ACT *to enable George Hearn and Joseph Hearn, of Sussex county, to locate certain vacant lands, situate in Little Creek hundred in said county, and to complete their title to said lands.*

Passed at Dover, Feb. 6, 1832.



CHAPTER CXLXV. (Private Act.)

AN ACT *granting to William Russell, of Kent county, a certain tract or parcel of marsh therein described.*

Passed at Dover, Feb. 6, 1832.



CHAPTER CXLXVI.

AN ACT *to exempt vessel property from taxation.*

No vessel
trading from
this State to
be taxed.

Be it declared and enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That no sloop, schooner, or other vessel trading from any part of this State

ought to be taxed by this State, or either of the counties thereof, for any purpose whatever; and that hereafter, it shall not be lawful for the Levy Court and Court of Appeal, in either county, or for the school commissioners of any school district in the State, to levy and collect any tax or duty for any vessel as aforesaid from any owner thereof.

Passed at Dover, Feb. 6, 1832.



CHAPTER CXLXVII. (Private Act.)

AN ACT for the relief of Calvin Edson, an insolvent prisoner.

Passed at Dover, Feb. 7, 1832.



CHAPTER CXLXVIII.

AN ACT making provision for the support of government for the year one thousand eight hundred and thirty-two.

SEC. 1. *Be it enacted by the Senate and House of Representatives* \$10,000 ap. *of the State of Delaware in General Assembly met, That the sum* appropriated. *of ten thousand dollars shall be raised and paid into the treasury of this State, within the time and in the manner directed by an act of the General Assembly entitled "An act concerning the Auditor of Accounts," which said sum of ten thousand dollars shall be ap-* Apportioned. *portioned, assessed and levied on the amount of the aggregate valuation of the real and personal property within this State, made in pursuance of the act entitled "An act authorising and directing a general assessment of the real and personal property of this State" passed at Dover in February, eighteen hundred and sixteen; and it shall be the duty of the auditor of accounts, and he is hereby authorised and required to ascertain and apportion, upon the aforesaid amount of the aggregate valuation, the sum per centum necessary to raise, clear of all allowances for delinquents, according to the best estimate that he can make of such allowances; and also of all charges of collecting the taxes hereby granted and laid.*

SEC. 2. *And be it further enacted by the authority aforesaid, That* How applied. *the aforesaid sum of money shall be appropriated and applied in the following manner, that is to say: so much as may be necessary shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor and Judges of the Superior Court; Attorney General, Secretary of State and Auditor of Accounts, up to the first day of January, which will be in the year of our Lord*

eighteen hundred and thirty-three; so much as may be necessary, shall be applied to the payment of the daily allowances of the members of the General Assembly, their clerks and other expenses, and for printing the laws passed at the session of this General Assembly, and the proceedings thereof; and the residue shall be applied to the payment of any claim or claims against the State, for which provision is or shall be made by law.

Passed at Dover, Feb. 7, 1832.



CHAPTER CXLIX.

AN ACT to amend the act entitled "*An act concerning the constitution of the Levy Court and Court of Appeal.*"

Terms of office extended.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the terms of the levy court commissioners in the several counties of this State, which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-two, are hereby extended to the second Tuesday of November in that year; and the terms of the levy court commissioners which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-three, are hereby extended to the second Tuesday of November in that year; and the terms of the levy court commissioners which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-four, are hereby extended to the second Tuesday of November in that year.

Preamble.

Biennial rotation in the counties.

SEC. 2. And whereas, the terms of several of the levy court commissioners in each of the counties of this State, will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, when no election will be held. And whereas, it is deemed most expedient that such a rotation in the office of levy court commissioner should be established as that the terms of one-half, as near as may be, of all the levy court commissioners in each of the counties of this State, shall expire biennially: *Be it therefore enacted by the authority aforesaid,* that at the general election to be held on the second Tuesday of November next, the following levy court commissioners shall be elected, to wit: a levy court commissioner for Pencader hundred, in New Castle county, shall be elected for the term of four years, to commence on the said second Tuesday of November; and a levy court commissioner for each of the hundreds of Broadkiln in Sussex county, and Dover in Kent county, shall be elected for the term of three years respectively, to commence on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-

three; and a levy court commissioner for each of the hundreds of Nanticoke and North West Fork, in Sussex county; and of Duck Creek and Little Creek, in Kent county; and of White Clay Creek, Red Lion and St. Georges, in New Castle county, respectively for the term of one year, to commence on the said second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the levy court commissioners hereafter to be elected, (with the exception of the commissioners to be elected for one year, and three years; under the provisions of the second act,) shall hold their office for the term of four years from their election. Terms of office.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the act entitled "An act concerning the constitution of the Levy Court and Court of Appeal," be and the same is and shall be altered, amended and supplied, by striking out of the fifth paragraph of said act the words "each commissioner shall hold his office for the term of three years from his election," and inserting in the place thereof the words "each levy court commissioner shall hold his office for the term of four years from his election;" also by striking out the words "a year," at the end of said paragraph, and inserting the words "two years," in place thereof; also by striking out the words "after the twelfth and before the fifteenth day of September," in the first and second lines of the ninth paragraph of said act, and inserting in the place thereof the words "after the first Tuesday, and on or before the second Tuesday of October;" also by striking out of said ninth paragraph, in the ninth and tenth lines thereof, the words "twenty-eighth day of September," and inserting in place thereof the words "first Tuesday of November;" also by inserting after the word "year," in the second line of said ninth paragraph the words "in which a general election shall be held;" and in any edition of the laws of this State hereafter to be published, the said act shall be printed as amended by this act. Amendment in the original act.

Passed at Dover, Feb. 8, 1832.



CHAPTER CXLXX.

A SUPPLEMENT to a further additional supplement to the act entitled "*An act to authorise the owners and possessors of the marsh and low ground 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.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Tap-

Freeholders appointed. pahannah Marsh Company at the first meeting thereof, or at some other meeting, to be holden on some day prior to the first day of May next, shall choose by ballot three substantial freeholders of Kent county aforesaid, (having no interest in any of the marshes or low grounds owned by said company) as commissioners, to make

Their powers. a valuation of the said marshes and low grounds; and the said commissioners, or a majority of them, are hereby authorised and empowered to go upon and view the said marshes and low grounds, and shall ascertain all the owners and determine who will be benefitted by the aforesaid ditch or ditches, and the quantity held by each owner or by joint owners, if any be held undivided, and shall appraise all the said marshes and low grounds which in their opinion or the opinion of a majority of them, are or will be benefitted or improved by the said ditch or ditches, and shall determine the value of the said marshes and low grounds per acre according to the situation thereof, and upon such principles as will do equal justice

Rate of taxes. to all the owners; which said appraisement shall be the rate of assessment for all the taxes to be levied under this act or the act to which this is a supplement; and the said commissioners or a majority of them shall make a return of said appraisement according to the provisions of the act to which this is a supplement, passed at Dover, January the twenty-ninth eighteen hundred and twenty-four.

Excess of assessment.

SEC. 2. *And be it further enacted,* That if said commissioners shall assess to any individual or individuals a greater number of acres of land than he or they are the owners, an allowance according to the rate of assessments per acre shall be made by the managers of the said company to the said owner or owners, on demand, for such excess, and in case of refusal or omission to make said allowance when demanded, the owner or owners of such land may institute an action before any justice of the peace for Kent county and recover the said excess with costs.

Passed at Dover, Feb. 8, 1832.



CHAPTER CLXI.

A FURTHER SUPPLEMENT *to the act entitled "An act to extend the time for recording of deeds."*

Time for recording extended to 1st. Sept. 1832. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all deeds or letters of attorney concerning lands, tenements or hereditaments, sealed and delivered before the first day of September, one thousand eight hundred and thirty-one, and being acknowledged and proved, and the acknowledgment or proof certified according to the laws of the State in force at the time when such acknowledgment or

proof was made, may, with the certificate of the acknowledgment or proof, and all indorsements and annexations be recorded in the office for recording of deeds in the county where such lands, tenements or hereditaments, or any part thereof are situate, if lodged in such office on or before the first day of September, in the year of our Lord one thousand eight hundred and thirty-two; and the record or an office copy thereof shall be sufficient evidence; and from and after the first day of September, in the year last aforesaid, no deed or letter of attorney, sealed and delivered before the said first day of September, in the year of our Lord one thousand eight hundred and thirty-one shall be recorded.

Passed at Dover, Feb. 8, 1832.

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CHAPTER CXLXXII.

AN ACT to extend the action of replevin to third persons, whose goods and chattels are seized by virtue of execution process.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That whenever the goods and chattels of any person or persons, are or shall be seized and taken in execution by any sheriff, coroner or constable in this this State, under and by virtue of any writ of execution issued out of the courts of this State, or by any justice of the peace of this State, every such person and persons are and shall be entitled to have his or their action of replevin against such sheriff, coroner or constable, as the case may be, for the recovery of the goods and chattels of any such person or persons, so seized and taken in execution as aforesaid, and as well the damages and costs for the taking or detention of the same, upon such person or persons first giving the proper pledges and security, required by law to be given in action of replevin in this State: *Provided always nevertheless*, that nothing in this act shall be construed to extend, or to give the action of replevin to the defendant or defendants in any such writ or writs of execution.

Goods, &c. of third persons taken in execution may be replevied.

Upon security.

Proviso.

Passed at Dover, Feb. 8, 1832.

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CHAPTER CXLXXIII.

A FURTHER ADDITIONAL SUPPLEMENT to the act entitled "*An act to authorise and empower the owner or possessor of any swamp or low ground to ditch and drain the same, and for rendering more easy and convenient the mode of obtaining permission therefor.*"

Sec. 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That whenever

Lands partly in two counties, how divided. application shall hereafter be made to the Superior Court by the owners, or a majority of the owners of any swamp or low ground, lying partly in one county and partly in another, for an order to ditch and drain the same, the said court, when in session in either of said counties shall have power, and the judges thereof are hereby authorised and required to make an order and appoint three good and substantial freeholders of the counties and neighborhood, in which such swamp or low ground shall lie, to go upon and view the same; and all proceedings in the premises shall be the same as if the whole of said swamp or low ground were situated within the county in which such application shall be made; and all the provisions of the act, to which this is a further additional supplement, and of the several supplements thereto, shall be applicable to and are hereby extended to all cases where application shall be made as aforesaid, for the ditching and draining of any swamp or low ground, situated as aforesaid, partly in one county and partly in another.

Three freeholders.

Provisions of former acts.

Passed at Dover, Feb. 8, 1832.



CHAPTER CXLXXIV. (Private Act.)

AN ACT for the relief of Mary Ann Starling of Pencader hundred in New Castle county.

Passed at Dover, Feb. 8, 1832.



CHAPTER CXLXXV.

A SUPPLEMENT to the act entitled "An act to incorporate the Wilmington and Downingtown Rail-road Company."

Union of stock of Pennsylvania Comp'y, &c. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if at any time hereafter a company shall be incorporated by the Legislature of Pennsylvania, for the purpose of constructing a rail-road from Downingtown in that State to the line of this State, to unite with the rail-road contemplated by the act to which this is a supplement, and it shall be desired by the president and managers of the two companies respectively, to unite the capital stock of said companies, that then and in such case, the President, Managers, and Company of the Wilmington and Downingtown Rail-road, are hereby authorised and empowered to form such union of the capital stock of the said companies respectively, so that it shall constitute a common stock, and the two companies shall constitute one company,*

Common stock.

and be entitled to all the rights, privileges and immunities, conferred by their charters respectively; and that the twenty-fourth section of the act to which this is a supplement, be and the same is hereby repealed, made null and void.

Passed at Dover, Feb. 8, 1832.

CHAPTER CXLXXVI.

AN ACT *prohibiting the planting hedges and threshing of Mispillion creek.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if any person or persons after the passing of this act shall place, erect, make or construct any hedge or hedges in any part of Mispillion creek, or any person or persons who shall whip, thresh, beat, or otherwise disturb the waters of Mispillion creek, with a view to divert or drive fish into his or her nets, seines or wears, he, she or they, for every such offence being thereof duly convicted, shall forfeit and pay to any person who shall sue for the same, the sum of ten dollars with cost of suit, to be recovered before any justice of the peace for the county of Kent or Sussex, as debts under fifty dollars are recoverable by the laws of this State. Planting hedges. Penalty.

Passed at Dover, Feb. 8, 1832.

CHAPTER CLXVII.

AN ACT *for erecting and keeping in good repair a draw-bridge over the south-west branch of Duck creek in Kent county.*

Whereas, the erection of a draw to the bridge known by the name of Martin's bridge, over the south-west branch of Duck creek, where the road leading from Leipsic through the necks to Smyrna crosses the said creek, would be of great public utility, and it being represented to this General Assembly that the said bridge is now rebuilding under the direction of the Levy Court of Kent county: Preamble.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That those persons interested in extending the navigation of the said creek above the said bridge, are hereby authorised to erect, at their own expense, provided the same be done within three months after the commencement thereof, such a draw or platform, not less than Who may erect the draw or platform.

Lands partly
in two coun-
ties, how di-
vided.

Three free-
holders.

Provisions of
former acts.

application shall hereafter be made to the Superior Court by the owners, or a majority of the owners of any swamp or low ground, lying partly in one county and partly in another, for an order to ditch and drain the same, the said court, when in session in either of said counties shall have power, and the judges thereof are hereby authorised and required to make an order and appoint three good and substantial freeholders of the counties and neighborhood, in which such swamp or low ground shall lie, to go upon and view the same; and all proceedings in the premises shall be the same as if the whole of said swamp or low ground were situated within the county in which such application shall be made; and all the provisions of the act, to which this is a further additional supplement, and of the several supplements thereto, shall be applicable to and are hereby extended to all cases where application shall be made as aforesaid, for the ditching and draining of any swamp or low ground, situated as aforesaid, partly in one county and partly in another.

Passed at Dover, Feb. 8, 1832.



CHAPTER CXLXXIV. (Private Act.)

AN ACT for the relief of Mary Ann Starling of Pencader hundred in New Castle county.

Passed at Dover, Feb. 8, 1832.



CHAPTER CXLXXV.

A SUPPLEMENT to the act entitled "An act to incorporate the Wilmington and Downingtown Rail-road Company."

Union of
stock of
Pennsylvania
Comp'y, &c.

Common
stock.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if at any time hereafter a company shall be incorporated by the Legislature of Pennsylvania, for the purpose of constructing a rail-road from Downingtown in that State to the line of this State, to unite with the rail-road contemplated by the act to which this is a supplement, and it shall be desired by the president and managers of the two companies respectively, to unite the capital stock of said companies, that then and in such case, the President, Managers, and Company of the Wilmington and Downingtown Rail-road, are hereby authorised and empowered to form such union of the capital stock of the said companies respectively, so that it shall constitute a common stock, and the two companies shall constitute one company,

and be entitled to all the rights, privileges and immunities, conferred by their charters respectively; and that the twenty-fourth section of the act to which this is a supplement, be and the same is hereby repealed, made null and void.

Passed at Dover, Feb. 8, 1832.



CHAPTER CXLXXVI.

AN ACT *prohibiting the planting hedges and threshing of Mispillion creek.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if any person or persons after the passing of this act shall place, erect, make or construct any hedge or hedges in any part of Mispillion creek, or any person or persons who shall whip, thresh, beat, or otherwise disturb the waters of Mispillion creek, with a view to divert or drive fish into his or her nets, seines or wears, he, she or they, for every such offence being thereof duly convicted, shall forfeit and pay to any person who shall sue for the same, the sum of ten dollars with cost of suit, to be recovered before any justice of the peace for the county of Kent or Sussex, as debts under fifty dollars are recoverable by the laws of this State.

Planting hedges.

Penalty.

Passed at Dover, Feb. 8, 1832.



CHAPTER CLXVII.

AN ACT *for erecting and keeping in good repair a draw-bridge over the south-west branch of Duck creek in Kent county.*

Whereas, the erection of a draw to the bridge known by the name of Martin's bridge, over the south-west branch of Duck creek, where the road leading from Leipsic through the necks to Smyrna crosses the said creek, would be of great public utility, and it being represented to this General Assembly that the said bridge is now rebuilding under the direction of the Levy Court of Kent county:

Preamble.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That those persons interested in extending the navigation of the said creek above the said bridge, are hereby authorised to erect, at their own expense, provided the same be done within three months after the commencement thereof, such a draw or platform, not less than

Who may erect the draw or platform.

twenty-four feet wide to the said bridge, as will enable persons navigating said creek, by turning or rolling off the same, to pass with any vessel through the said bridge; and persons passing through said bridge with their vessels, are hereby obliged to roll or turn off and on the said draw or platform so that the same receive no damage thereby, under the penalty of ten dollars for every neglect therein, to be recovered with costs in the name of the State of Delaware, before the justice of the peace for Kent county; one-half 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.

County
charge.

SEC. 2. *And be it further enacted*, That the Levy Court of Kent county aforesaid, shall after the said bridge shall be erected and built as aforesaid, cause the said bridge to be supported, maintained and repaired from time to time; always keeping up a draw or platform as aforesaid, in like manner as other bridges are supported, maintained and repaired in said county; and the said draw-bridge shall be deemed and taken to be a common highway.

Leaving off
the draw.

Penalty.

SEC. 3. *And be it enacted*, That if any master or owner of a vessel shall leave off the draw of said bridge for the space of ten minutes, after the passing with his vessel through the same, he shall forfeit and pay the sum of ten dollars, to be recovered with costs of suit, as debts of a like amount are recoverable in this State, one-half to the person suing for the same, and the other half to the county of Kent, for the use of the poor of said county.

Passed at Dover, Feb. 8, 1832.



CHAPTER CLXVIII.

AN ADDITIONAL 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 New Castle.*

Terms of of-
fice extended.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the terms of office of road commissioners in New Castle county that will expire on the fifteenth day of September, one thousand eight hundred and thirty-two, be and are hereby extended to the second Tuesday of October in the same year; and the terms of said commissioners that will expire on the fifteenth day of September, one thousand eight hundred and thirty-three, be and are hereby extended to the second Tuesday of October, one thousand eight hundred and thirty-four; and the terms of said commissioners that will expire on the fifteenth day of September, one thousand eight hundred and thirty-

four, be and they are hereby extended to the second Tuesday of October in the same year.

SEC. 2. *And be it enacted by the authority aforesaid,* That the people of the several hundreds of the county aforesaid, who are entitled to vote for assessor and inspector, shall on the second Tuesday of October next, when they choose assessor and inspector, choose one good and substantial freeholder as commissioner of their respective hundreds, to serve in said office for and during the term of four years; and at the next biennial election for said officers, they shall choose two good and substantial freeholders as commissioners aforesaid, who shall also hold their respective offices for a like term; and the road commissioners of the respective hundreds shall be elected biennially hereafter according to said rotation. ^{Biennial elections.}

SEC. 3. *And be it enacted by the authority aforesaid,* That so much of the act, to which this is a supplement, as is hereby altered or supplid, be and the same is hereby repealed. ^{Repeal.}

Passed at Dover, Feb. 8, 1832.



CHAPTER CXLXXIX.

A SUPPLEMENT to the act entitled "*An act for establishing the boundaries of the town of Dover, and for other purposes therein mentioned.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall be the duty of the commissioners of the town of Dover, and of the justices of the peace and constable for Kent county, residing within the said town, to suppress all riotous, turbulent, disorderly or noisy assemblages or gatherings of negroes, mulattoes or other persons, in the streets, lanes, alleys, or on the public square of the said town, after night or on the Sabbath day; and for this purpose it shall be the duty of the said constable, upon the requirement of any one of the said commissioners, and without further warrant, forthwith to seize and arrest any such negroes, mulattoes or other persons, so assembled or gathered together and offending as aforesaid, and to carry such negroes, mulattoes or other persons so offending, before any justice of the peace residing in the said town, and upon conviction of any such negro, mulattoe or other person, for so offending as aforesaid, before the said justice (whose duty it shall be to hear and determine the case,) the said justice is hereby authorised and required to commit every such negro, mulattoe or other person so convicted, to the common jail of Kent county for the space of twenty-four hours, and until the costs of the proceedings be paid; or the said justice may in his discretion, sentence any such negro, ^{Commissioners, their duty in suppressing riots.} ^{Duty of constables.} ^{Duty of the justice peace.}

mulattoe, or other person so convicted, to pay to the State a fine not exceeding five dollars, and commit the party to the jail aforesaid, until the said fine and costs be paid. It shall be the duty of each of the said justices of the peace, upon complaint made before him of any such riotous, turbulent or noisy assemblage, or gathering of negroes, mulattoes, or other persons as aforesaid, to issue his warrant to the said constable, commanding said constable to bring every such negro, mulattoe, or other person so offending as aforesaid, before him the said justice for trial.

Bon-fires prohibited.

SEC. 2. *And be it enacted*, That it shall be the duty of the said commissioners, justices and constable to suppress, extinguish and prevent all bonfires from being lighted or kept up on the public square of the said town, or in any of the streets, lanes, or alleys of the said town: and to suppress and prevent the firing of guns, crackers or squibs, by boys or others, within the limits of the said town.

Fees.

SEC. 4. *And be it enacted*, That upon every conviction of a riotous, turbulent or disorderly person, under the provisions of this act, the justice and constable shall each be entitled to a fee of sixty cents, to be paid by the defendant or person convicted: and if any constable shall neglect or refuse to perform the duties enjoined upon him by this act, he shall be deemed guilty of a misdemeanor in office, and upon conviction thereof, shall forfeit his office; and it shall be the duty of the commissioners aforesaid, to present every such neglect or refusal to the grand jury, that the same may be inquired into.

Neglect of constable.

Care of the streets, &c.

SEC. 4. *And be it enacted*, That the said commissioners shall have charge of the streets, lanes and alleys, of the said town of Dover, and of the public square in said town; and shall have authority to make such regulations relative to the travelling over and upon the said streets and public square, and to the use thereof, the standing of carts or carriages, or the placing of other obstructions thereon, as they may deem proper; and if any person shall wilfully violate the regulations of the said commissioners in this behalf, every such person shall, for every such offence, forfeit and pay to the said commissioners, for the use of the said town, the sum of one dollar; to be recovered with costs of suit, at the suit of the said commissioners before any justice of the peace, in the same manner as other debts under fifty dollars are by law recoverable.

Passed at Dover, Feb. 8, 1832.

CHAPTER CXLXXX.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act
for the establishment of free schools.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That any sum or balance remaining to the credit of a school district in either county of this State, at the time of passing this act, shall continue to remain to the credit of the said district until the fourth day of July, one thousand eight hundred and thirty-five, and draughts may be drawn thereon in the same manner, and subject to the same restrictions as prescribed in the fourth section of the act to which this is an additional supplement; but any balance thereof which shall remain undrawn after the said fourth day of July, one thousand eight hundred and thirty-five, shall be carried to the portion of the income of the school fund divisible among the school districts in the same county the next year, and shall increase the amount to be divided among said districts. Balances to remain to the credit of the districts.

SEC. 2. *And be it further enacted by the authority aforesaid,* That no tax shall be levied or assessed in any school district by virtue of the supplement to the act entitled "*An act for the establishment of free schools,*" unless at the same meeting in which it shall be resolved to raise a sum of money in such district, there shall upon a vote by ballot respecting a tax, be a majority of votes for the tax; but no such resolution shall be passed, and no vote respecting a tax shall be taken on any other day or time than at the stated annual meeting of the school voters in such district, to wit: on the second Monday of October, between the hours of one o'clock and five o'clock in the afternoon of that day; and a greater sum than three hundred dollars shall not be raised by way of tax in any one district in any one year; but any balance remaining of a previous year shall not be included in said sum. Tax, how to be laid.

Annual meeting.
Hour of meeting.

SEC. 3. *And be it further enacted by the authority aforesaid,* That so much of the second section of the act entitled "*A supplement to the act entitled An act for the establishment of free schools,*" passed at Dover on the twenty-fifth day of January, in the year of our Lord one thousand eight hundred and thirty, as is hereby altered and supplied, and the fifth section of the said supplement, be and the same are hereby repealed, made null and void. Repeal of part of former acts.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the school committees of the several school districts in the several counties of this State, for the year regularly ending on the second Monday of October, in the year of our Lord one thousand eight hundred and thirty-one, who have drawn money from the trustee of the fund for establishing schools in the State of Delaware, and have not appeared before the auditor of accounts, and exhibited their accounts and vouchers for settlement, shall have further time Settlement of accounts extended.

Auditor, &c., settle with the districts, &c.

mulattoe, or other person so convicted, to pay to the State a fine not exceeding five dollars, and commit the party to the jail aforesaid, until the said fine and costs be paid. It shall be the duty of each of the said justices of the peace, upon complaint made before him of any such riotous, turbulent or noisy assemblage, or gathering of negroes, mulattoes, or other persons as aforesaid, to issue his warrant to the said constable, commanding said constable to bring every such negro, mulattoe, or other person so offending as aforesaid, before him the said justice for trial.

Bon-fires prohibited.

SEC. 2. *And be it enacted*, That it shall be the duty of the said commissioners, justices and constable to suppress, extinguish and prevent all bonfires from being lighted or kept up on the public square of the said town, or in any of the streets, lanes, or alleys of the said town: and to suppress and prevent the firing of guns, crackers or squibs, by boys or others, within the limits of the said town.

Fees.

SEC. 4. *And be it enacted*, That upon every conviction of a riotous, turbulent or disorderly person, under the provisions of this act, the justice and constable shall each be entitled to a fee of sixty cents, to be paid by the defendant or person convicted: and if any constable shall neglect or refuse to perform the duties enjoined upon him by this act, he shall be deemed guilty of a misdemeanor in office, and upon conviction thereof, shall forfeit his office; and it shall be the duty of the commissioners aforesaid, to present every such neglect or refusal to the grand jury, that the same may be inquired into.

Neglect of constable.

Care of the streets, &c.

SEC. 4. *And be it enacted*, That the said commissioners shall have charge of the streets, lanes and alleys, of the said town of Dover, and of the public square in said town; and shall have authority to make such regulations relative to the travelling over and upon the said streets and public square, and to the use thereof, the standing of carts or carriages, or the placing of other obstructions thereon, as they may deem proper; and if any person shall wilfully violate the regulations of the said commissioners in this behalf, every such person shall, for every such offence, forfeit and pay to the said commissioners, for the use of the said town, the sum of one dollar; to be recovered with costs of suit, at the suit of the said commissioners before any justice of the peace, in the same manner as other debts under fifty dollars are by law recoverable.

Passed at Dover, Feb. 8, 1832.

CHAPTER CXLXXX.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act
- for the establishment of free schools.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That any sum or balance remaining to the credit of a school district in either county of this State, at the time of passing this act, shall continue to remain to the credit of the said district until the fourth day of July, one thousand eight hundred and thirty-five, and draughts may be drawn thereon in the same manner, and subject to the same restrictions as prescribed in the fourth section of the act to which this is an additional supplement; but any balance thereof which shall remain undrawn after the said fourth day of July, one thousand eight hundred and thirty-five, shall be carried to the portion of the income of the school fund divisible among the school districts in the same county the next year, and shall increase the amount to be divided among said districts.

Balances to remain to the credit of the districts.

SEC. 2. *And be it further enacted by the authority aforesaid,* That no tax shall be levied or assessed in any school district by virtue of the supplement to the act entitled "*An act for the establishment of free schools,*" unless at the same meeting in which it shall be resolved to raise a sum of money in such district, there shall upon a vote by ballot respecting a tax, be a majority of votes for the tax; but no such resolution shall be passed, and no vote respecting a tax shall be taken on any other day or time than at the stated annual meeting of the school voters in such district, to wit: on the second Monday of October, between the hours of one o'clock and five o'clock in the afternoon of that day; and a greater sum than three hundred dollars shall not be raised by way of tax in any one district in any one year; but any balance remaining of a previous year shall not be included in said sum.

Tax, how to be laid.
Annual meeting.
Hour of meeting.

SEC. 3. *And be it further enacted by the authority aforesaid,* That so much of the second section of the act entitled "*A supplement to the act entitled An act for the establishment of free schools,*" passed at Dover on the twenty-fifth day of January, in the year of our Lord one thousand eight hundred and thirty, as is hereby altered and supplied, and the fifth section of the said supplement, be and the same are hereby repealed, made null and void.

Repeal of part of former acts.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the school committees of the several school districts in the several counties of this State, for the year regularly ending on the second Monday of October, in the year of our Lord one thousand eight hundred and thirty-one, who have drawn money from the trustee of the fund for establishing schools in the State of Delaware, and have not appeared before the auditor of accounts, and exhibited their accounts and vouchers for settlement, shall have further time

Settlement of accounts extended.
Auditor, &c., settle with the districts, &c.

No forfeiture
on the part of
the districts.

for this purpose; and when the auditor shall attend in either of the counties of this State the present year to settle the accounts of the county treasurer and others, every such school committee or a majority of them may appear before him with their accounts and vouchers, and he shall settle the same; and every such settlement shall be as available as if made in due time; and no school district shall forfeit its right to any portion of the income of the fund aforesaid, in consequence of the school committee of such district for the year regularly ending on the second Monday of October last, having failed to appear before the auditor with their accounts and vouchers for settlement; and the certificate of the auditor of such failure, shall be void; and no school committee whose account shall be settled pursuant to this act shall incur any penalty or forfeiture in consequence of such account not being sooner settled. The auditor shall give notice in at least two newspapers published in New Castle county, of the time of his next attendance in that county to settle the accounts of the county treasurer and others, at least twenty days before the day of such attendance.

Secretary of
State.

SEC. 5. *And be it further enacted by the authority aforesaid, That the Secretary of State shall cause this act to be published for two months, from the first day of August in the present year, in two newspapers printed in the city of Wilmington, and one newspaper printed in Georgetown, Sussex county.*

Passed at Dover, Feb. 9, 1832.



CHAPTER CLXXI.

A SUPPLEMENT to the act entitled "*A supplement to the act entitled An act to alter and re-establish the charter of the borough of Wilmington.*"

Third Tues-
day of April,
day of meet-
ing for levy-
ing assess-
ments.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That* whereas, in consequence of certain changes in the existing charter of the city of Wilmington, there is no day appointed for estimating and fixing the sum and sums of money necessary to be raised, on the persons and estates in the said city for the public uses of the present year one thousand eight hundred and thirty-two; therefore, be it enacted, that the city council shall meet for the purpose aforesaid, on the third Tuesday of April next, or within ten days thereafter, and shall proceed as is directed in the ninth section of the act to which this is a supplement.

Proceedings
upon appeals
from the city
court to the
Sup. Court.

SEC. 2. *And be it further enacted, That* when an appeal to the Superior Court for New Castle county shall be entered in any cause in the city court, according to the provisions of the twenty-third

section of the act to which this is a supplement, the said city court shall thereupon, without delay, certify the record of the said action to the said Superior Court, which shall be filed by the prothonotary of the said Superior Court, who shall first indorse thereon, the day and time of receiving the same, and then enter the said appeal upon the appearance docket of the said Superior Court; and shall immediately issue a summons directed to the sheriff of the county, Summons. or if he be a party interested, to the coroner, for summoning the appellate to appear and answer to the appeal; which summons shall be returnable on the first day of the then next ensuing term of the said Superior Court. Return there- of. Prothonota- ry's fees. And the prothonotary of the said Superior Court shall have the same fees as are allowed him by law for issuing original or mesne process; and for all other services, the same fees as are allowed by law for similar services in actions originally commenced in said Superior Court. The said appeal shall be proceeded in by declaration, pleadings and trial to judgment and execution in the same manner and form, under the same rules and by the same process, as are had and used in actions originally instituted in the said Superior Court. The party for whom judgment shall be given upon the appeal shall, as part of the said judgment, recover his costs, as well those in the said city court, as those in the said Superior Court. Award. And in case an award or report of referees under a rule of court, according to the provisions of the fourth section of the act entitled "An act about defalcation," forms part of the record so certified to the said Superior Court. The defendant, if he obtain judgment in the said Superior Court on said appeal, may sue out a scire facias in the said Superior Court, and Scire facias. have an execution for the sums of money so awarded or found due, according to the provisions of the fourth section of the act entitled "An act about defalcation."

SEC. 3. *And be it further enacted,* That the clerk of the mayor's court for the city of Wilmington, shall perform the same duties Duties of the clerk of the mayor's court. and have the same powers and receive the same fees, in relation to matters within the jurisdiction of the said mayor's court, as the clerk of the Court of General Sessions of the Peace and Gaol Delivery may, in relation to matters within the jurisdiction of the said Court of General Sessions of the Peace and Gaol Delivery. Clerk of the city court. And the clerk of the city court shall perform the same duties and have the same powers and receive the same fees, in relation to matters within the jurisdiction of the said city court, as the prothonotary of the Superior Court for New Castle county may, in relation to matters within the jurisdiction of the said Superior Court.

SEC. 4. *And be it further enacted,* That the provisions of the act entitled "An act for regulating fees" in relation to prosecutions by indictment, shall be and are hereby extended to prosecutions by information: *Provided always,* that the fee for summoning jurors to serve on grand jury, or for summoning petit jurors to serve in the said mayor's court or the city court, and returning panel, shall be one dollar. Provisions of the act regulating fees extended to this act. Dig. Proviso as to summoning jurors.

Process from the city and mayor's courts confined to the limits of the city.

SEC. 5. *And be it further enacted*, That no warrant, writ, or process of any nature or description whatsoever, from the said mayor's court or city court, and no warrant, writ, or process, to compel the appearance of any person or persons before either of said courts, issued by any magistrate or officer of said city, shall be served or executed by any officer, person or persons whatsoever, out of the limits of the said city, except subpœnas for witnesses in criminal prosecutions.

No part of the city expenses to be bound by the courts of N. Castle.

SEC. 6. *And be it further enacted*, That nothing contained in this act, or the act to which this is a supplement, or in any other act of assembly of this State, shall be construed or taken in anywise to charge the county of New Castle, with all or any of the costs, charges, or expenses of the said mayor's court or city court, either in respect to the fees or costs of summoning jurors or witnesses, or the fees or costs of jurors or witnesses, or the fees or costs of the solicitor of the corporation, as such, or as prosecuting attorney in the mayor's court aforesaid, or the fees or costs of the clerk of said mayor's court, or of the said city court; or the costs, charges, or expenses of prosecution, trial, conviction or acquittal, either in civil or criminal cases in said courts, or either of them; "or the costs, charges, or expenses of the commitment, or keeping in prison, of any person or persons whatsoever, by virtue of any warrant, commitment, writ, or process of any nature whatsoever, from either of said courts; or any other fees, costs, charges or expenses, in respect to any other matter or thing arising under this, or the act to which this a supplement;" but all such fees, costs, charges and expenses, shall be sustained and defrayed by the said city of Wilmington, unless a majority of the whole number of the commissioners of the Levy Court and Court of Appeal of New Castle county shall determine that the said fees, costs, charges and expenses, or such part of them as they shall deem just and equitable, shall be sustained and defrayed by the said county of New Castle; in which case the same, or such part thereof as the said commissioners of the said Levy Court and Court of Appeal, or a majority of the whole number of them shall deem just and equitable, shall be a county charge.

Unless so ordered by a majority of the L. Court.

Passed at Dover, Feb. 9, 1832.



CHAPTER CLXXII.

AN ACT to establish a rule of evidence touching the proof of the incorporation of Banks, in criminal prosecutions.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That whenever the

fact of the incorporation of any bank shall arise, in any prosecution in the Court of General Sessions of the Peace and Gaol Delivery in this State, for the purpose of proving such fact, the circumstance of such bank being reputed an incorporated bank, or having issued notes as a bank, shall be admissible as *prima facie* evidence, and until the same be rebutted by contrary proof, conclusive.

Reputation having issued notes prima facie evidence of incorporation.

Passed at Dover, Feb. 9, 1832.



CHAPTER CLXXIII.

A SUPPLEMENT to the act entitled "*An act concerning the New Castle and Frenchtown Turnpike and Rail-road Company.*"

7 vol. Del. Laws, 319.

Whereas, it is represented to this Legislature, that the capital stock of the New Castle and Frenchtown Turnpike and Rail-road Company is insufficient to make and construct a second track upon the rail-road of the said company, and to effect all the beneficial purposes for which the said company was created:—

SEC. 1. *Therefore be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall and may be lawful for the directors for the time being, of the New Castle and Frenchtown Turnpike and Rail-road Company aforesaid, or a majority of them, at any stated meeting of the said directors to increase, from time to time, the capital stock of the said company, by the addition of as many shares as they or a majority of them may deem necessary; for which they shall be at liberty as may appear most advisable for the interests of the said company, either to open books and receive subscriptions in the manner prescribed by the acts of assembly of this State and the State of Maryland, now in force in relation to the said company; or to sell the same for the benefit of the said company, for any sum or sums of money not under their par value, to wit: not under the sum of twenty-five dollars each share. And the said directors or a majority of them, shall have power to borrow money for effecting the beneficial purposes of the said company, and to issue certificates or other evidence of loan, and to pledge the property of the said company for the payment of the same, and interest thereon. And all loans heretofore made, whether the same were or were not by the terms of the loan, convertible into the stock of the said company, are hereby declared to be valid and effectual in law: *Provided nevertheless*, that the increase and addition of and to the capital stock of the said company, to be made in manner aforesaid, by the said directors, or a majority of them, shall not exceed the sum of three hundred thousand dollars.

Directors may increase the capital stock.

By the addition of shares.

Books to be opened for subscriptions. Del. Laws, 7 vol. 320.

Or to sell the same.

May borrow money.

Loans heretofore made valid.

Proviso—capital not to be increased beyond \$300,000.

SEC. 2. *And whereas*, the said company at great expense and

Preamble.

Additional
wharves may
be construct-
ed.

labor, have constructed a large and capacious wharf at the foot of Delaware street, and extending along a part of Front street into the river Delaware, within the limits of the town of New Castle; and it may be important to the said company to construct an additional wharf or wharves, or a harbor or landing-place, commencing on the shore of the said river Delaware, at or near high-water mark, and thence extending to deep water in the said river, to the south or south-west of the wharf already constructed by the said company as aforesaid: Therefore,

Location.

Be it further enacted, That it shall and may be lawful for the said company to construct such additional wharf or wharves, or such harbor or landing-place as aforesaid, to commence on the shore of the said river, at or near high water mark, and thence to extend to deep water in the said river, to the south or south-west of the said wharf so already constructed by the said company as aforesaid; and such additional wharf or wharves, and such harbor or landing-place as aforesaid, when so constructed, and so much land covered by said river, as extends from high water mark to deep water, and as far as the line of South street in the said town, with the appurtenances; and also the said wharf already constructed as aforesaid, and so much of the landing-place attached thereto, as extends to deep water in the said river, with the appurtenances, shall be and are hereby vested in the said company and their successors, saving nevertheless, the present and subsisting right and title, if there be such, of any person or persons whatsoever; provided the same shall be established within three years after the passing of this act; but if such person or persons be under the disability of infancy, coverture, or incompetency of mind, such person or persons shall have three years, after the removal of such disability, to establish such right or title.

Property of
the company.
Saving the
rights of
others.

And of in-
fants.

How the said
premises may
become the
property of
the company.

SEC. 3. *And be it further enacted*, That if it shall appear that there is a good and subsisting title in any person or persons, to all or any of the premises granted to the said company and their successors, in and by the second section of this act; and if no agreement can be made between the said company and such owner or owners, respecting the conveyance to the said company of the said premises, or the damages or consideration money for the same; or if the owner or owners be out of the State, or under the disability of infancy, coverture, or incompetency of mind, or be otherwise incapacitated or unable to convey, then and in each and every such case, the same proceedings shall be had for ascertaining damages, and vesting all or any of the said premises in the said company, as are contained in the third section of the act to which this is a supplement, relating to lands for the location and use of the said rail-road.

322.

How sand,
gravel, &c.,
may be ob-
tained.

SEC. 4. *And be it further enacted*, That it shall and may be lawful for the superintendent, workmen and laborers of the said company, with their implements, carts, wagons and other carriages and beasts of draught or burthen, to enter upon any premises contiguous to the site of the aforesaid wharf or wharves, harbor or land-

ing place to be constructed as aforesaid, first giving notice in writing to the owners or occupiers of such premises, and doing as little damage thereto as possible, repairing any breaches they may make in the enclosures thereof, and making compensation for any damage that may be done, upon a reasonable agreement, if the said company and such owners and occupiers can agree; and if not, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of whom agreeing, and mutually to be chosen; or if such owner or occupier upon due notice given, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of New Castle county, not interested therein; and upon tender of the appraised value on behalf of said company, it shall be lawful for such superintendents, workmen and laborers to dig, take and carry away any sand, gravel, stone or earth, there being most convenient, for the purpose of filling up and making such wharf or wharves, or landing place.

Notice to the owners.

In case of disagreement, reference.

How to be made.

On tender of the value, the said gravel may be used.

SEC. 5. *And be it further enacted*, That it shall and may be lawful for the said company to erect upon the said wharf or wharves, made or to be made as aforesaid, or upon any of them, all such buildings as may be needful for the accommodation and safe keeping of the locomotive engines, cars, carriages or other vehicles of said company, for the storage of goods, wares and merchandise, and generally for the transaction of the business and concerns of the said company; also to inclose the same if it be deemed advisable; and with the written consent of the town commissioners of the town of New Castle for the time being, to extend such inclosure across that part of Front street in the said town, occupied by the rail-road aforesaid.

Improvements may be made on said wharves.

And inclose the same, &c by permission of the town commissioners.

SEC. 6. And whereas, it is intended to use locomotive engines upon the said rail-road, and by reason of their rapid motion, the safety of persons travelling upon any public road or highway which intersects the said rail-road, may at times be greatly endangered by their incautiously crossing the said rail-road; for prevention thereof, therefore: *Be it further enacted*, that it shall and may be lawful for the said company and they are hereby required, to cause good and sufficient gates to be erected across each public road or highway which intersects the said rail road; and the said gates shall be opened at all times, to all and every person or persons travelling on such public road or highway, to cross the said rail road, except where the safety of such person or persons requires the said gates to be closed. And it shall be the duty of the said company to have gate keepers to attend the said gates. And if any gate keeper in the employment of the said company, shall unreasonably, and without sufficient cause, delay the passage across the said rail-road, of any person or persons travelling along such public road or highway aforesaid, such gate keeper so offending shall be liable to pay to such person or persons, any sum not exceeding twenty dollars, to be recovered before any justice of the peace in New Castle county, in the same manner as debts under fifty dollars are recovered.

To prevent accidents by locomotive engines, gates to be placed across public highways—where, &c.

Keepers to attend said gates.

Penalty for neglect.

Gates to be erected across certain streets. **No gate keepers.** SEC. 7. And whereas, the said rail-road crosses three of the streets or lanes in the said town of New Castle, which are but little frequented, and it is necessary to put gates across said streets or lanes to prevent accidents to citizens, and also to prevent cattle from straying on said rail-road: *Be it therefore further enacted*, that it shall and may be lawful for the said company to cause good and sufficient gates to be erected across each of the said streets or lanes, to be so constructed as to open without difficulty and close themselves. But the said company shall not be required to station gate-keepers at the said gates.

Company may hold real estate. SEC. 8. *And be it further enacted*, That the said company are hereby authorised to purchase, hold and enjoy such real estate as may be necessary for promoting the objects of the said company; whereon they may erect all needful buildings, stables and other edifices requisite for the business of the said company.

Passed at Dover, Feb. 9, 1832.



CHAPTER CLXXIV.

A SUPPLEMENT to the act entitled "*An act concerning insolvent prisoners.*"

Dig. 306. **Person im- prisoned for debt, &c., not to be detained longer than five days &c.** **Unless allegations of fraud be filed with the prothonotary.** **Requisites— or unless security be given by recognizance— condition of.** SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That no person imprisoned in the common jail of any county for debt or damages, or costs of a civil suit, or non-performance of a decree for the payment of money by virtue of execution or other final process or commitment, shall be detained or kept in prison by virtue thereof longer than five days from the date of such commitment inclusive, unless the creditor or one or more of the creditors, at whose suit such person is imprisoned, or some person for him or them, shall alledge fraud against such person so imprisoned, shall file in the office of the prothonotary of the Superior Court of the county in which such person is imprisoned, a statement in writing, verified by oath or affirmation, naming the supposed fraudulent transactions; or unless such imprisoning creditor or creditors, or one of them, or some person for him or them shall, with sufficient surety, enter into recognizance to the State, in the penal sum of two hundred and fifty dollars, with condition in substance, to be void, if the recognizors or either of them, or their or either of their heirs, executors or administrators, shall keep the said county harmless and indemnified of and from all damages and charges in consequence of the imprisonment of the said debtor or person so imprisoned, either for the maintenance or through the sickness of the said debtor or his or her family; which recognizance the said prothonotary shall have

authority to take and to approve the surety therein: *Provided however*, that nothing in this section contained shall apply to the case of a prisoner remanded by the court upon hearing of the allegations of fraud, nor to a prisoner remanded by the court for refusing his consent to be adjudged to serve his creditors.

SEC. 2. *And be it enacted*, That if the creditor or any one or more of the creditors, at whose suit any person may be imprisoned as aforesaid, or any person for him or them, shall alledge fraud as aforesaid, and file such statement as aforesaid, or shall enter into recognizance as aforesaid, the said prothonotary in whose office the said statement is filed, or by whom such recognizance is taken, shall forthwith under his hand and seal of office, certify to the keeper of the common jail of the county the fact that such statement has been filed, or such recognizance has been entered into as aforesaid; and such certificate shall be a sufficient warrant to the said keeper for the further detention of the prisoner until discharged by the due course of law. If no such certificate be delivered to the keeper as aforesaid within the time mentioned in the first section of this act, the prisoner shall be discharged, and he shall not again be arrested upon the same process; but such imprisonment and discharge shall have no other effect, and no judgment, debt or demand shall be thereby extinguished or invalidated.

SEC. 3. *And be it enacted*, That if recognizance shall be entered into as aforesaid, the principal or principals in such recognizance, may at any time direct an entry to be made upon said recognizance or the record thereof, that he, she or they are unwilling to continue liable touching any further imprisonment of the person in whose case the said recognizance was taken; and such entry shall be made by the prothonotary and signed by the party directing it; and the said prothonotary shall forthwith certify in manner aforesaid to the keeper of the common gaol of the county, the substance of said entry on said recognizance; and the prisoner shall be immediately discharged from imprisonment at the suit of the party or parties causing such entry to be made, in the same manner as if the said recognizance had not been entered into; but such entry shall in no manner impair the said recognizance, nor shall other effect flow from it, than that the prisoner shall not after entry made, be detained in prison at the suit of the party causing it to be made.

SEC. 4. *And be it enacted*, That the appearance of any person who shall be discharged from imprisonment according to this act, may be entered in any suit or action from process in which such person shall be so discharged; and such suit or action may be proceeded in, on the ground of such appearance.

SEC. 5. *And be it enacted*, That the provisions of this act shall not extend or apply to any person imprisoned by the authority of the United States, nor to discharge any person from imprisonment for any other cause than that specified in the first section of this act; but such person shall be detained for such other cause according to the nature and effect thereof.

This act not to extend to a prisoner remanded, on hearing the allegations of fraud.

Or filing allegations of fraud.

Or recognizance.

Prothonotary to give notice thereof to the keeper of the jail.

Warrant to the jailor.

If no such certificate be given, the prisoner to be discharged.

Effect of the imprisonment.

Recognizers may direct an entry on the recognizance.

Purport thereof.

Entry by the prothonotary. And certified to the jailor.

Prisoner discharged.

Such entry not to affect the recognizance.

Appearance of a party may be entered in a suit.

This act not to extend to persons imprisoned by the authority of the U. States. Or for any other cause, &c.

Repeal of sec. 6, chap. Dig. p. 312. 4th. July time this act goes into operation.

SEC. 6. *And be it enacted*, That the sixth section of the act to which this is a supplement, be and the same is hereby repealed from and after the fourth day of July next, at which time this act shall take effect and be in operation.

Passed at Dover, Feb. 10, 1832.



CHAPTER CLXXV.

A SUPPLEMENT to an act entitled "*An act to prevent the exportation of flour not merchantable, passed at Dover, February 6, 1796.*"

Inspectors are not prohibited from dealing in flour. Dig. p. 271.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That nothing contained in the thirteenth section of the act to which this is a supplement, shall be taken or construed so as to prevent the inspectors of flour or his or their deputies, directed to be appointed by the laws of this State from vending, selling, exchanging or trading in superfine flour.

Passed at Dover, Feb. 10, 1832.



CHAPTER CLXXVI.

AN ACT to prevent the use of fire arms by free negroes and free mulattoes, and for other purposes.

The use of fire arms &c. prohibited to the free blacks, &c. unless by permission. How obtained.

Certificate of five respectable citizens.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the first day of June next, it shall not be lawful for free negroes and free mulattoes to have, own, keep or possess any gun, pistol, sword or any warlike instrument whatsoever: *Provided however*, that if upon application of any such free negro or free mulatto to one of the justices of the peace of the county in which such free negro or free mulatto resides, it shall satisfactorily appear upon the written certificate of five or more respectable and judicious citizens of the neighborhood, that such free negro or free mulatto is a person of fair character, and that the circumstances of his case justify his keeping and using a gun, then and in every such case it shall and may be lawful for such justice to issue a license or permit under his hand and authorising such free negro or free mulatto to have use and keep in his possession a gun or fowling piece; but nothing herein contained shall authorise the issuing of a license or permit to any free negro or free mulatto to keep and use any sword, pistol or other warlike instrument.

SEC. 2. *And be it further enacted by the authority aforesaid,* That from and after the said first day of June next, it shall be the duty of any justice of the peace, whenever information shall be given him, or it shall otherwise come to his knowledge, that any free negro or free mulatto is in possession of any gun, without a license or permit as aforesaid, or any pistol, sword, or other warlike instrument, to issue his warrant or precept to any constable of the county, commanding him forthwith to bring before such justice, such free negro or free mulatto, to answer the charge of offending against the provisions of the first section of this act; and if, upon a full hearing, it shall appear by the testimony of one or more competent witnesses, that such free negro or free mulatto is an offender against the provisions of the first section of this act, according to the true intent and meaning thereof, he shall be adjudged to pay a fine of five dollars to the State, for the use of the poor of the county, where such proceedings are had; which fine, with the costs as specified in the last section of this act, shall be levied and made by execution process, in the same manner as is directed by the act entitled "An act providing for the recovery of small debts."

Proceedings against persons violating this law.

Justice of the peace to issue his warrant.

Penalty.

How levied.

SEC. 3. *And be it further enacted by the authority aforesaid,* That from and after the first day of June next, no congregation or meeting of free negroes or free mulattoes, consisting of more than twelve persons, assembled for the purpose of religious worship, or for any other purpose or pretence whatever, shall be held or continued longer than the hour of ten o'clock in the night season, unless said meeting is held or continued under the direction of three respectable white men, who shall be present during the whole duration of such assemblage or meeting, after the said hour of ten o'clock in the night season. Every free negro or free mulatto, offending against the provisions of this section, shall be deemed guilty of a misdemeanor, and shall forfeit and pay a fine of ten dollars for every such offence; to be recovered by indictment, with costs of prosecution; and upon failure to pay such fine and costs, every such free negro or free mulatto shall be disposed of to the highest and best bidder within the county where such recovery is had, for any term not exceeding three years, after ten days' notice shall be given of such sale; but if such free negro or free mulatto shall, before the expiration of ten days, pay to the sheriff of said county where he shall be convicted, the whole of the fine and costs, he shall be discharged.

Meetings of more than 12 free negroes prohibited after 10 o'clock P. M.

Unless under the direction of 3 respectable white men.

Penalty for infractions of this section.

Upon the fine and costs being paid negro discharged.

SEC. 4. *And be it further enacted by the authority aforesaid,* That it shall not hereafter be lawful for any free negro or free mulatto (who is not a resident of this State,) to attempt or presume to hold any meeting for the purpose of religious worship, or for the purpose of, or under the pretence of preaching or exhortation, without the license of some judge or justice of the peace in this State, granted upon the written recommendation of five respectable and judicious citizens of this State; and every such person so offending against the provisions of this section shall be deemed guilty of a misde-

Non-resident blacks not to preach within this State, without license—how obtained.

Penalty for offence against this section.

meanor, and may be provided against by indictment, and upon conviction thereof, shall forfeit and pay to the State a fine of fifty dollars, with costs of prosecution; and upon failure to pay such fine and costs, he shall be disposed of as a servant to the highest and best bidder, for a term not exceeding seven years.

Duty of justice of the peace against offenders against the 3d and 4th sections.

SEC. 5. *And be it further enacted by the authority aforesaid*, That it shall be the duty of any justice of the peace in this State, whenever he shall receive information that any free negro or free mulatto has offended against the provisions of the third or fourth section of this act, to issue his warrant or precept, directed to any constable of his county, commanding such constable to arrest and bring before him such offender, that he may be dealt with according to the true intent and meaning of this act.

Fees to the justice of the peace under the act in Dig. p. 410.

SEC. 6. *And be it further enacted by the authority aforesaid*, That there shall be allowed to every justice of the peace who may issue any warrant, precept or other process, under the act entitled "An act to prohibit the emigration of free negroes and free mulattoes into this State and for other purposes," the sum of twenty-five cents, for every such warrant, precept, or other process; and there shall be allowed to every constable who may execute any such warrant, precept, or other process, the sum of thirty-three cents, for serving and making due return in every such case, together with mileage, at the rate of two cents per mile, going and returning.

Constable's fees.

Fees of the justice peace under this act.

SEC. 7. *And be it further enacted by the authority aforesaid*, That every justice of the peace for issuing every warrant, precept, or other process under this act, shall receive the sum of twelve and a half cents, to be paid by the county; and for every license or permit granted as aforesaid, the sum of twelve and a half cents, to be paid by the person applying for the same; and every constable for executing any warrant, precept, or other process under this act, and making due return thereof, the sum of thirty-three cents, and mileage at the rate of two cents per mile, going and returning.

Constable's.

Passed at Dover, Feb. 10, 1832.



CHAPTER CLXXVII.

AN ACT to authorise process upon, and declare the effect of certain judgments.

Judgments entered prior to 18th January—effect of. Dig. p. 225, 392-3, 337, 485.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That all judgments, whether final or interlocutory, rendered or obtained in the Supreme Court, or in the Court of Common Pleas, in the several counties of this State, on or prior to the third Tuesday of January,

in the year of our Lord one thousand eight hundred and thirty-two, shall be deemed, taken, and considered as judgments of the Superior Court, in the said several counties where the same have been so rendered or obtained: and such process may be issued upon all or any of said judgments in the same manner, and as fully and effectually, as if the said Supreme Court and Court of Common Pleas had not been abolished by the amended constitution of this State.

SEC. 2. *And be it further enacted*, That all and every judgment and judgments upon any writing obligatory, bill, note, or other writing, entered in the Superior Court in the several counties of this State, since the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, or which may or shall be entered before the term of the said Superior Court, first following the passing of this act, by virtue of any warrant of attorney, or authority to any clerk or prothonotary, written under or annexed to any such writing obligatory, bill, note, or other writing, shall have relation in law to the last term of the Supreme Court, held in the said several counties respectively, where such judgment or judgments have been, may, or shall be entered in manner aforesaid; and all and every such judgment and judgments shall have the same legal incidents, force and effect, as they would have had, in case they had been originally entered in the said Supreme Court, and the amended constitution of this State had not been adopted.

Judgments entered after the 18th relate back—392, 363.

Passed at Dover, Feb. 10, 1832.



CHAPTER CLXXVIII.

A SUPPLEMENT to the act entitled "*An act to provide for the distribution and sale of the revised edition of the laws of the State of Delaware.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall be the duty of the prothonotary in each county, to sell and dispose of the balance of the revised laws, remaining on hand, at one dollar for each copy; and, after deducting five per centum from the amount received from the sales thereof, it shall be their duty to account with, and pay over to the Secretary of State, for the use of the State, the balance in their hands every three months.

Price \$1 00.

Prothonotaries to deduct 5 per cent.

Passed at Dover, Feb. 10, 1832.

CHAPTER CLXXIX.

Dig. p. 26, 337. AN ACT *allowing for a limited time, an additional Justice of the Peace to the county of New Castle.*

A justice of the peace to the Buck tavern.

For 7 years.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of the members of each House concurring therein,) That the county of New Castle shall be entitled to one justice of the peace, in addition to the number now allowed by law; who shall be appointed and continue to reside in said county, within at least one mile of the Buck Tavern, and as near as conveniently may be, to the line of the Chesapeake and Delaware Canal: Provided however, that this act, and the appointment of a justice of the peace made under and in pursuance of its provisions, shall continue and remain in force for seven years, from the time of issuing the commission, and no longer.

Passed at Dover, Feb. 10, 1832.



CHAPTER CLXXX. (Private Act.)

AN ACT *to annul the marriage contract of Franklin Peale and Eliza his wife, late Eliza Greutrage, and for other purposes.*

Passed at Dover, Feb. 10, 1832.



CHAPTER CLXXXI.

Dig. 475-79. AN ACT *concerning the Road Commissioners of Christiana hundred.*

Commissioners—by whom elected.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the road commissioners hereafter to be elected in the hundred of Christiana in New Castle county, shall be voted for by the electors of said hundred, residing without the limits of the city of Wilmington; and that no person or persons residing in the said city shall, at any hundred election, vote for road commissioners of said hundred.

Passed at Dover, Feb. 10, 1832.

CHAPTER CLXXXII.

AN ACT *allowing an additional Justice of the Peace and Constable to the county of Sussex, for a limited time.*

Dig. p. 26,
327.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of the members of each House consenting to and approving thereof,) That* the county of Sussex shall be entitled to one justice of the peace in addition to the number now allowed by law, and that he shall be appointed and continue to reside in the hundred of North-west Fork, and in the village of Middleford: *Provided however,* that this act, and the appointment of a justice of the peace under its provisions, shall continue and be in force for seven years, from the time of issuing said commission, and no longer.

Justice of the
Peace at
Middleford.

SEC. 2. *And be it further enacted,* That in addition to the constables now directed to be appointed in and for North-west Fork hundred, in the county of Sussex, there shall hereafter be one other constable in and for said hundred, whose residence shall be at the village of Middleford.

Passed at Dover, Feb. , 1832.



CHAPTER CLXXXIII.

AN ACT *for the payment of claims against the State, and against the school fund.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be, and he is hereby authorised and directed to pay the following claims, viz:—To John Wilson, of Sussex county, for services and expenses to, at and from Harrisburg, in pursuit of a certain John Brown, a fugitive from justice, sixty-two dollars and seventy-five cents; to Samuel Harker, for public printing, twenty-five dollars and sixty cents; to Robert Porter & Son, for public printing, and for printing Journals of both Houses for session of 1831, two hundred and four dollars and sixty cents; to John H. Harris, auditor of accounts, for postage and stationery, seven dollars and ninety-nine cents; to Purnal Johnson, sheriff of Sussex county, for making returns of prisoners confined in the jail of said county, and for advertising convention, &c., forty-four dollars and ninety cents; to William Burton, sheriff of Kent county, for making return of prisoners confined in the jail of said county, and for advertising convention, &c., forty-four dollars and ninety cents; to William A. Mendenhall, for public printing, twelve dollars; to Nehemiah Clark, late sheriff of Kent county, for attendance on the*

The State
Treasurer to
pay to—

J. Wilson.

J. Brown.

S. Harker.

R. Porter &
Son.

J. H. Harris.

P. Johnson.

W. Burton.

W. A. Mend-
denhall.

N. Clark.

R. & J. B. Porter. High Court of Errors and Appeals in 1830, four dollars and fifty cents; to R. & J. B. Porter, for printing, &c., the amended constitution, eighty dollars and thirty cents; to Joseph Buckmaster, for services in the High Court of Errors and Appeals, as crier in 1831, seven dollars; to Wm. H. J. Comegys, for quills and sealing wax, furnished the late clerk of the House of Representatives, four dollars; to Caleb S. Layton, for making index to the session acts of 1831, correcting proof sheets, and superintending the printing of the same, twenty dollars; to the executors of Ebenezer Blackiston for his attendance and mileage, as witness for the State against John Lowber, late escheator of New Castle county, and surety, five dollars and forty-four cents; to Isaac Knowles, late collector of Broad Creek hundred, Sussex county, twenty-nine dollars and seventy-three cents; to James Pettyjohn, of E., late collector of Broadkilm hundred, Sussex county, four dollars and seventy-six cents; to Eli Layton, late collector of Dagsborough hundred, Sussex county, four dollars and forty cents; to John Day, late collector of Nanticoke hundred, Sussex county, three dollars and forty-four cents; to James H. Hudson, late collector of Cedar Creek hundred, Sussex county, seventeen dollars and sixty-five cents; to John H. Eccleston, clerk of the High Court of Errors and Appeals, for furnishing the court with pens, ink and paper at the June term, 1831, ten dollars, and to Marcus E. Capelle, sheriff of New Castle county, for keeping a register of prisoners confined in the public jail of said county, making return thereof to the General Assembly, and for advertising convention, &c. the sum of forty-four dollars and ninety cents; to Augustus M. Schee, for printing for the House of Representatives in 1831, four dollars; to Zachariah Hatfield, collector of North-west Fork hundred in Sussex county, for balance due him (overpaid) on the State tax of 1830, thirty-nine dollars and seventy-four cents; to William P. Brobson and W. Hull, for transcribing the amended constitution and superintending the printing thereof, twenty dollars.

Trustee of the school fund to pay J. P. Wild. SEC. 2. *And be it further enacted*, That the trustee of the school fund be, and he is hereby authorised and directed to pay James P. Wild, for writing letter of attorney to transfer the stock belonging to the said fund in the bank of the United States, from the late to the present trustee, and for certificate and notarial seal, two dollars and sixty cents.

\$100 appropriated to the use of the Secretary's office. SEC. 3. *And be it further enacted*, That the State Treasurer be, and he is hereby authorised and directed to pay to the Secretary of State, the sum of one hundred dollars, to be applied by him to the payment of the contingent expenses of his office, an account of which shall be submitted to the General Assembly at the next January session.

Passed at Dover, Feb. 10, 1832.

CHAPTER CLXXXIV.

AN ACT to amend the act entitled "*An act regulating the general election,*" and other acts therein mentioned.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act so as to change the election from Sep. and Oct. to Sept. and Nov. and to conform the existing laws to the amended constitution. Dig. p. 173.5. regulating the general election shall be and the same is hereby altered, amended and supplied as follows, viz: by striking out the words "first Tuesday in October," wherever they occur in said act, and inserting in lieu thereof, the words "second Tuesday in November;" also by striking out in the third section the words "after the sixteenth and on or before the twentieth day of September, in every year," and inserting in lieu thereof the words "after the twenty-third and on or before the twenty-seventh day of October, in the present year and every second year thereafter;" also in the sixth section, by striking out the words "on the ground of his father's qualification," and inserting the words "whether he have paid tax or not;" also by striking out the words "own qualification" and inserting the words "having paid tax and being otherwise qualified according to the constitution;" also by striking out the form of the general oath or affirmation to be administered to electors as prescribed in the said sixth section, and inserting the following: "You do solemnly swear (or affirm) that you are of the age of twenty-two years, and that you at this time reside in this hundred, and that you have not voted and will not vote on this day in any other hundred, and that you have resided in this county one month, and in this State one year next before this election, and that you have within two years paid a county tax which was assessed at least six months before this election;" also in the twelfth section in the second line, by inserting between the words "issued" and "by" the words "by the Governor." Oath of electors. Dig. 174. 177. 177. 177.

SEC. 2. *And be it further enacted,* That the act entitled "An act directing the manner of appointing in this State, electors of President and Vice-President of the United States," be and the same is hereby altered, amended and supplied, as follows: by striking out at the end of the eighth line of the first section the word "was," and inserting the word "is;" also in the second line of the third paragraph of said first section, by striking out the words "next preceding every election to be held pursuant to this act;" and inserting in lieu thereof the words "to be held at the time of holding every election pursuant to this act; also by striking out the fourth, fifth, sixth and seventh paragraphs of the said first section." Act appointing electors of president and vice-president amended. Dig. 190. 190. 190.

SEC. 3. *And be it further enacted,* That the act entitled "An act prescribing the times, places and manner of holding elections for representatives in the House of Representatives of the United States," be and the same is hereby altered, amended and supplied, by striking out the words "first Tuesday in October" wherever they Act relating to representatives in congress amended. Dig. 193. 193.

occur in said act, and inserting in lieu thereof the words "second Tuesday in November."

Acts how to
be read and
construed.

SEC. 4. *And be it further enacted*, That the acts before mentioned shall be read and construed according to the amendments herein before prescribed; and in any edition of the laws of this State hereafter to be published, the acts aforesaid shall be printed as amended by this act.

Repeal of a
former act.

SEC. 5. *And be it further enacted*, That the act entitled "An additional supplement to the act entitled An act regulating the general election," passed at Dover on the sixteenth day of January, in the year of our Lord one thousand eight hundred and thirty, be and the same is hereby repealed, made null and void.

Passed at Dover, Feb. 10, 1832.



CHAPTER CLXXXV.

AN ACT to authorise the owners and possessors of the marsh and low ground commonly called and known by the name of Cow Marsh, situate in the forest of Murderkill hundred, in Kent county and State of Delaware, to cut a ditch or ditches, drain or drains through the same, and to keep said ditches and drains open and in good repair.

Company in-
corporated.

Time and
place of first
meeting.

Officers.

Adjourned
meetings.

Notice.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the owners and possessors of the marsh and low grounds commonly called and known by the name of Cow Marsh, situate in the forest of Murderkill hundred, in Kent county and State of Delaware, shall compose a company to be called the Cow Marsh Company, and shall hold a meeting on the first Monday in April in the present year, and in every year hereafter at the Willow Grove, in Murderkill hundred and Kent county aforesaid, or at such other place as the said company shall have determined by a resolution adopted at a previous meeting of the said company; at which annual meeting, the said company shall choose by ballot and a plurality of votes, one treasurer, one secretary and three managers, and may do and determine all such matters and things as the said company may deem requisite for effectually draining and reclaiming the said marsh and low grounds; and such annual meetings of said company may be adjourned from time to time by said company, and occasional or stated meetings may be called from time to time by the managers for the time being, or a majority of them, or by the survivor or survivors of them, if any of them be dead, at such times and places as the said managers, or a majority of them, or the survivor or survivors of them may appoint, by giving ten days' public notice

by advertisements, put up in at least five of the most public places in Murderkill hundred aforesaid; and if the treasurer, secretary and managers, shall not all or any of them be chosen at the stated annual meeting for the current year, and if any treasurer, secretary, or manager shall die, resign, refuse, or neglect to act, such vacancy or vacancies, may be filled at an adjourned or occasional meeting of said company by ballot and a plurality of votes; and if any treasurer, secretary or manager, shall remove from the neighborhood of the said marsh and low grounds, the said company may at any of their meetings, declare the place of such treasurer, secretary, or manager vacant, and elect another in his place; and at all meetings of the said Cow Marsh Company, every white owner of any marsh and low ground, rateable and assessed by virtue of this act, may vote if present, or by proxy, duly attested under their hand and seal. In case of vacancy.

SEC. 2. *And be it enacted*, That every treasurer, secretary and manager, chosen in pursuance of this act, shall continue in office until the first Monday in the month of April, next ensuing his election, and until a successor to him shall be duly elected. Terms of office.

SEC. 3. *And be it enacted*, That the said Cow Marsh Company, shall at the meeting of said company, to be held on the first Monday in April in the present year, choose by ballot and a plurality of votes, three commissioners, who shall be freeholders of Kent county aforesaid, and not members of said company, to make a valuation of all the said marsh and low grounds; and the said commissioners, or a majority of them, are hereby authorised and empowered to enter upon the said marsh and low ground, and view, examine and ascertain the width and depth of all the ditches or drains already cut and opened pursuant to the act entitled "An act to authorise the owners and possessors of the marsh or low ground, commonly called and known by the name of Cow Marsh, situate in the forest of Murderkill hundred, Kent county, to cut a ditch or drain through the same, passed June seventeenth, seventeen hundred and ninety-three, and the supplement to the said act passed February the seventh, seventeen hundred and ninety-five, and the additional supplement to the said act, passed January the twenty-seventh, eighteen hundred and twenty-six, and the further additional supplement to the said act, passed January the twenty-ninth, eighteen hundred and thirty; and describe all the said ditches or drains, and may locate and lay out such other new additional ditch or ditches as they may think proper and necessary, and of such width and depth as they may deem fit and proper for draining the said marsh and low grounds; and view and examine all the said marsh and low grounds adjacent to the said ditches or drains already cut and opened as aforesaid; and all such new additional ditch or ditches which they shall locate and lay out to be cut and opened, and shall ascertain all the owners, and determine who will be benefited by said ditch or ditches, drain or drains, or any one of the said ditches or drains, and the quantity held by each owner or joint owners, if any be held undivided; and shall appraise all the benefits, Commissioners, freeholders.
Their powers.
Appraise-ments.

	profits and advantages, of all the said marsh and low grounds which in their opinion, are or will be benefitted or improved by the said ditch or ditches, drain or drains, having regard to the original or unimproved value of the said marsh and low grounds, and the advantages and disadvantages of draining the water from the separate quantities or parcels of the said marsh and low grounds, into the said company's ditch or ditches, drain or drains, so that the said appraisement may be made on such principles as will do equal justice to all the owners and possessors of the said marsh and low grounds; and the said commissioners, or a majority of them, shall
Certificates.	make two certificates under their hands, or the hands of a majority of them, containing the names of the respective owners of the said marsh and low grounds, the quantity held by each owner and by joint owners, if any be held undivided, and the appraisement of the said benefits, profits and advantages, of the said several quantities
One returned into the prothonotary office.	or parcels of marsh and low grounds, so by the said commissioners to be made as aforesaid; and shall return one of the said certificates into the prothonotary's office for Kent county aforesaid, and the other said certificate to the secretary of said company; which said certificates shall be final and conclusive upon all parties, and shall be and remain the true appraisement and valuation, upon
Taxes, how assessed. Proviso.	which all and every the tax or taxes which may be necessary for the purpose of this act, shall be assessed, levied and raised: <i>Provided</i> , that all such owners and possessors, as are or will be particularly benefitted by such new additional ditch or ditches, to be so
Additional expense.	located and laid out by the commissioners, to be cut and opened, shall pay in addition to the general tax or taxes, the estimate of probable expenses to be made by the said commissioners, or a majority of them for cutting, opening and making such new additional
For cutting the ditches, &c.	ditch or ditches, in as good repair as the ditches or drains already cut and opened pursuant to the former act and supplements aforesaid; and the said commissioners, or a majority of them, shall estimate the probable expenses of cutting, opening and making such
Certificates.	new additional ditch or ditches in as good repair as the ditches or drains already cut and opened as aforesaid, and certify to the secretary the amount of such estimate of probable expenses, the several quantities of marsh and low ground, which in their opinion will be particularly benefitted by said new additional ditch or ditches; the several owners and possessors of the same, and the appraisement thereof. Each commissioner, before he enters upon the duties
Commissioners to be sworn.	required of him by this act, shall be sworn or affirmed in manner and form as directed in the act entitled "An act concerning the administration of certain oaths and affirmations to perform the said duties faithfully and impartially according to the best of his skill and judgment; and the certificate shall be made on the returns to be made to the prothonotary and secretary aforesaid, of the administering of said oaths or affirmations under the hand or hands
Vacancy in the commissioners, how supplied.	of the person or persons who shall administer the same. If the said commissioners or either of them, shall not be chosen at the election as aforesaid, or either of them shall die, resign, or remove from the county, or refuse to act, before all the duties of said com-

missioners shall have been completed, then and in that case the said Cow Marsh Company may, at any annual meeting thereof, choose a commissioner or commissioners to fill such vacancy or vacancies; and so, from time to time, until all the duties of said commissioners under this act shall have been completed.

SEC. 4. *And be it enacted*, That for the purpose of raising the necessary sums of money under this act, for answering the purposes of this act, it shall and may be lawful for the managers for the time being, or a majority of them, and they are hereby authorised and required, after the appraisements and valuations aforesaid, shall be made and returned to the prothonotary and secretary as aforesaid, and the certificate of the appraisements and valuations of the marsh and low grounds, particularly benefitted by the said new additional ditch or ditches, shall be made and certified to the secretary as aforesaid; to lay and assess upon the value of the marsh and low grounds particularly benefitted by said new additional ditch or ditches all such sum or sums as the said commissioners or a majority of them, shall have estimated to cut, open, and make such new additional ditch or ditches in as good repair as the ditches or drains already cut and opened as aforesaid; all such sums of money or taxes shall be apportioned among the several owners of the said marsh and low grounds, which will be particularly benefitted by the said new additional ditch or ditches and mentioned in said certificate, made and certified to the secretary, according to and upon the value of the benefits, profits and advantages of the respective quantities or parcels of the marsh and low grounds which such owners respectively shall hold, according to a certain rate upon and for each and every dollar of said value; and to lay and assess upon the value of the said marsh and low grounds, mentioned in said returns made to the prothonotary and secretary aforesaid, all and every such sum or sums of money as the company, at any annual meetings thereof, shall by a plurality of votes, from time to time determine ought to be levied and raised, for the purpose of keeping all the said ditches or drains open and in good repair; and all such sums of money or taxes shall be apportioned among the several owners of the said marsh and low grounds, which shall be mentioned in said returns made to the prothonotary and secretary aforesaid, according to, and upon the value of the benefits, profits, and advantages of the respective quantities or parcels of the said marsh and low grounds, which such owners respectively shall hold, according to a certain rate upon, and for each and every dollar of said value, and so pro rata; and the managers, or a majority of them, shall from time to time make out duplicate lists, under their hands, of all the assessments and taxes by them made and laid as aforesaid; which lists shall contain a minute of all changes of ownership and transfers of any of the said marsh and low grounds; and one of the said lists shall be delivered to the treasurer for the time being, and the other said list shall be delivered to the secretary, and such assessments and lists shall be final and conclusive upon all parties; and the said lists, so delivered to the treasurer, shall be

Managers to levy and assess the taxes.
For what purpose.
Rate of.
Duplicate lists of assessments.
Their contents.
How disposed of.
Their effect.

Further powers in opening ditches, employing workmen, &c.	a sufficient warrant, to him or his successor in office, for levying and collecting all and every the sums of money or taxes in said lists mentioned: <i>And further</i> , it shall be the duty of the managers, and they are hereby vested with full power and authority to cut, open and clear out all the new additional ditch or ditches which the commissioners, or a majority of them, shall locate and lay out to be cut and opened, and to open and clear out all the said ditches and drains, already cut and opened as aforesaid; and shall cause the same to be kept open and in good repair; and generally the managers shall carry into full effect all the directions of the company, which shall from time to time be given them, in relation to their aforesaid trust; for which purpose the said managers shall have power to employ such workmen as may be necessary for completing the work assigned to them, at the common expense of the company; and all hire, wages and expenses, in and about said work shall be paid by orders, drawn by the managers or a majority of them on the treasurer; every order shall specify the services, wages or expenses for which it is drawn, and an exact account shall be kept by the managers of all orders drawn by them, or a majority of them, and such accounts shall particularly specify the services or expenses for which each order is drawn; and said accounts shall be laid before the annual meetings of said company, or such other meetings as the company may direct; each manager, before he enters upon the duties required of him by this act, shall be sworn or affirmed in the manner and form as directed in the act entitled "An act concerning the administration of certain oaths and affirmations," to perform the said duties faithfully and impartially, according to the best of his skill and judgment; and a certificate shall be made of the administering of said oaths or affirmations, under the hand or hands of the person or persons who shall administer the same, and returned to the said secretary, to be by him recorded.
Laborers, how paid.	
By order, &c. Their form.	
Accounts to be kept.	
Laid before the annual meeting. Managers to be sworn. Dig. p. 419.	
Certificate.	
Recorded.	
Treasurer to give bond and surety.	SEC. 5. <i>And be it enacted</i> , That the treasurer for the time being, and every treasurer for the time being shall, before he enters upon the duties of his office, give bond with surety or sureties, to be approved by the managers or or a majority of them, to and in the name of the company aforesaid, in the penalty of two thousand dollars, upon condition to be void if he shall pay all orders drawn on him by the managers for the time being, or a majority of them, as far as he shall have funds for that purpose; and shall well and truly account for all monies that may come into his hands as such treasurer, at every annual meeting of the company, or otherwise, as the company may direct; and shall pay any balance or sum that shall be due from him on such account to his successor in office, or otherwise, as the company shall direct, and shall perform all the duties of his office with fidelity.
Penalty, condition of.	
Payment of taxes regulated.	SEC. 6. <i>And be it enacted</i> , That the managers laying the taxes shall appoint the time for the payment of them, and it shall be the duty of the owners respectively, to pay to the treasurer, the tax or taxes which, according to the lists aforesaid, to be delivered to the

said treasurer from time to time as aforesaid, they shall be liable to pay at the time or times appointed by the managers for such payment as aforesaid.

SEC. 7. *And be it enacted*, That the treasurer for the time being, and every treasurer to be chosen as aforesaid for the time being, shall have full power and authority to demand and receive, levy and make, all and every the tax or taxes which shall be laid and assessed pursuant to this act by the managers, or a majority of them, according to the said lists which shall be delivered to such treasurer; and, in case any tax or taxes so laid and assessed, or any part thereof, shall remain unpaid for the space of thirty days, after the time appointed for the payment thereof, the treasurer for the time being, and every treasurer for the time being, may and shall proceed to levy and make all such taxes so remaining unpaid, or any part thereof remaining unpaid, in the same manner and by the same means, as are provided by law for the recovery of the county taxes; and every treasurer for the time being shall have the same power to levy and collect all taxes upon a list delivered to a former treasurer as the treasurer had, to whom the said lists was originally delivered.

Powers of the treasurer in collecting taxes.

Dig. 379-80.

SEC. 8. *And be it enacted*, That the secretary shall procure a copy of this act and have it recorded by the recorder of deeds for Kent county, and certified by him according to law, within twelve months after the passing of said act, and record the same among the records of said company, and record the two certificates to be delivered to him by the commissioners aforesaid, and the list delivered to him from time to time by the managers, or a majority of them, and all other proceedings of said company which said company shall direct to be recorded, and file all papers belonging to said company that shall come to his hands, and take good care of all the papers and records of said company which shall come to his hands, and the same shall be a public record for the company to examine at any of its meetings, and by the officers and committees of said company to examine at any time or times, and the said secretary shall deliver all the papers and records of said company which may be in his hands to his successor in office when demanded.

Secretary's duty—act to be recorded.

Records of the company open to inspection.

SEC. 9. *And be it enacted*, That the secretary shall receive of the company the amount of all fees that he shall have to pay in procuring the aforesaid copy of this act, and reasonable pay for his trouble for procuring the same, which shall be determined by said company at any of its meetings, and every secretary for the time being shall receive of the company one cent for every twelve words by him recorded for said company; and every commissioner and manager shall for each and every day's service in and about the business of said company under this act, receive of the company the sum of one dollar; and every treasurer shall be allowed a commission of five per centum on all monies by him collected, except monies collected of his predecessor in office.

Secretary's fees.

Suits, how to
be instituted.

SEC. 10. *And be it enacted*, That suits may be brought and prosecuted in the name of the said Cow Marsh Company, upon any bond given to said company, or for any damages done to any of the said Cow Marsh ditches or drains.

Injury to the
ditches, &c.
of the com-
pany.

SEC. 11. *And be it enacted*, That if any person or persons shall wilfully fill up or obstruct any of the ditches or drains aforesaid, or shall wilfully stop, obstruct or impede the course of the water or waters from running down the said ditch or ditches, drain or drains, every person so obstructing or filling up any such ditch or ditches, drain or drains, shall be liable to pay to the treasurer of the said Cow Marsh Company, or his successor in office, for the use of said company, the sum of twenty dollars; to be recovered before any one justice of the peace in and for Kent county aforesaid, in the same manner and by the same means as debts of like amount are recoverable by the laws of this State.

Penalty.

Private and
cross ditches
how opened
and kept in
repair.

SEC. 12. *And be it enacted*, That every owner and possessor of any marsh or low grounds rateable and assessed by virtue of this act, shall for the time being, respectively have the right and privilege to discharge the waters from their respective marsh or low grounds into the company's ditch or ditches, drain or drains, by a ditch or ditches to be cut and opened through the marsh or low grounds of other owners or possessors, in such place or places, and of such width and depth as the managers or a majority of them for the time being shall lay out and prescribe; if the cutting and opening of such ditch or ditches will be advantageous to the marsh or low grounds of other owners or possessors, such owners or possessors shall contribute such proportion of the expenses of cutting, opening and keeping open such ditch or ditches as the managers or a majority of them for the time being shall direct to be cut and opened, or cleared out; to be recovered in the same manner, and by the same means as debts under fifty dollars are recoverable by the laws of this State, by such owner or possessor as shall cut, open or clear out such ditch or ditches; and the managers or a majority of them so laying out and prescribing any such ditch or ditches, shall make return of their proceedings in and about said business, to the secretary of said company to be by him recorded; and such owners and possessors to whom said ditch or ditches will be advantageous, shall pay to each manager the sum of one dollar for each and every days service in laying out said ditch or ditches; and pay to the secretary the sum of one cent for every twelve words in recording the said return; any owner shall have free privilege to cut, open and keep open, any ditch or ditches through his, her or their own marsh or ground emptying into any ditch or ditches, drain or drains of said company.

Manager's
fees.

Secretary's
fees.

Powers of
the Treasur-
er collecting
taxes in ar-
rears.

SEC. 13. *And be it enacted*, That the treasurer chosen by the Cow Marsh Company on the first Monday in May, in the year of our Lord eighteen hundred and thirty-one, or any treasurer to be chosen by the Cow Marsh Company for the time being, shall have full power and authority by virtue of this act to demand and re-

ceive, levy and make, all taxes remaining unpaid, or any part thereof, upon any list delivered to any former treasurer within six years, pursuant to the act or any of the supplements aforesaid; and shall pay all orders drawn within six years, on any former treasurer by the managers or a majority of them, pursuant to the former act, or any of the supplements aforesaid, according to the tenor of his bond given to and in the name of the said company.

SEC. 14. *And be it enacted*, That the act entitled "An act to authorise the owners and possessors of the marsh or 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," passed June the seventeenth, seventeen hundred and ninety-three, and the supplement to the said act passed February the seventh, seventeen hundred and ninety-five; and the additional supplement to the said act, passed January the twenty-seventh, eighteen hundred and twenty-six; and the further additional supplement to the said act, passed January the twenty-ninth, eighteen hundred and thirty, be and the same are hereby repealed.

1219.

6 vol. 625.

8 vol.

RESOLUTIONS.

—000—

CHAPTER CLXXXVI.

Directors of the Farmers' Bank. *Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following persons be and they are hereby appointed directors of the Farmers' Bank of the State of Delaware, on the part of the State, agreeable to an act of the General Assembly in such case made and provided:—
Principal bank. For the principal bank, Hunn Jenkins, William K. Lockwood, Joseph Smithers; for the branch at Wilmington, John J. Milligan, Harry Connelly, Charles I. du Pont; for the branch at New Castle, Thomas Stockton, John Janvier, George Platt; for the branch at Georgetown, Georgetown, William D. Waples, James Barratt, William N. Polk.

Adopted at Dover, Jan. 4, 1832.



CHAPTER CLXXXVII.

Preamble. *Whereas*, much inconvenience, delay and embarrassment is experienced by this assembly, from the confused and imperfect manner in which the books and files of papers in the libraries of this Legislature are arranged, owing in a great measure to the multitude of obsolete, and (at present) useless papers, that have accumulated therein. Therefore:

Comm'rs. to take charge of the papers belonging to Legislature. *Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William Johnson and Ignatius T. Cooper, Esquires, be and they are hereby appointed commissioners to take in charge and trust the books and papers in the libraries of this Legislature (after the adjournment of this session, and before the commencement of the next;) and they are hereby directed and required, fully and carefully to examine the same, selecting out such as may be useful and proper to be retained in the said libraries; and they are enjoined properly to label and number each separate book, pamphlet and paper; make out a due and regular alphabetical list or catalogue of the same, and so arrange them on the shelves and within the archives of the said libraries, that they may be readily referred to as needed by the members (or other persons authorised to use them;) and the said com-

To label the books, &c.

missioners are hereby also required to carefully and fitly label the remainder of said books and papers, pack the same in a box or boxes, locking or sealing up the said box or boxes, and deposit them in the office of the Secretary of State, under the especial care and custody of the said Secretary of State, who is hereby required to take charge of the same; and the said commissioners shall, before entering on the duties herein required of them, take an oath or affirmation, before some judge of this State, or the chancellor thereof, faithfully to perform the duties assigned to them by this resolution; and the said commissioners shall present their accounts for the services enjoined by this resolution, to the Legislature at their next session, who shall cause them to be paid such sum or sums as may be judged just and reasonable.

Box them up and deposit them in the Secretary's office. Secretary's duty.

Comm'rs. to be known.

And present their acc'ts. to the Legislature.

Adopted at Dover, Feb. 4, 1832.



CHAPTER CLXXXVIII.

Resolved by the House of Representatives of the State of Delaware, C. P. Come- by and with the concurrence of the Senate, That Cornelius P. Come- gys, State gys be and he is hereby appointed State Treasurer. Treasurer.

Adopted at Dover, Jan. 10, 1832.



CHAPTER CLXXXIX.

Resolved by the House of Representatives of the State of Delaware, Jacob Biddle, by and with the concurrence of the Senate, That Jacob Biddle be Auditor of and he is hereby appointed Auditor of Accounts. Accounts.

Adopted at Dover, Feb. 2, 1832.



CHAPTER CLXL.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the several prothonotaries of this State, be and they are hereby authorised and directed to sell at public vendue, after giving at least four weeks notice in one newspaper printed at Wilmington, and in the newspaper printed at Georgetown, all the copies in their possession of the first, second, third, fourth, fifth and sixth volumes of the laws of this State, to the highest and best bidder for cash.

Prothonotaries to sell at auction, after notice, the 1, 2, 3, 4, 5 and 6th vols. of Del. Laws.

And pay the proceeds to the Secretary of State, after deducting 10 per cent.

Prothonotary discharged from further liability. Proviso.

Resolved further, That the said prothonotaries shall pay over to the Secretary of State, after deducting ten per cent. thereout for their care and trouble, all the money arising from the sale of said volumes; and upon its appearing to the satisfaction of the Secretary of State, that the said volumes have been sold according to the provisions of this resolution, and the money paid over to him as aforesaid; he shall discharge the said prothonotaries from all liability for and on account of such numbers of the volumes of the said laws, as shall be by them sold and disposed of as aforesaid. *Provided however*, that the said prothonotaries respectively shall not set up for sale, to be struck off at any one bid, more than one set of said volumes, such set to consist of single volumes 1, 2, 3, 4, 5 and 6.

Adopted at Dover, Feb. 8, 1832.



CHAPTER CLXLI.

The committee to whom was referred that part of the Governor's message relating to the opening of a canal between the waters of the Chesapeake and Delaware bays, have given to the subject that consideration which its importance demands, and beg leave to recommend the adoption of the following resolutions:

Resolution concurring in the resolution of Maryland, in relation to a canal from the Chesapeake to the Delaware.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That this Legislature fully accords with the sentiments of the General Assembly of the State of Maryland, as expressed in the following resolution:

Resolved by the General Assembly of Maryland, That the extension and security of the coasting trade of the States of Virginia, Delaware and this State, would be effectually promoted by the opening of a safe and direct navigation through the sounds which run parallel with the sea coast, and by the construction of such canals, as may be requisite for the purpose, between the Chesapeake bay, at or near cape Charles and Lewestown creek, on the bay of Delaware, and that the co-operation of the States interested in the improvement, be immediately invited to this object.

Comm'rs. appointed to meet those of Maryland and Virginia. Their powers.

Resolved by the authority aforesaid, That James B. Macomb, Solomon Prettyman and Henry F. Rodney, be and they are hereby appointed commissioners to act jointly with such commissioners as may be appointed by the States of Maryland and Virginia, to survey and lay out a suitable scite or scites for such canal or canals, as they may deem necessary for carrying into effect the meaning and spirit of the foregoing resolution.

Their compensation to

Resolved by the authority aforesaid, That the commissioners appointed as aforesaid, shall receive for their services a reasonable

compensation; to be allowed by the Auditor of Accounts, and paid by the State Treasurer, out of any money in his hands not otherwise appropriated. be allowed by the auditor.

Resolved by the authority aforesaid, That a copy of the foregoing resolutions be signed by the Governor, countersigned by the Secretary of State, and transmitted to the Executives of the States of Maryland and Virginia. Copy of this resolution to be transmitted to the Executives of Maryland and Virginia.

Adopted at Dover, Feb. 8, 1832.



CHAPTER CLXLII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That David Hazzard be and he is hereby appointed a director of the Farmer's Bank of the State of Delaware, on the part of the State, for the branch at Georgetown, to fill the vacancy occasioned by the resignation of James Barratt. David Hazzard a bank director in place of Jas. Barratt resigned.

Adopted at Dover, Feb. 8, 1832.



CHAPTER CLXLIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the bank of the United States, by establishing a sound and uniform currency throughout the Union, has greatly facilitated our commercial operations, advanced our agricultural and manufacturing interests, and by a wise and judicious management, has been productive of the most beneficial results to the nation at large. Resolutions in favor of the U. S. Bank.

Resolved by the authority aforesaid, That the true interest of this country is closely identified with that valuable institution, and that our national prosperity in a great degree depends upon the renewal of its charter.

Resolved by the authority aforesaid, That a copy of the foregoing resolutions be signed by the speaker of the Senate and the speaker of the House of Representatives, attested by the clerks, and transmitted to our senators and representative in Congress; and that our senators be instructed and our representative requested, to use their best exertions in favor of a renewal of the charter of the aforesaid bank. Copies of the resolution to be transmitted to our senators and representative in Congress, &c.

Adopted at Dover, Feb. 1, 1832.

SECRETARY'S OFFICE,

GEORGETOWN, DEL. *April 23, 1832.*

In obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "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," I hereby certify, that I have collated with, and corrected by, the original rolls, and caused to be printed and published, this edition of the laws of the said State, passed during the last session of the General Assembly, which commenced on Tuesday the third day of January, and ended on Friday the tenth day of February, in the year of our Lord one thousand eight hundred and thirty-two.

CALEB S. LAYTON,

Secretary of the State of Delaware.

L A W S

OF THE

STATE OF DELAWARE.



CHAPTER CLXLIV.

A SUPPLEMENT to the act entitled "An act regulating marriage." Dig. 400.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the provisions requiring a license or the publication of bans, contained in the second section of the act to which this is a supplement, shall not hereafter be extended to negroes and mulattoes; but that it shall and may be lawful for a preacher of the gospel, ordained and appointed according to the rules of the church to which he belongs, to solemnize all marriages, where the parties are negroes or mulattoes, without any license or publication of bans.

SEC. 2. *Be it further enacted by the authority aforesaid,* That hereafter, before any marriage shall be solemnized between such persons, each of the parties (being free) shall produce the certificate of some justice of the peace of the county in which he or she may reside respectively, of his or her freedom, which certificate may be according to the following form, viz: I do hereby certify that ——— has this day personally adduced satisfactory testimony, before me, of (his) or (her) freedom and legal ability to contract marriage, as witness by hand this ——— day of ———, A. D. 18—, for which certificate said justice shall receive from the person applying therefor, the sum of twenty-five cents; or (being a servant or slave) shall produce the written consent of (his) or (her) master or mistress to (his) or (her) marriage; and if any preacher of the gospel shall solemnize any marriage contrary to the provisions of this act, he shall forfeit and pay the sum of twenty dollars, to be recovered in like manner as debts of the same amount are recoverable before justices of the peace in this State; one-half to be paid to the person suing for the same, and the other half to the school fund of this State.

Negroes and mulattoes may be married without license or publication of bans.

The parties shall procure a certificate of freedom from a justice of the peace of the county where they reside.
Form of certificate.
Fee for the same.
If a servant or slave, the written consent of the master or mistress.
Penalty.

Passed at Dover, Jan. 16, 1833.

CHAPTER CLXLV.

AN ACT to repeal the act entitled "*An act to amend the act entitled An act directing the election of Assessors and Inspectors.*"

Repeal chap. 129, 8 vol. p. 127. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "An act to amend the act entitled An act directing the election of assessors and inspectors," passed at Dover, on the twenty-fifth day of January, one thousand eight hundred and thirty-two, be and the same is hereby repealed, made null and void.*

Passed at Dover, Jan. 17, 1833.



CHAPTER CLXLVI. (Private Act.)

AN ACT *granting to Susan Bateman, a certain piece of land therein mentioned.*

Passed at Dover, Jan. 18, 1833.



CHAPTER CLXLVII. (Private Act.)

AN ACT *for the relief of the Tappahanna Marsh Company.*

Passed at Dover, Jan. 19, 1833.



CHAPTER CLXLVIII. (Private Act.)

AN ACT *to enable Benjamin Fooks of Sussex county, to locate certain vacant lands, situate in Little Creek hundred in said county, and to complete his title to said lands.*

Passed at Dover, Jan. 19, 1833.

CHAPTER CLXLIX. (Private Act.)

AN ACT to enable Philip Matthews of Sussex county, to locate certain vacant lands, situate in Broad Creek hundred in said county, and to complete his title to said lands.

Passed at Dover, Jan. 19, 1833.

CHAPTER CC.

AN ACT to amend the act entitled "*An act concerning the Auditor of Accounts.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*An act concerning the Auditor of Accounts,*" be and the same is hereby amended as follows:—In the twelfth line of the second section, between the words "General Assembly" and the words "every year," by inserting the words "or a committee thereof which shall be appointed at every biennial session;" and also by striking out the words "Court of Common Pleas" between the words "the" in the thirteenth, and "in" in the fourteenth lines of the third section of said act, and inserting the words "fall term of the Superior Court." The act before mentioned shall be read and construed according to the amendments hereinbefore prescribed; and in any edition of the laws hereafter to be published, the act aforesaid shall be printed as amended by this act.

Dig. 54.
Amended.

By striking out, &c.

How to be read and construed.
And printed.

SEC. 2. *And be it further enacted,* That it shall be the duty of the committee appointed by the Legislature, at every biennial session as aforesaid, to cause three hundred copies of the report submitted to them, to be printed in pamphlet form, and distributed in equal portions to the prothonotaries of the different counties in this State, for the use of the citizens thereof. When the printing is completed, if approved, the committee aforesaid shall certify the sum due according to contract, and the Governor shall have power to draw an order on the State Treasurer for the amount.

300 copies of the auditor's report to be printed by legislative committee.
How distributed.
Expenses, how paid.

Passed at Dover, Jan. 20, 1833.

CHAPTER CCI. (Private Act.)

AN ACT to incorporate the owners of the Strunkiln and Long Island Marsh, for the better securing and improving the same.

Passed at Dover, Jan. 22, 1833.

CHAPTER CCII.

AN ACT to incorporate the trustees of the Smyrna Circuit Parsonage.

Preamble.

Whereas, it is represented to this General Assembly, that the members of the Methodist Episcopal Church, residing within the limits of Smyrna circuit, are desirous of building or purchasing, and furnishing a dwelling-house, with suitable appurtenances for the accommodation of the ministers of the gospel, who may from time to time, according to the order and regulations of the said church, be appointed to the pastoral charge of the congregations comprised in said circuit, and that the accomplishment of this object without legislative aid is impracticable: Therefore,

Company incorporated.

*SEC. 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, two-thirds of each branch of the Legislature concurring herein, That William Deakynne, Joseph Hoffecker, Alexander McClyment, Abraham Staats and Pennel Coombe, and their successors, be and they are hereby created and declared to be one community, corporation and body politic in law and in fact, by the name and style of "The Trustees of the Smyrna Circuit Parsonage," and by the said name shall have perpetual succession; and the said trustees and their successors, by the name aforesaid, shall be able and capable in law, to purchase, receive and hold, any lands, tenements, rents, goods and chattels, which shall be given, sold, or conveyed to them; and to sell, dispose of, alien and demise the same, in such manner and form as they may deem most beneficial, and best calculated to provide and furnish a comfortable residence for such ministers or preachers of the gospel, and their families respectively, as may from time to time, according to the order and regulations of the Methodist Episcopal Church in the United States of America, be appointed to the pastoral charge of the societies or congregations, under the care of said church, within the bounds of Smyrna circuit aforesaid: *Provided nevertheless, and it is hereby expressly enacted and declared, that the aggregate value of all the lands, tenements, rents, goods and chattels, which may be held by the said corporation, at any one time, shall not exceed the sum of five thousand dollars.**

Name.

Corporate powers.

Limitation of capital.

Vacancy in the board of trustees how supplied.

SEC. 2. And be it further enacted by the authority aforesaid, That whenever any vacancy shall happen in the said board of trustees, either by death, resignation, refusal to serve, removal from within the limits of said circuit, or in any other manner, the members of the quarterly conference of said circuit, at any of the meetings of said conference may, and they are hereby authorised and empowered, by a resolution of said conference, passed by a majority of the members present, to appoint a person or persons to fill such vacancy; and if any of the said trustees hereby appointed, or hereafter to be appointed under this act, shall at any time after such

appointment secede from, or cease to be members of the said Methodist Episcopal Church, such secession or other determination of membership, shall be deemed and taken to be a resignation of his or their said trusteeship, and the vacancy thus occasioned, shall be filled as hereinbefore is provided for filling the vacancies which may happen in said board of trustees.

SEC. 3. *And be it further enacted by the authority aforesaid, That* Trustees the said trustees shall have power to take and receive subscrip- may receive tions, for the furtherance of the object contemplated by the first subscriptions and enforce section of this act; and in case any person shall fail to comply with their pay- and enforce their pay- ment. corporation shall not possess or exercise any banking powers, nor Banking powers and lend money on interest or discount, under any pretence whatever. lending mo- ney on in- terest prohi- bited.

SEC. 4. *And be it further enacted by the authority aforesaid, That* the said corporation shall have power and authority to hold such meetings and appoint such officers, from their own body, and do such other acts and things, as shall be necessary, to carry into effect the provisions of this act, according to the true intent and meaning thereof; may by the name aforesaid, sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of law and equity, or in any other place whatsoever, may have and use a common seal, and change, break, or alter the same, and establish another or others; and all acts certified under the seal of the said corporation, relating to the affairs thereof, shall have full faith and credit, in and before all and every the courts and jurisdictions within this State. Sec. 1, further powers.

SEC. 5. *And be it further enacted by the authority aforesaid, That* Limitation of this act shall continue in force, for and during the term of twenty corpora- tion. years from the passing thereof, and no longer, any law, usage or custom, to the contrary notwithstanding: *Provided nevertheless, and it is hereby expressly understood, enacted and declared,* that power Power of re- to revoke or dissolve the said corporation by this act created, is vocation re- hereby reserved to the Legislature of this State, whenever the said served, Legislature shall deem such revocation or dissolution necessary or expedient; any thing in this act contained to the contrary notwithstanding.

Passed at Dover, Jun. 22, 1833,



CHAPTER CCIII.

A FURTHER SUPPLEMENT to the act entitled "*An act concerning the New Castle and Frenchtown Turnpike and Rail-road Company.*"

Whereas, the cost and expense of constructing the rail-road of the said company, from New Castle to Frenchtown, have greatly Preamble.

exceeded the estimates made before its completion, and by reason of such heavy cost and expense, the tolls heretofore established, are found insufficient, and for many articles no tolls whatever are fixed.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following are and shall be the rates of toll, which the said company may charge and receive for the use of the said rail-road, that is to say:—

Tolls.

For every passenger, including customary baggage, not exceeding one hundred pounds, ten cents per mile.

For dry goods and such other articles of merchandise, not herein particularly specified, as usually pay freight by measurement, six cents per cubic foot.

For flour, fifteen cents per barrel.

For coffee, twenty cents per barrel, and fifteen cents per bag.

For figs, five cents per drum.

For indigo, seventy-five cents per box.

For lemons or oranges, large or round top box, twenty cents.

For the same in small boxes, twelve and a half cents.

For paper, ten cents per ream.

For raisins, four cents per box, and twelve cents per keg.

For segars, six cents per box.

For tea, twenty-five cents per chest, fifteen cents per half chest, and five cents per ten catty box.

For wood, one dollar per cord.

For wood-ware, sixteen cents per dozen pieces.

For specie, at the rate of fifty cents for every thousand dollars in value.

For all other articles not before specified, one cent per mile for every hundred pounds: *Provided nevertheless*, that it shall and may be lawful for the said company to charge and receive tolls, either by weight or measurement, according to the rates of toll fixed by this section.

The rail-road co. agree to take the canal stock of the State; 25,000 dollars. And pay 6 per cent, on that sum, semi-annually, for the school fund. Or dividends on that sum if they exceed 6 per cent. The turnpike road from

SEC. 2. *And whereas*, the New Castle and Frenchtown Turnpike and Rail-road Company aforesaid, have agreed and do hereby agree to receive at its par value, a transfer of the stock, now owned by the State of Delaware, in the Chesapeake and Delaware Canal Company, and have agreed and do hereby agree to pay to the said State, for the benefit of the school fund, interest at the rate of six per centum per annum; or if the rate of dividend on the capital stock of the said New Castle and Frenchtown Turnpike and Rail-road Company, shall exceed six per cent. per annum, then at the rate of such dividend, on the par value of the said stock, that is to say, on the sum of twenty-five thousand dollars; such interest to be paid half-yearly, to wit: on the first day of July, and the first day of January, in each and every year after the passing of this act; the first payment to be made on the first day of July next: And whereas, the said company have also agreed, and do hereby agree,

to surrender to the State all the rights of the said company, in and to the turnpike road, leading from Clark's Corner to the Delaware line, in the direction towards Frenchtown: Therefore, in consideration of the premises, *be it further enacted*, that it shall not be lawful for any other person or persons, body politic or corporate, to construct any other rail-way, or road to be used or travelled by locomotive engines, or engines propelled by steam within New Castle county, between the waters of the Appoquinimink creek and those of the Christiana river, or within a distance from the New Castle and Frenchtown Rail-road on each side thereof, as great as the mouth of said Appoquinimink creek and of said Christiana river is from said rail-road at the town of New Castle: *saving nevertheless*, the rights and privileges heretofore granted to "The Wilmington and Susquehanna Rail-road Company," in the location of their road from the city of Wilmington to the Susquehanna river.

SEC. 3. *And be it further enacted*, That upon an obligation under the common seal of the New Castle and Frenchtown Turnpike and Rail-road Company, securing to the State for the benefit of the school fund, the payment of the said interest on the said twenty-five thousand dollars, in the manner and at the times hereinbefore mentioned in that behalf, then, and in such case, the State Treasurer, or other proper officer of this State, is hereby directed to assign and transfer to the New Castle and Frenchtown Turnpike and Rail-road Company, all the aforesaid stock held by the State of Delaware, in the Chesapeake and Delaware Canal Company.

SEC. 4. *And be it further enacted*, That it shall and may be lawful, to and for the said New Castle and Frenchtown Turnpike and Rail-road Company to purchase or procure steamboats, for the conveyance of passengers and merchandise, and use the same in connection with the said rail-road; and for this purpose, it shall be lawful to and for the directors of the said company, in the manner already authorised by law, to increase the capital stock of the said company, by the addition of two hundred and fifty thousand dollars; and it shall be the duty of the said rail-road company, to convey the passengers and merchandise of steamboats belonging to any other company, at the same rate of toll, and with the same facilities in all respects, as the said rail-road company may convey passengers and merchandise of steamboats, which may belong to the said rail-road company: *Provided always*, that when the price for conveying an adult passenger from one city to the other (to wit: Philadelphia and Baltimore,) shall be three dollars or less, the said rail-road company may charge and receive one dollar and twenty-five cents for each adult passenger, and for minors, in full proportion, and no more; and when the price for an adult passenger between the two cities shall exceed three dollars, the said rail-road company may charge and receive, in addition to one dollar and twenty-five cents, for each adult and others, rateably one-half of said excess.

SEC. 5. *And be it further enacted*, That this act shall not con-

Continuance
of this act.

The State
may require
a return of
the canal
stock on pay-
ment of \$25,
000.

tinue in force longer than twenty years, from and after the first day of July next, without the re-enactment of the Legislature; and in case it be not re-enacted, the said New Castle and Frenchtown Turnpike and Rail-road Company, shall either re-transfer to the State the same number of shares of the stock of the Chesapeake and Delaware Canal Company as is now held by this State, or shall pay to the State the sum of twenty-five thousand dollars, the par value thereof, as the Legislature may then deem most advantageous to the interests of the State.

Further con-
dition of the
passing this
act.

Payment of
a tax, semi-
an'y. of 1-4th
of one per
cent.

Acceptance
within three
months, &c.

SEC. 6. *And be it further enacted*, That as a further condition of the passing of this act, the said rail-road company, shall semi-annually, pay to the treasurer of this State, for the use of the State, at the rate of one-fourth of one per centum per annum, on their stock actually paid in, for and during the continuance of twenty years from the acceptance of this act.

SEC. 7. *And be it further enacted*, That this act shall not take effect until the said New Castle and Frenchtown Turnpike and Rail-road Company, shall signify their acceptance of this act, within three calendar months from the time of its passage, by some writing or writings, under their common seal of incorporation, to be delivered to the Governor of this State, and recorded in the office of the Secretary of State.

Passed at Dover, Jan. 22, 1833.

CHAPTER CCIV. (Private Act.)

AN ACT to enable Daniel Hudson, administrator of James Roberts, deceased, to sell and convey certain lands therein mentioned.

Passed at Dover, Jan. 23, 1833.

CHAPTER CCV.

AN ACT to repeal a part of the 9th section of the act entitled "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."

* Repeal of
part of 9th
sec. Dig. 563.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That so much of the ninth section of the act entitled "An act for the more effectual pre-

servation 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," as requires the sheriff of each county publicly to read the foregoing act, in presence of the court be, and it is hereby repealed, made null and void.

Passed at Dover, Jan. 24, 1833.

CHAPTER CCVI.

AN ACT *prohibiting the planting of hedges and threshing of Murderkill Creek.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if any person or persons, after the passing of this act shall place, erect, make or construct, any hedge or hedges, in any part of Murderkill creek, or any person or persons, who shall whip, thresh, beat, or otherwise disturb the waters of Murderkill creek, with a view to divert or drive fish into his or her nets, seines or wears, he, she or they, for every such offence, being thereof duly convicted, shall forfeit and pay to any person who shall sue for the same, the sum of ten dollars, with costs of suit, to be recovered before any justice of the peace for the county of Kent, as debts under fifty dollars are recoverable by the laws of this State.

Penalty.

Passed at Dover, Jan. 24, 1833.

CHAPTER CCVII.

A FURTHER SUPPLEMENT *to the act entitled "An act concerning insolvent prisoners."*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the fourth, fifth, sixth and sixth sections of the act entitled "A supplement to the act entitled 'An act concerning insolvent prisoners'" passed at Dover, on the tenth of February, one thousand eight hundred and thirty-two, be and the same are hereby repealed, made null and void.

Vol 8, chap. 174, p. 178, 4th and 6th secs. repealed.

SEC. 2. *And be it further enacted,* That the sixth section of the act entitled "An act concerning insolvent prisoners," passed at Dover, on the eighth day of February, one thousand eight hundred and twenty-seven, be and the same is hereby revived and declared act.

Dig. 306. 7th vol. 135, 6th sec. revived, except as altered by 3d. sec. of this act.

to be in full force, except so much thereof as is altered in the third section of this act.

Striking out,
&c. certain
words.

SEC. 3. *And be it further enacted*, That the sixth section of the last mentioned act shall be, and is hereby altered, amended and supplied, by striking out in the second and third lines thereof, as printed in the revised edition of the laws, the words "or non-performance of a decree for the payment of money;" and by striking out in the fourth line thereof, the words "execution or other" and inserting in the same line, between the word "or" and the word "commitment" the words "by virtue of any;" and also inserting in the same line, immediately after the word "commitment," the words "other than by execution or final process."

How the
same shall be
read and con-
strued.

SEC. 4. *And be it further enacted*, That the sixth section of the last said act, shall be read and construed according to the foregoing amendment; so that such section shall extend only to cases of imprisonment for debt, or damages or costs of a civil suit, by virtue of original process, or by virtue of any commitment, other than by execution or final process.

And hereaf-
ter printed.

SEC. 5. *And be it further enacted*, That the said sixth section of the last said act, in any edition of the laws of this State, which may hereafter be published, shall be printed as amended and supplied in the third section of this act.

Passed at Dover, Jun. 24, 1833.



CHAPTER CCVIII.

Dig. 518.

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

Tavern li-
cense for the
city of Wil-
mington,
how to be ob-
tained.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the passage of this act, it shall not be lawful for the Court of General Sessions of the Peace and Gaol Delivery to grant any recommendation to the Governor for the time being, for a license or licenses to keep any public house of entertainment, tavern, inn, ale-house, ordinary or victualling-house, within the limits of the city of Wilmington, unless the petition of the person applying for such recommendation is accompanied by the written certificate under the hands of at least ten respectable freeholders in the city of Wilmington; of whom three shall be members of the city council, setting forth, that the person petitioning is a fit person and well qualified for keeping a tavern or house of entertainment, and that the prayer of the petitioner ought to be granted; the person petitioning

shall before his petition be filed, first pay the clerk of the peace for the use of the State, the fee of twelve dollars for each license, and the said clerk shall give a receipt for the same; and in case the said petitioner shall not be recommended, the said fee shall be refunded to him by the said clerk on demand. Fee for the same.

SEC. 2. *And be it further enacted*, That all petitions for such recommendation for a license to keep any public house of entertainment, tavern, inn, ale-house, ordinary or victualling-house, within the limits of the said city, together with such certificate as aforesaid annexed to each petition, shall be filed with the clerk of the peace of New Castle county, on or before the second day of the term of the Court of General Sessions of the Peace and Gaol Delivery in and for said county, at which such recommendation shall be applied for; and the clerk of the peace shall within two days thereafter, cause to be delivered to the president of the city council, a list certified under his hand and the seal of the said court, of all the persons within the said city, whose petitions have been filed as aforesaid, with the names of the freeholders signed to the certificate, annexed to each petition; and in case the said city council shall object to a license being granted to said petitioners or any of them, they shall return the said list to the said court, on or before the Tuesday of the second week of the term of said court, with their objections in writing; and the said court shall not recommend any such petitioner to the Governor for a license, unless it shall satisfactorily appear to the said court that such petitioner is a fit person and well qualified for keeping a tavern or house of entertainment. Petition and certificate to be filed with the clerk of the peace, on or before the second day of the term. Clerk of the peace within two days, shall deliver a list to the president of the city council. Objections in writing by the city council may be made on or before the 2d Tuesday of the term. No petitioner to be recommended unless the court is satisfied he is fit.

Passed at Dover, Jan. 24, 1833.



CHAPTER CCIX. (Private Act.)

AN ACT *granting to Joseph Buckmaster of Kent county, a certain tract or parcel of marsh therein described.*

Passed at Dover, Jan. 25, 1833.



CHAPTER CCX.

AN ACT *extending the laws of this State, which require hawkers, pedlars and petty chapmen to take out license, to all traders in clocks not manufactured in this State.* Dig. 265.6.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That all and eve-

Venders of
clocks not
manufactured
in this
State, to take
out license.

Such license
to be special-
ly for the sale
of clocks.

Fee to the
State \$50.

ry the provisions of the laws of this State which require hawkers, pedlars and petty chapmen to take out licenses, shall include and extend to persons who shall trade or traffic in clocks, not manufactured in this State; and that before any person or persons shall deal or traffic in this State as a hawker, pedlar or petty chapman, in the sale or vending of clocks not manufactured in this State, such person or persons shall obtain a license therefor, in the manner and under the provisions of the laws of this State in relation to hawkers, pedlars and petty chapmen; such license shall be specially for the sale or vending of clocks, and shall not authorise the sale or vending of any other article or commodity whatsoever.

SEC. 2. *And be it enacted*, That the fee to the State for every such license for the sale or vending of clocks as aforesaid shall be fifty dollars.

Passed at Dover, Jan. 25, 1833.



CHAPTER CCXI.

Dig. 171-2. *AN ACT to amend the act entitled "An act directing the election of Assessors and Inspectors."*

Amended.

By striking
out, &c.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the act entitled "An act directing the election of Assessors and Inspectors," be and the same is hereby altered, amended and supplied, by striking out all that part of the first section which follows immediately after the enacting clause, and the word "that," to the words "in each hundred of this State," and inserting in the place thereof the words "an election shall be held on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-four, and every second year thereafter;" also by striking out in the second section, in the form of certificates of election, the words "day of September," and inserting in the place thereof the words "first Tuesday of October."

How to be
read and con-
strued.

SEC. 2. *And be it further enacted*, That the act before mentioned shall be read and construed according to the foregoing amendments; and in any edition of the laws of this State hereafter to be published, the act aforesaid shall be printed as amended by this act.

Passed at Dover, Jan. 25, 1832.

CHAPTER CCXII.

AN ACT to incorporate the New Castle Manufacturing Company.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, with the concurrence of two-thirds of each branch,* That a company shall be established for the purpose of carrying on the manufacture of cotton, wool, grain, plaster of Paris and other materials, in or near the town of New Castle. The capital stock of the said company shall not exceed two hundred thousand dollars, divided into shares of fifty dollars each. Company established.
Capital.

SEC. 2. *And be it further enacted,* That Thomas Janvier, James Couper, Jun., James Rogers, James Smith and Charles I. du Pont, be and are hereby appointed commissioners to receive subscriptions to the said capital stock; and to open a book or books for that purpose at such times, in such places, and under such regulations, as they or a majority of them shall deem proper. Comm'rs. appointed.
Their powers and duties.

SEC. 3. *And be it further enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns, shall be and they are hereby created and declared to be a corporation and body politic, by the name of "The New Castle Manufacturing Company," and by that name shall have continuance, and may make and have a common seal, and shall be able to sue and be sued, implead and be impleaded, in courts of law and equity, and to purchase, have, hold and receive, possess, retain and enjoy, to them and their successors and assigns, lands, tenements, hereditaments, goods, chattels and effects of any kind, nature, or quality whatsoever; and the same from time to time to sell, grant, demise, alien, or dispose of at pleasure; to make by-laws, ordinances and regulations, not contrary to the laws and constitution of this State or of the United States: and also to appoint such officers and agents as may be necessary, and to allow them such compensation as shall be right and proper, which together with all other expenses, shall be defrayed out of the funds of the corporation: *Provided,* that power is hereby reserved to the General Assembly, to revoke the act of incorporation: *And provided further,* that this act of incorporation shall not continue in force for a longer period than twenty years, without the re-enactment of the Legislature. Name.
Powers.
This act may be repealed.
Continuance,

SEC. 4. *And be it further enacted,* That it shall not be lawful for the said corporation to exercise any banking powers whatever. The following shall be, and the same are hereby enacted fundamental articles of the constitution of said corporation: Banking power prohibited.

1st. The business and concerns of the said corporation shall be managed by five directors. The directors shall be elected by the stockholders. The first election shall be held as hereinafter appointed; and all elections of directors, after the first, shall be held Fundamental articles,
Directors,

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

**President.
Meeting and
board.**

**Powers of
directors.**

Officers.

By-laws.

**What they
must pre-
scribe.**

**Annual meet-
ing of stock-
holders.**

2d. The directors shall have power to purchase such lands and premises, and erect such buildings, and to procure such steam and other engines and machinery, as they shall from time to time deem requisite to carry on such manufacture of cotton, wool, grain, and plaster of Paris and other materials, and execute such plans as they shall think most advantageous for the corporation; to appoint and remove all such officers of the corporation as the by-laws may require; to fix and pay the salaries of such officers, and if so directed by the by-laws to take from said officers respectively, or any of them, bond with surety, as the by-laws shall prescribe; and to employ workmen and laborers, and to agree upon and pay their wages; to purchase materials and make sales, and employ agents and factors, and to do all acts requisite to carry into effect the purpose for which the company is established; and to this end, to use and employ the capital stock and funds of the company, under such regulations as the by-laws shall prescribe, and to bind by their contracts, deeds or writings, under the hand of the president and seal of the corporation, all the property and estate, common stock and joint funds of the corporation aforesaid, but not the persons or separate property of themselves or any of the stockholders: *And further*, the directors shall have power to make by-laws for the government of the said corporation, and regulating the management of the business and concerns thereof; and to revise, repeal, and amend the same at pleasure. The by-laws, among other things, shall prescribe the officers of the corporation, other than the president and directors; the bonds to be taken from any of the officers; the place or places of holding the meetings of the stockholders; the manner of calling occasional meetings; and the mode and regulations respecting the assigning of the shares of the capital stock.

3d. There shall be an annual meeting of the stockholders on the first Monday of February, in the year of our Lord one thousand eight hundred and thirty-four, and on the first Monday of February in each and every succeeding year, during the continuance of the corporation. If an election shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed, in any year, the corporation shall not for that cause be dissolved; but

in such cases, directors may be chosen at any occasional meeting, regularly called for that purpose.

4th. In all meetings of the stockholders regularly held; those assembled may proceed to business. All elections of directors shall be by ballot, and shall be decided by plurality of votes given; and all other questions shall be determined by the majority of the votes given. In all elections of directors, and upon every subject and question which shall come before the stockholders, at their meetings, the stockholders respectively, shall be entitled to as many votes as they shall respectively hold shares, one vote for every share; and the stockholders respectively, who may be absent from such meetings, shall be entitled to vote by proxy, in all such elections, and upon every such subject and question. Manner of voting, &c.

5th. The shares of the capital stock aforesaid, shall be personal property, and shall be assignable, subject to the regulation of the by-laws. Shares may be assigned.

6th. The directors shall from time to time, make dividends of the clear profits of the business of the corporation, or of such part of the said clear profits as shall be deemed advisable. The time of making the dividends shall be prescribed by the by-laws. Dividends to be made.

7th. The directors shall at all times keep or cause to be kept, proper books of accounts, in which shall be regularly entered all the transactions of the said corporation; which books shall be subject at all times to the inspection of the stockholders; and the directors shall once in every year, take an account of the stock, property and effects belonging to the said corporation, and of all debts owing by or to the said corporation, and make a record thereof in a book to be kept for that purpose, and exhibit the same to the stockholders at their annual meeting; and no director shall have any emolument except such as shall be allowed by the stockholders at their annual meetings. Accounts to be kept, &c.

SEC. 5. *And be it further enacted,* That in ten days after the books aforesaid shall be opened, if thirty thousand dollars of the capital stock shall then be subscribed, or as soon thereafter as the said sum of thirty thousand dollars of the said capital stock shall be subscribed, the commissioners aforesaid or a majority of them, shall call a meeting of the subscribers to the said capital stock, to be held at a time and place by the said commissioners or a majority of them to be appointed, and shall give notice of such meeting, and the time and place thereof, by advertisement in at least one newspaper published in this State. at least ten days before the time of such meeting; and the subscribers who shall assemble in such meeting, and the proxies of such as shall be absent, shall elect five directors by ballot and plurality of the votes given; which said directors shall continue in office until the first Monday of February, in the year of our Lord one thousand eight hundred and thirty-four, and until successors to them shall be duly chosen; and the said directors shall have the powers and be liable to the regulations herein before prescribed and set forth in relation to directors, and shall First meeting, how called.

And directors elected.

LAWS OF THE

come within the purview and effect of all the articles herein contained touching directors, to all intents and purposes.

Capital, when
and how to
be paid.

SEC. 6. *And be it further enacted,* That on the day of the first meeting of the subscribers to be held as aforesaid, the subscribers respectively shall pay to the directors who shall then be chosen, five dollars upon each and every share which they respectively shall have subscribed to the capital stock aforesaid, and the residue of the amount so subscribed for in such manner, in such instalments, and at such times as the president and directors shall appoint; and the president and directors shall give at least ten days' public notice of the manner and time which they shall appoint for the payment of the remaining instalments of said capital stock, by advertisement to be inserted in at least one newspaper published in this State.

Shares not
subscribed or
forfeited, how
disposed of.

SEC. 7. *And be it further enacted,* That if no payment shall be made upon a share or shares at the time of the first meeting of the subscribers aforesaid, or if any of the instalments which may be called for as aforesaid by the president and directors, shall not be paid within sixty days next after the time in said call appointed for the payment thereof, the said president and directors may either declare such share or shares forfeited, in which case they may be disposed of at the pleasure of the corporation; or they may in the name of the corporation, sue for and recover the sum so as aforesaid payable at the first meeting of the subscribers, and also the instalment or instalments, or part or parts so called; and no stockholder who shall refuse or neglect to comply with any call so made as aforesaid, shall during the time of such refusal or neglect be entitled to vote at any meeting of said stockholders; nor shall any stockholder during the time of such refusal or neglect, demand or receive any dividend. And it shall be lawful for the president and directors, and they shall have full power and authority to dispose of all the shares of the capital stock aforesaid, which shall not be subscribed in the books to be opened by the commissioners aforesaid, and all the shares which may be forfeited as aforesaid, for the interest of the institution; and for that purpose to open books for receiving subscriptions, or to adopt such other measures as they shall deem advisable, subject to such regulations as may be prescribed by the by-laws; and the person or persons who shall become proprietors of such shares shall be members of the said corporation as fully and effectually as the original subscribers, under such restrictions as the by-laws may impose.

Tax to the
State, when
to be paid.

SEC. 8. *Be it enacted by the authority aforesaid,* That in consideration of the passing of this act "The New Castle Manufacturing Company" aforesaid, whenever and so long as the clear dividends of the said company shall exceed ten per centum per annum, on the capital stock actually paid in, shall annually pay into the treasury of the State, for the use of the State, the tenth part of such excess over ten per centum aforesaid.

SEC. 9. *And be it further enacted*, That this act be and the same Public act. is hereby declared to be a public act.

Passed at Dover, Jan. 25, 1833.

CHAPTER CCXIII.

AN ACT to divide Christiana hundred into two hundreds.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That Christiana hundred in New Castle county shall be divided into two hundreds, and the line now separating the city of Wilmington from the county part of said hundred, shall be and is hereby established as the line of division; that part of said hundred situated on the north side of said dividing line, shall hereafter form and be called Christiana hundred, and that part of said hundred situated on the south side of said line, shall form and be called the city of Wilmington.

Christiana hundred in N. C. county, how divided. One part called Christiana hundred, the other the city of Wilmington.

SEC. 2. *Be it further enacted by the authority aforesaid*, That Christiana hundred according to the preceding division, shall be the second election district of New Castle county, and all elections required or authorised by the laws of this State appertaining to the respective hundreds, shall hereafter for the said hundred of Christiana, be held at the Buck Tavern House, in said hundred, now occupied by Peter Hendrickson; which said elections shall be opened, held, and in all respects conducted according to the laws of this State for such purposes made and provided, and the city of Wilmington shall be the city election district of New Castle county; and all elections as aforesaid shall hereafter for the said city election district, be held as before the division of Christiana hundred aforesaid; and all laws that apply to hundreds as such, shall apply to Christiana hundred and the city of Wilmington, formed and divided as aforesaid as entire and distinct hundreds, and the citizens residing in each accordingly; except so far as respects the election of commissioners of the roads in and for the said city of Wilmington.

Christiana hundred to be the 2nd election district.

Where election to be held.

City of Wilmington to be the city election district.

Elections, where to be held.

All causes applicable to hundreds as such shall apply to, &c.

Exception.

One L. Court commissioner and trustee of the poor for Christiana hundred, and one L. Court comm'r. and trustee of the poor for the city of Wil-

SEC. 3. *Be it further enacted by the authority aforesaid*, That there shall be one commissioner of the Levy Court and Court of Appeal, and one trustee of the poor residing in Christiana hundred, formed as aforesaid, and one commissioner of the Levy Court and Court of Appeal, and one trustee of the poor residing in the city of Wilmington.

SEC. 4. *Be it further enacted by the authority aforesaid*, That the Levy Court and Court of Appeal, with the assistance of the last assessor for Christiana hundred, shall have power and authority, mington.

Transfers,
&c. how to be
made.

L. Court to
appoint a col-
lector for
Christiana
hundred, and
a collector
for the city of
Wilmington.

Bond and se-
curity to be
given.

L. Court au-
thorised to
take such
measures as
the law al-
lows to col-
lect taxes,
&c.

Taxes of
1832, by
whom to be
collected.

Present ass-
essor to be
continued
until, &c.

General elec-
tions, when
to be opened
and closed.

and are hereby required to effect all proper transfers and divisions in the assessment lists, of what has heretofore been Christiana hundred, in such manner that the taxables and property heretofore assessed within the bounds of christiana hundred hereby formed, and the city of Wilmington, may stand and remain as the proper assessment lists of Christiana hundred and the city of Wilmington aforesaid. And the said Levy Court and Court of Appeal are hereby directed and authorised to appoint a collector for Christiana hundred and a collector for the city of Wilmington, for the present and each succeeding year, who are hereby authorised and required respectively to give security, and to receive and collect the taxes according to the duplicates delivered to them, in the same manner and to as full an effect as is provided by law for the collection of the taxes of the other hundreds in New Castle county; and the said Levy Court and court of Appeal shall take bond and security of said collectors, and duplicates of taxes and taxables for the hundred or city for which they shall respectively be appointed shall be delivered to them; and generally the said Levy Court and Court of Appeal shall take the same measures and proceed in the same manner to effect the levying and collecting and paying over the taxes of said hundred and city respectively, as are by law provided for effecting the same objects in the other hundreds of New Castle county.

SEC. 5. *And be it further enacted by the authority aforesaid,* That all the unpaid taxes assessed or levied upon the taxables and property of Christiana hundred for the year eighteen hundred and thirty-two, (as said hundred heretofore stood) shall be collected by the collector appointed for that purpose; and all the powers and responsibilities of such collector in this behalf shall be continued until such collection is completed; the present assessor for the hundred, as the same heretofore stood, shall be the assessor for the city of Wilmington, until a successor shall be elected and qualified; and the Levy Court and Court of Appeal of New Castle county are hereby authorised and required to appoint an assessor in and for Christiana hundred hereby formed, who shall be and perform the duties of assessor of said hundred, until a successor be elected and qualified; first being duly qualified according to law in such case made and provided.

SEC. 6. *Be it further enacted by the authority aforesaid,* That the general election in each of the said hundreds of Christiana and the city of Wilmington, shall hereafter be opened between the hours of nine and ten o'clock in the forenoon, and shall be continued open until five o'clock in the afternoon, when it shall be closed; any law or usage to the contrary notwithstanding.

SEC. 7. *And be it further enacted by the authority aforesaid,* That so much of the acts of the General Assembly of this State as relate to Christiana hundred as the same heretofore stood, or to the elec-

tion therein held as is hereby altered or supplied, be and the same Repeal is hereby repealed.

Passed at Dover, Jan. 25, 1833.



CHAPTER CCXIV.

A SUPPLEMENT to the act entitled "*An act concerning landlords and tenants.*" Dig. 361.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That 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, whether it be rent-charge, rent-seck, quit-rent or otherwise, (except rent in arrear upon the demise of lands, tenements and hereditaments, which is provided for by the act to which this is a supplement,) issuing out of, or charged upon any lands, tenements and hereditaments, the person entitled to such rent may distrain for the said rent in arrear, as well the grain, grass and other produce found on the premises, whether growing or severed, in sheaves, stacks or otherwise, as the horses, cattle and other goods and chattels, being upon the premises, chargeable with the said rent, according to the provisions and subject to the limitations contained in the first section of the act to which this is a supplement. Grain, grass, &c., whether growing or severed, may be distrained for rent in arrear. Dig. 361.

SEC. 2. *And be it further enacted,* That the second, third, fourth, fifth, sixth, seventh and fifteenth sections of the act to which this is a supplement, shall apply and extend to the cases provided for in the first section of this act. The 2d, 3d, 4th, 5th, 6th, 7th, and 15th sections to be applied to the cases in 1st sec. of this act.

SEC. 3. *And be it further enacted,* That the husband of a wife entitled to rent as aforesaid, shall have the same remedy by debt or distress after her decease as during her life, for the arrears of the said rent accruing during the marriage; and a person entitled to any rent as aforesaid 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, and that an action of debt shall lie for the arrears of any rent as aforesaid, whether in fee, in tail, or for life, either during the continuance or after the determination of the freehold. Arrears of rent may be recovered by husband, when, &c. Rent may be recovered after the determination of a freehold, &c.

Passed at Dover, Jan. 25, 1833.

CHAPTER CCXV. (Private Act.)

AN ACT to incorporate the Beaverdam and Harrington's Branch Canal Company.

Passed at Dover, Jan. 28, 1833.



CHAPTER CCXVI.

AN ACT to incorporate the Thorn Point House Company.

- Company.** SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring herein,)* That Joseph G. Oliver, William Walton, Elijah Hudson, Benaiah Watson, Peter F. Causey, James P. Losland, William C. Williams, Reynear Williams and William E. Jester and their successors, be and they are hereby created and declared to be one community, corporate and body politic in law and in fact, by the name and style of the "Thorn Point House Company," and by the said name shall have perpetual succession; and the said corporation by the name aforesaid, shall be able and capable in law to purchase, receive and hold any lands, tenements, rents, goods and chattels, which shall be given, sold or conveyed to them, and to sell dispose of, alien and demise the same, in such manner and form as they may deem most beneficial to the interests of the said corporation: *Provided nevertheless, and it is hereby expressly enacted,* that the aggregate value of all the lands, tenements, rents, goods and chattels which may be held by the said corporation at any one time, shall not exceed the sum of six thousand dollars; which said capital may be divided and held in shares of twenty-five dollars.
- Name.**
- Capital.**
- Powers.** SEC. 2. *Be it enacted by the authority aforesaid,* That the said corporation may hold meetings, appoint officers from their own body, have and use a common seal, and change, break or alter the same, and establish another or others; may by the name aforesaid, sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in courts of law and equity, or in any other place whatsoever, and may establish and put in execution such constitution, by-laws, or ordinance and regulations, as shall be necessary and convenient for the government of said corporation, and perform such other acts and things as belong to corporations generally; except that the said corporation shall not possess or exercise any banking powers, nor lend money on interest, or discount, under any pretence whatever.
- Restriction.**

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

shall continue in force for and during the term of twenty years Continuance.
 from the passing thereof and no longer, any law, usage or custom
 to the contrary notwithstanding: *Provided nevertheless, and it is*
hereby expressly understood, enacted and declared, that power to
 revoke or dissolve the corporation hereby created is reserved to
 the Legislature of this State, whenever the said Legislature shall
 deem such revocation or dissolution necessary or expedient, any
 thing in this act to the contrary notwithstanding. May be re-
pealed.

Passed at Dover, Jan. 29, 1833.

CHAPTER CCXVII.

AN ACT to form two hundreds of what was heretofore Broadkiln hundred, in Sussex county, as to holding the general and special elections, the election of Assessors and Inspectors, and the appointment of Constables.

SEC. 1. *Be it enacted by the Senate and House of Representatives* Broadkiln
of the State of Delaware in General Assembly met, That Broadkiln hundred, in
 hundred shall on or before the first day of October in the present Sussex coun-
 year, be divided into two hundreds for the purpose of holding the ty to be di-
 general and special elections, the election of assessors and inspec- vided into two
 tors and the appointment of constables; and George R. Fisher, hundreds.
 George Frame and John Ponder, be and they are hereby appoint- Comm'rs. ap-
 ed commissioners, and they or a majority of them are hereby auth- pointed to es-
 orised and required to establish, mark and bound, a dividing line tablish the
 through the said hundred, to begin on the line between Indian River division line.
 and Broadkiln hundred, and to run from thence to the line of Cedar
 Creek hundred, and the beginning, middle and end of said line shall
 each be of an equal distance between Georgetown and Milton, as
 near as can be estimated without actual measurement; and the said
 commissioners or any two of them, shall make and sign two cer- Two certifi-
 tificates thereof; one shall be recorded in the office for recording of cates to be
 deeds in Sussex county, and the record thereof shall be evidence, made—
 and the other shall be by the clerk of the peace, recorded among where to be
 the proceedings of the Levy Court and Court of Appeal of said recorded.
 county; and all that part of said hundred on the east and north-east
 of said line, shall form and be one of the hundreds of Sussex coun- One part to
 ty, and shall be Broadkiln hundred; and all that part of what before be called
 the passing of this act was a part of Broadkiln hundred, on the west Broadkiln
 and south-west of said dividing line, shall form and be one of the hundred, and
 hundreds of Sussex county, by the name of Georgetown hundred; the other to
 and all laws that extend to and apply to hundreds in Sussex county be called
 as such, shall extend to and be applied to Georgetown hundred, as Georgetown
 one of the hundreds of said county, and to the electors therein: hundred.
Provided always nevertheless, that nothing in this act, or in any All laws that
 Proviso. apply to hun-
 dred, ex-
 tended to
 Georgetown
 hundred.

The two hundreds to have but one trustee of the poor, and one comm'r. of the Levy Court.

Roads and bridges, &c., how to be supported.

Elections for Georgetown hundred to be held at Georgetown.

The Levy Court to make from assessments, &c. of Broadkilm hundred, two lists, &c. and cause transfers to be made.

Unpaid taxes, by whom to be collected.

Assessor to complete the assessments of the last year.

other law of this State, shall confer upon Broadkilm hundred as a hundred, or upon Geergetown hundred as a hundred, the right of having a commissioner of the Levy Court and Court of Appeal, or a trustee of the poor for and in each of said hundreds; but the Levy Court and Court of Appeal in said county when necessary, shall appoint one trustee of the poor only, for both of said hundreds, and both of said hundreds shall have one commissioner of the Levy Court and Court of Appeal only, to be elected for both of said hundreds, as other commissioners of said court are elected in said county: *And provided also*, that the expenses and charges of the roads, bridges and causeways, in said hundreds of Broadkilm and Georgetown as formed under the provisions of this act, which are not to be borne by the county, shall be at the same rate on the hundred dollars of rates and valuations in one of said hundreds as in the other, and the said roads, bridges and causeways shall be at the joint charge of said two hundreds, and shall be supported and maintained accordingly.

SEC. 2. *And be it further enacted*, That the electors of Georgetown hundred shall hold their general and their special elections, and all elections for assessors and inspectors, at the court house in Georgetown.

SEC. 3. *And be it further enacted*, That the Levy Court and Court of Appeal in Sussex county are hereby authorised and required, to cause to be made from the assessments and valuations of persons and property, such as were heretofore Broadkilm hundred, two assessment books or lists, one for Broadkilm hundred as formed under the provisions of this act, and the other for Geergetown hundred aforesaid, to contain the names and assessments and valuations of persons and property in said hundreds respectively; which said books or lists shall stand and remain as the proper assessments and valuations of said hundreds respectively, for the same time and of the same force and effect that the assessments and valuations in what was heretofore Broadkilm hundred would have stood had this act not been passed; and the said courts are hereby authorised and required, to make all necessary transfers and divisions in the assessments and valuations.

SEC. 4. *And be it enacted*, That all outstanding taxes, assessed and rated upon the taxables and property as heretofore in Broadkilm hundred according to its former limits, shall be collected by the collectors heretofore appointed for that purpose; and the said collectors their executors or administrators, and the sureties of any such collectors shall have the same power, rights and privileges, and be under the same liabilities as if this act had not been passed; and the last assessor of Broadkilm hundred according to its former limits shall have power and authority to complete the assessments of the last year, if it be not completed, and shall perform his duty in the same manner as if this act had not been passed.

SEC. 5. *And be it enacted*, That the constables heretofore ap-

pointed for Broadkiln hundred according to its former limits, shall continue in office and act as such, until their respective terms of office shall expire or become vacant; after which there shall be but one constable in Broadkiln hundred, and one to reside in Georgetown, for Georgetown hundred; and so much of the fifth section of the act concerning constables as authorises the appointment of two constables in each of said hundreds, be and the same is hereby repealed.

Constables to continue in office in office.
When their offices expire, each of the hundreds to have one constable only.

Passed at Dover, Jan. 29, 1833.

CHAPTER CCXVIII.

AN ACT to incorporate the Dover Rail-road Company.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of the members of each House concurring therein,)* That a company shall be established for making a rail-road from Dover to Mahon's river, or to such point on Little creek as the said company may deem most expedient; the capital stock of such company shall not exceed fifty thousand dollars, divided into one thousand shares of fifty dollars each.

Company established to make a rail-road.
Capital.

SEC. 2. *And be it enacted,* That John M. Clayton, Samuel M. Harrington, Henry M. Ridgely, Abel Harris, Joseph Smithers, Martin W. Bates, John Reed, Ezekiel Cowgill, Caleb H. Sipple, Charles C. Emory, shall be commissioners to receive subscriptions to the said capital stock; and any two of them may open books for this purpose, at such time and place as they may appoint, giving ten days' notice thereof in two or more of the newspapers of this State; the books shall be kept open at least two days, and if more than the capital stock be subscribed, the commissioners shall apportion the same by deducting the excess from the largest subscriptions.

Commissioners appointed.
Powers.

SEC. 3. *And be it enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns, shall be and they are hereby created a corporation by the name of "The Dover Rail-road Company;" and by that name shall have power and capacity to sue and be sued, in courts of law or equity, to purchase, take, enjoy, sell and alien, lands, tenements and hereditaments, goods, chattels, rights, credits and effects, connected with or conducive to the purposes of said company; to have a common seal, to make by-laws not repugnant to the constitution or laws of this State or of the United States, and to enjoy the franchises incident to a corporation; but said company shall have no banking powers whatever.

Name.
Banking powers prohibited.

1st. The business of the corporation shall be managed by five directors, to be elected by the stockholders at their annual meeting.

Fundamental articles.

Directors.

in Dover; the commissioners or any five of them, shall call the first meeting of the stockholders for this purpose, by advertisement in two newspapers of this State, and by circulars addressed to each of the stockholders; the directors shall continue in office until the next annual meeting of the stockholders succeeding their election, and until successors be chosen; but an intermediate vacancy in the office of directors may be filled by a majority of the board; the directors shall be stockholders, they may choose one of their number for president; and if he be absent may appoint a president pro tempore. Any three of them shall form a board.

Their powers.

A rail-road may be constructed and a canal cut.

If land necessary for the location of the rail-road cannot be obtained by purchase, the co. may apply by petition to the S. Court or any judge for the appointment of referees. 5 to be appointed, who are to be sworn or affirmed. Notice of their meeting to be given. Award to be made in writing to the next court after their appointment. It may be confirmed, refer back, or other persons may be appointed. When judgment of confirmation is rendered and the damages paid the land con-

2d. The directors shall have power to locate and construct a rail road from Dover to Mahon's river, or to such point on Little creek as a majority of them may determine upon; and in the latter case to improve the navigation of Little creek, by cutting a canal into Mahon's river or otherwise, as may be by them deemed most expedient; for this purpose the said directors may employ all such engineers, agents, contractors and workmen, with their implements, carts, wagons, horses, or beasts of draught or burden as may be necessary for the prosecution of the work; and to contract for, purchase and hold, all such lands as they may deem necessary for the purposes of said rail-road, or for the said canal and rail-road; and in case such land as may be necessary for the location and use of the said rail-road cannot be obtained by purchase, the said company may apply to the Superior Court, or to any judge thereof by petition, giving the other party five days' notice of such application, if within the State; and the said court or judge shall appoint five judicious and impartial men to view the premises which the said company may wish condemned for the use of the said road, and assess the damages, (if any) that the owner thereof will sustain by the condemnation of the same for the use of the said company. The referees appointed as aforesaid shall be sworn or affirmed, faithfully and impartially to perform the duty aforesaid; they shall notify the owner of the property, if he be within the State, and also the president of said company, of the time they will meet for the discharge of this duty; they shall make report in writing, under their hands or the hands of the majority, to the next Superior Court in Kent county, after their appointment; and the said court may either confirm said report, refer the matter back to the same persons, or appoint five other judicious and impartial men to perform the duty aforesaid, in manner aforesaid. When judgment of confirmation is rendered by the said court on any report made as aforesaid, and on the payment by the said company of the amount of the damages assessed to the owner of said property, or on the payment of the same into court for his use, the title to the lands and premises mentioned and described in the said report shall be absolutely vested in the said rail-road company, their successors and assigns forever; the fees to the referees and prothonotary on any such proceeding shall be determined by the said court, and paid by the said company.

The directors shall further have power to do all acts requisite to

effect and carry on the purpose for which the company is established, and to this end, to use the capital stock and funds of said company; to bind by their contracts, under the seal of the corporation, and hand of the president, all the property, estate, common stock, and joint fund of the corporation, but not the persons or separate property of themselves, or any of the stockholders. They may make, amend, and alter by-laws for the government of the corporation, and the regulation of its business and concerns; prescribe the officers of the corporation, other than those of president and directors; appoint the officers and take bond from the same.

demned becomes vested in the company forever. Fees to be paid.

Further powers of directors.

3d. The annual meeting of the stockholders, shall be on the first Monday in February, and shall be held in Dover. If a meeting should not be held at this time, or there shall be no election of directors, the corporation shall not be dissolved for this cause. Occasional meetings may be called at any time by the directors.

Annual meeting of the stockholders, when to be held.

4th. In all meetings of the stockholders regularly held, those assembled may proceed to business; the election of directors shall be by ballot, and be determined by a plurality of votes; on all other questions, a majority of votes shall be necessary; each stockholder shall be entitled to one vote for every share of stock that he holds, not exceeding one hundred; and absent stockholders may vote by proxy.

Directors, how elected.

5th. The shares of the capital stock shall be personal property, and shall be assignable, subject to the regulation of the by-laws.

Stock assignable.

6th. The time and manner of making dividends of the profits of the corporation shall be fixed by the by-laws.

Dividends.

SEC. 4. *And be it enacted*, That the subscribers to the capital stock of the said company shall respectively pay an instalment of ten dollars on each share of stock so subscribed for, on the day of the first meeting of the stockholders to be called as aforesaid, to the directors then to be elected; and the directors may require the payment of the balance on said subscriptions in instalments of five dollars each, at such times as they may deem expedient; giving thirty days' notice thereof, in two of the newspapers of this State, and by circulars addressed to each of the stockholders; and on failure of any stockholder to pay the sum required to be paid by such notice, he shall forfeit ten per cent. on such sum, to be added thereto and paid by the said stockholder; and in case of a second failure to pay upon notice given as aforesaid, the said directors may proceed to forfeit the sum already paid by such defaulting stockholder, on the stock so subscribed for by him, or may sue for and recover the sums subscribed for and remaining unpaid, with the forfeiture, according to the terms of the subscription. Forfeited shares may be disposed of for the benefit of the corporation.

Subscriptions for stock, when to be paid.

Failure to pay, forfeiture of 10 per cent. On a second failure to pay the directors may forfeit the stock, or such forfeited shares may be sold for the benefit of the corporation.

SEC. 5. *And be it enacted*, That the directors of the said Dover Rail-road Company may procure and use, on any rail-road or canal which shall be constructed by them in virtue of this act, all engines, machines, wagons, carriages, boats, vessels and other vehi-

The directors may use the on the rail-road or

Directors.

in Dover; the commissioners or any five of them, shall call the first meeting of the stockholders for this purpose, by advertisement in two newspapers of this State, and by circulars addressed to each of the stockholders; the directors shall continue in office until the next annual meeting of the stockholders succeeding their election, and until successors be chosen; but an intermediate vacancy in the office of directors may be filled by a majority of the board; the directors shall be stockholders, they may choose one of their number for president; and if he be absent may appoint a president pro tempore. Any three of them shall form a board.

Their powers.

A rail-road may be constructed and a canal cut.

If land necessary for the location of the rail-road cannot be obtained by purchase, the co. may apply by petition to the S. Court or any judge for the appointment of referees.

5 to be appointed, who are to be sworn or affirmed.

Notice of their meeting to be given.

Award to be made in writing to the next court after their appointment.

It may be confirmed, refer back, or other persons may be appointed.

When judgment of confirmation is rendered and the damages paid the land con-

2d. The directors shall have power to locate and construct a rail road from Dover to Mahon's river, or to such point on Little creek as a majority of them may determine upon; and in the latter case to improve the navigation of Little creek, by cutting a canal into Mahon's river or otherwise, as may be by them deemed most expedient; for this purpose the said directors may employ all such engineers, agents, contractors and workmen, with their implements, carts, wagons, horses, or beasts of draught or burden as may be necessary for the prosecution of the work; and to contract for, purchase and hold, all such lands as they may deem necessary for the purposes of said rail-road, or for the said canal and rail-road; and in case such land as may be necessary for the location and use of the said rail-road cannot be obtained by purchase, the said company may apply to the Superior Court, or to any judge thereof by petition, giving the other party five days' notice of such application, if within the State; and the said court or judge shall appoint five judicious and impartial men to view the premises which the said company may wish condemned for the use of the said road, and assess the damages, (if any) that the owner thereof will sustain by the condemnation of the same for the use of the said company. The referees appointed as aforesaid shall be sworn or affirmed, faithfully and impartially to perform the duty aforesaid; they shall notify the owner of the property, if he be within the State, and also the president of said company, of the time they will meet for the discharge of this duty; they shall make report in writing, under their hands or the hands of the majority, to the next Superior Court in Kent county, after their appointment; and the said court may either confirm said report, refer the matter back to the same persons, or appoint five other judicious and impartial men to perform the duty aforesaid, in manner aforesaid. When judgment of confirmation is rendered by the said court on any report made as aforesaid, and on the payment by the said company of the amount of the damages assessed to the owner of said property, or on the payment of the same into court for his use, the title to the lands and premises mentioned and described in the said report shall be absolutely vested in the said rail-road company, their successors and assigns forever; the fees to the referees and prothonotary on any such proceeding shall be determined by the said court, and paid by the said company.

The directors shall further have power to do all acts requisite to

effect and carry on the purpose for which the company is established, and to this end, to use the capital stock and funds of said company; to bind by their contracts, under the seal of the corporation, and hand of the president, all the property, estate, common stock, and joint fund of the corporation, but not the persons or separate property of themselves, or any of the stockholders. They may make; amend, and alter by-laws for the government of the corporation, and the regulation of its business and concerns; prescribe the officers of the corporation, other than those of president and directors; appoint the officers and take bond from the same.

3d. The annual meeting of the stockholders, shall be on the first Monday in February, and shall be held in Dover. If a meeting should not be held at this time, or there shall be no election of directors, the corporation shall not be dissolved for this cause. Occasional meetings may be called at any time by the directors.

4th. In all meetings of the stockholders regularly held, those assembled may proceed to business; the election of directors shall be by ballot, and be determined by a plurality of votes; on all other questions, a majority of votes shall be necessary; each stockholder shall be entitled to one vote for every share of stock that he holds, not exceeding one hundred; and absent stockholders may vote by proxy.

5th. The shares of the capital stock shall be personal property, and shall be assignable, subject to the regulation of the by-laws.

6th. The time and manner of making dividends of the profits of the corporation shall be fixed by the by-laws.

SEC. 4. *And be it enacted*, That the subscribers to the capital stock of the said company shall respectively pay an instalment of ten dollars on each share of stock so subscribed for, on the day of the first meeting of the stockholders to be called as aforesaid, to the directors then to be elected; and the directors may require the payment of the balance on said subscriptions in instalments of five dollars each, at such times as they may deem expedient; giving thirty days' notice thereof, in two of the newspapers of this State, and by circulars addressed to each of the stockholders; and on failure of any stockholder to pay the sum required to be paid by such notice, he shall forfeit ten per cent. on such sum, to be added thereto and paid by the said stockholder; and in case of a second failure to pay upon notice given as aforesaid, the said directors may proceed to forfeit the sum already paid by such defaulting stockholder, on the stock so subscribed for by him, or may sue for and recover the sums subscribed for and remaining unpaid, with the forfeiture, according to the terms of the subscription. Forfeited shares may be disposed of for the benefit of the corporation.

SEC. 5. *And be it enacted*, That the directors of the said Dover Rail-road Company may procure and use, on any rail-road or canal which shall be constructed by them in virtue of this act, all engines, machines, wagons, carriages, boats, vessels and other vehi-

canal, en-
gines, boats,
&c.

Tolls.

Canal, &c.,
may be used
without
charge.

All persons
are prohibit-
ed from using
the rail-road
without li-
cense.

Power to re-
peal reserv-
ed.

cles which they may deem proper or necessary for the purposes of transportation on said road or said canal; and they shall have power to charge and receive as tolls for using said road or for transportation thereon, any sum not exceeding the following rates, to wit: for passengers, twenty-five cents, including customary baggage of one hundred pounds or less each; for a trunk, box, bale, basket or package, not being the baggage or part of the baggage of a passenger, and not exceeding one hundred pounds weight, twelve and a half cents; for wheat, corn and rye, one cent and a half per bushel; for oats and other grain, one cent per bushel; for clover seed, three cents per bushel; for molasses, one dollar per hogshead; rum and other liquors, seventy-five cents per hogshead; lime, fifty cents per hogshead; flour, twelve and a half cents per barrel; other articles per barrel, twelve and a half cents; hogshead staves per thousand, two dollars and twenty-five cents; barrel staves, one dollar and fifty cents per thousand; for bark, one dollar and twenty-five cents per cord; for hickory wood, one dollar and twenty-five cents; oak and other wood, per cord, one dollar; for cedar rails, one dollar and fifty cents per hundred; oak rails, two dollars; for board and scantling, one dollar and fifty cents per thousand feet; for other articles not enumerated, not exceeding one dollar per ton; and in case the said company shall cut a canal as aforesaid, to unite the waters of Little creek with Mahon's river aforesaid, the said canal shall be free; and any improvement to be made as aforesaid by the said company in the navigation of Little creek, shall be for the common benefit of the public, and shall be used and enjoyed without any charge, imposition or toll, by the said company; but it shall not be lawful for any person or company to travel upon or use any part of the said rail-road, or to transport persons or property of any description thereon, without the license or permission of the directors of the said Dover Rail Road Company.

SEC. 6. *And be it enacted*, That the Legislature hereby reserves the power to revoke this charter.

Passed at Dover, Jan. 29, 1833.



CHAPTER CCXIX.

Dig. 513.

AN ADDITIONAL SUPPLEMENT to "*An act to restrain persons from suffering swine to go at large within certain limits.*"

Repeal of
part.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the proviso contained in the act to which this is an additional supplement, so far as it extends or applies to swine of any person or persons residing

without the bounds seventhly described, in Kent county, in and by the said act to which this is an additional supplement, be and the same is hereby repealed, made null and void.

Passed at Dover, Jan. 29, 1833.



CHAPTER CCXX. (Private Act.)

A SUPPLEMENT to the act entitled "*An act for the relief of the owners and possessors of certain marsh and low grounds, generally called and known by the name of Big Marsh of Marshyhope, and to enable the owners and possessors of said marsh and low grounds, and the marsh and low grounds contiguous thereto to ditch, drain, and reclaim the same.*"

Passed at Dover, Jan. 30, 1833.



CHAPTER CCXXI.

A SUPPLEMENT to the act fixing the time of holding the courts of law and equity in this State.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, there shall be two terms in every year, in each of the counties of this State, of the Court of Chancery and the Orphans' Court, which shall commence and be held as follows: That is to say, the Court of Chancery and the Orphans' Court shall commence and be held in New Castle county, on the third Monday in February, and second Monday in September; in Kent county, on the first Tuesday after the fourth Monday in March, and on the first Monday in October; in Sussex county, on the first Tuesday after the second Monday in March, and on the first Tuesday after the fourth Monday in September.

SEC. 2. *And be it further enacted by the authority aforesaid,* That all writs, process, bills, answers, pleas, suits, commissions, orders, appeals, and all other proceedings, matters and things, relating to any cause, which now is, or hereafter shall be, depending in or returnable to the Court of Chancery or Orphans' Court, shall be and remain in full force and effect, and shall be returnable to the court, to which they severally belong, on the days and times respectively herein appointed; and shall have relation to, and be heard, tried and determined, on the days and times herein appointed, in as full

and ample manner, any writ, process, bill, answer, plea, suit, commission, order, appeal, or other proceeding, matter or thing now can, or ever could have been tried, heard and determined, before any such court.

Repeal.
8th vol. chap.
128, p. 126.

SEC. 3. *And be it further enacted by the authority aforesaid, That so much of any act of the General Assembly of this State, as appoints a different time for holding the aforesaid Courts of Chancery and Orphans' Court, be and the same is hereby repealed.*

Passed at Dover, Jan. 30, 1833.



CHAPTER CCXXII.

AN ACT for the relief of School District No. 3, in Kent county.

Whereas, it has been represented to this General Assembly, that the sum now authorised by law, to be raised by taxation, in the several school districts of this State, is inadequate to effect the suitable education of the scholars in district No. 3, in Kent county: Therefore,

SCHOOL DISTRICT NO. 3, IN KENT CO. AUTHORIZED TO RAISE BY TAXATION \$400 ANNUALLY.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall and may be lawful for the said school district, to levy and raise by taxation, four hundred dollars annually, in the same manner as school districts are authorised by law to levy taxes.*

Passed at Dover, Jan. 31, 1833.



CHAPTER CCXXIII.

8th vol. chap.
77, p. 54.

A FURTHER SUPPLEMENT to "*An act for the preservation of certain records in the Court of Common Pleas and of the Supreme Court of Kent county.*"

Power to appoint com'rs. in certain cases vested in the associate judge of Kent county. Repeal of 4th section.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the power vested in the Chief Justice of the Court of Common Pleas, in the fourth section of the act, to which this is a further supplement, be and the same is hereby vested in the Associate Judge of the Superior Court residing in Kent county; and that so much of said fourth section, as is hereby altered and supplied, be and the same is hereby repealed, made null and void.

Passed at Dover, Jan. 31, 1833.

CHAPTER CCXXIV. (Private Act.)

AN ACT to enable Noah James, of Sussex county, to locate certain vacant lands, situate in Broad Creek hundred, in said county, and complete his title to said lands.

Passed at Dover, Jan. 31, 1833.



CHAPTER CCXXV.

AN ADDITIONAL SUPPLEMENT to an act entitled "*An act to establish a bank and incorporate a company, under the name of the Farmers' Bank of the State of Delaware.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, a general meeting of the stockholders of the said Farmers' Bank of the State of Delaware, shall be annually held at the town of Dover, on the first Tuesday of January in every year, to perform the duties enjoined upon them by the act to which this is an additional supplement. A general meeting of stockholders to be held annually on the first Tuesday of January.

SEC. 2. *And be it further enacted,* That from and after the passing of this act, twelve directors of the said bank, shall be chosen by the General Assembly, at each biennial session thereof, six of whom shall be resident in New Castle county, three in Kent county, and three in Sussex county; which said directors shall be capable of serving by virtue of said choice or appointment, for the term of two years from the date thereof, and until others are duly appointed to succeed them. State directors. 6 for N. Castle county, 3 for Kent county, 3 for Sussex. To continue in office two years.

SEC. 3. *And be it further enacted,* That the second rule of the twelfth section of the said act, to which this is an additional supplement, and so much of the said act, and of the several supplements thereto, as direct a general meeting of the stockholders of said bank, at any other time, and as provide for the choice or appointment of any of the directors of said bank by the General Assembly at any other time, or in any other manner, than is for these purposes herein-before provided, be and the same are hereby repealed: *Provided always nevertheless,* that this section shall not repeal, nor in any manner affect, the seventh rule of the twelfth section of the said first mentioned act. Repeal. Proviso.

Passed at Dover, Jan. 31, 1833.

CHAPTER CCXXVI.

AN ACT *to authorise one or more gates to be erected across a public road therein mentioned.*

Gates may
be erected
across a cer-
tain public
road.

Forfeiture for
wilfully in-
juring or
leaving them
open.
Penalty.
How reco-
vered.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall and may be lawful for James I. Burley and John D. Smithers, in Milford hundred in Kent county, to erect two gates across the public road or common highway, leading from the corner of the lands of Henry Downs and James I. Burley, to the lands of John D. Smithers and James I. Burley; one of said gates to be erected, as near as may be, to the corner of the lands of the said Henry Downs and James I. Burley, and the other gate to be erected at or as near as may be, at the junction of the lands of John D. Smithers and James I. Burley, leading to Mordington Mills in said Milford hundred; and if any person or persons, shall wilfully injure the said gates, 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.

Passed at Dover, Jan. 31, 1833.



CHAPTER CCXXVII. (Private Act.)

AN ACT *to carry into effect the last will and testament of John Houston, late of Sussex county, deceased.*

Passed at Dover, Jan. 31, 1833.



CHAPTER CCXXVIII.

AN ACT *to confirm and give effect, in the State of Delaware, to an act of the General Assembly of Maryland, entitled "An act to incorporate The People's Steam Navigation Company."*

Preamble.

Whereas, the General Assembly of Maryland, heretofore, at the December session of the said General Assembly, in the year eighteen hundred and thirty-one, passed an act entitled "An act to incorporate The People's Steam Navigation Company," in the words or to the effect following, to wit:—

1. *Be it enacted by the General Assembly of Maryland,* That Joseph W. Patterson, Philip Lawrenson, Jesse Hunt, James P. Erskine, John Caulk, Thomas Morris, George W. South, Charles Alexander, Alexander B. M'Alpine, Alonzo Wakeman, James Pogue, John Gibbs, Jacob L. Cohen, junior, William Hughlett, their associates, successors and assigns, be and they are hereby created and made a body corporate, by the name and style of "The People's Steam Navigation Company," and by that name shall have perpetual succession, and shall be capable in law, to hold and dispose of property, to sue and be sued, to plead and be impleaded, answer and defend, and be answered and defended, in any court of law or equity, and in any other place whatsoever; to receive and make deeds and contracts; to make, have and use a common seal, and the same to change, alter or renew at pleasure, and generally to pass all such by-laws as may be necessary to regulate its affairs, and do all such acts, as shall be proper and necessary, for the purpose of establishing and conducting a line or lines of steamboats, vessels, stages, or other carriages, for the conveyance of passengers and transportation of merchandise and other things, between the cities of Philadelphia and Baltimore.

Incorporation.

Powers.

And be it enacted, That the capital stock of said corporation, shall be divided into shares of twenty dollars each, and shall not exceed ten thousand shares, including the shares already subscribed for by the persons hereinbefore incorporated; the residue of said number of shares, or so many of them as from time to time by the directors shall be deemed necessary, may be subscribed for or disposed of, in such manner as the by-laws of said corporation shall provide: and each subscriber for one or more shares, who hath paid or shall pay five dollars on every such share, to the use of said corporation; and every person who shall obtain by transfer, or in whom shall be vested by law, one or more shares of the capital stock aforesaid, shall be deemed a stockholder; and in virtue thereof, a member of the corporation hereby created, and shall so continue until he or she shall cease to be a stockholder, by transferring all his or her shares of stock, or by forfeiting the same, in the manner hereinafter mentioned; and every person, on so ceasing to be a stockholder, shall cease to be a member of said corporation.

Capital.

Stockholders.

And be it enacted, That there shall be a general meeting of the stockholders of said corporation, on the first Tuesday of May, in each and every year, or on such day within sixty days thereafter, and at such place in the city of Baltimore, as shall be appointed by the president and directors, for the purpose of choosing by ballot nine members of said corporation to be directors, to manage the affairs thereof for twelve months, and until successors shall be chosen; and in all meetings and elections, every stockholder shall be entitled to give in person or by proxy, one vote for each share of the capital stock standing in his or her name on the books of said corporation; and the judges of elections, shall be appointed in

Meeting of stockholders.

Election of directors.

The directors now in office to continue, &c.

such manner as the by-laws shall provide; and until the first annual election of directors shall be made, Joseph W. Patterson, Jesse Hunt, Philip Lawrenson, James P. Eskine, John Caulk, Thomas Morris, George W. South, Charles Alexander and Alexander M. Alpine, heretofore chosen by their associates, shall be the directors of said corporation, and have full power to act as such.

Directors—their powers.

And be it enacted, That the president and directors for the time being, or a majority of them, shall have power to elect a president from their own body, to fill all vacancies that may occur in the directory or presidency, to appoint a treasurer, secretary, and all such officers, clerks, agents, mechanics, engineers, laborers and servants, as they may deem necessary to conduct or execute the business of said corporation, and fix their compensation; and in their discretion to dismiss them, to take bonds for the said corporation, from all or any of the persons by them so appointed, with security, conditioned in such form as they shall approve, for the faithful execution of the duties of such persons, and to secure the said corporation from loss; to contract, agree for and purchase, rent or hire, all such lands, chattels, materials, rights, privileges, and effects whatsoever; and to make or repair, and cause to be made or repaired, all such roads, wharves, boats, vessels, carriages, and other conveniences as may be necessary, for effecting the objects of said corporation: and the same or any part thereof, in their discretion to sell or otherwise dispose of; to call for monthly or other instalments of the capital stock, not exceeding five dollars on each share per month, giving ten days' previous notice in two newspapers printed in Baltimore, and two others printed in Philadelphia; to prescribe the form of certificates to be issued to stockholders, and to regulate the mode of transferring their capital stock; to apply the funds of said corporation, so far as may be necessary to effect the objects aforesaid, and in payment of the necessary expenses of the company; to call general meetings of the stockholders; and generally, to pass all such by-laws as may be necessary for the exercise of the aforesaid powers, or the powers vested in the said corporation, and the same by-laws from time to time, to alter and repeal: *Provided,* that all such by-laws may be altered or repealed by a majority of the stockholders assembled at any annual meeting, or at any general meeting, called in pursuance of any by-law made for that purpose; and a majority of the stockholders present at any annual or general meeting, may pass by-laws, which shall be binding upon the directors: *Provided,* that such by-laws shall not be contrary to any law of the United States, or any law of any State assenting to this act, or any of the provisions of this act.

Treasurer to give bond.

And be it enacted, That the treasurer, before he proceeds to act, shall give bond to the said corporation in such penalty, and with such sureties, as a majority of the directors shall approve, conditioned that he will faithfully execute the duties of his office of treasurer; and he shall account for, pay and deliver, at such time and times, and to such person and persons as the said directors shall order

and direct, all moneys, notes, and other securities, papers and effects, belonging to the said corporation, which shall be entrusted to his care, or be in his possession: *Provided always*, that every such order and direction shall be signed by the president, and countersigned by the secretary of the company.

And be it enacted, That the secretary, before he proceeds to act, ^{Secretary to} shall give bond to the said corporation, in such penalty and with ^{give bond.} such sureties, as a majority of the directors shall approve, conditioned, that he will faithfully execute the duties of his office; and he shall make and preserve in a book, to be provided for the purpose, fair minutes of the proceedings of the directors, and perform such other duties as they may direct; and deliver to his successor in office, or to such person or persons as the directors may designate, all books, papers, and other effects belonging to said corporation, and countersign all orders and directions, authorised by the directors, addressed to or drawn upon the treasurer, after the same shall have been signed by the president.

And be it enacted, That the president and directors, shall from time to time, declare and pay to the stockholders, dividends of so ^{Dividends.} much of the profits realized by the company, as they shall deem expedient, after reserving such sum as they shall decide to be reasonable, to meet the expense of repairs, and to provide for the building or purchase of any new boat, carriage, or other article, necessary for the use of the company; and at the time of each annual election, and also at the time of the paying each dividend of profits, a general statement of the affairs of the company shall be exhibited for the inspection of stockholders.

And be it enacted, That the president and directors, or a majority of them, shall have full power, after giving at least thirty days' notice by advertisement, inserted in at least two newspapers in Baltimore, and two in Philadelphia, to forfeit and dispose of, for the use of the company, any share or shares of stock, upon which one or more instalments shall be due and unpaid; unless the instalment or instalments so due, with interest thereon, from the time when the same shall have been made payable, shall be paid before the day limited in such notice; or the owner of such stock may be compelled by action to pay all such instalments: *Provided always*, that no stockholder shall be liable in his person or property for any contract of or claim against said corporation; but that the joint stock, property, credits, rights and effects of the said company, and nothing more shall be liable for the same; and the service of legal process on any of the directors shall be a sufficient service on the aforesaid corporation. ^{Stock—how forfeited.}

And be it enacted, That the directors or a majority of them, shall have power to cause to be laid out, and with the consent of the owner of the land, to open and make passable any road or roads, from any landing-place which they shall deem convenient to use on the Chesapeake bay, or on any of the rivers and inlets on the east- ^{Roads—how laid out.}

ern shore of this State, to the line of the State of Delaware; and if the owners or any owner of such land as may be designated, selected or laid out by the said directors for a road or landing-place, shall be legally incapable of consenting, or if the said directors cannot from any cause obtain the consent of any owner or owners of any land deemed by them necessary for a road or landing-place as aforesaid, it shall be the duty of the sheriff of the county in which such land may be, on the application or request of the said directors, to summon within twelve days after he shall receive such application, twelve good and lawful men, freeholders in the said county, not interested or related to any of the said owners or to any member of the corporation, as a jury to meet on and examine the land so deemed necessary for a road or landing, and on their oaths to be administered by the said sheriff, carefully and impartially to inquire and ascertain as well who are the owners or owner of the said land required, as the damages that will be sustained by each owner of any such land, and make an inquisition thereof under their hands and seals, which inquisition shall be returned by the sheriff to the clerk of the county court of the county, to be by him recorded; and the costs of taking and recording such inquisition shall be paid by the said corporation, and on payment of the damages so ascertained, or tendering the amount thereof to the person or persons entitled to receive the same, or in case of their refusal to accept, depositing the amount in the Franklin Bank of Baltimore to the credit of the person or persons entitled to the same, the right to use such land for a road or landing-place shall be vested in the company hereby incorporated: *Provided*, that nothing in this act shall be construed to authorise said company to obtain possession or the use of any private wharf already established, without the consent of the owner or owners of such wharf.

Proviso.

Power to tax reserved.

Limitation of charter.

And be it enacted, That nothing in this act contained shall be construed to restrain the Legislature from imposing or levying such reasonable tax by license or otherwise, upon all vessels, property, estate and funds in which the capital stock of said company shall be invested, in common with similar vessels, property, estate and funds of any other corporation or individuals of this State; and that this act shall be in force until the expiration of the year eighteen hundred and fifty-seven, and until the end of the next session of the General Assembly, which shall happen thereafter.

And whereas, the persons so incorporated by the said recited act of the General Assembly of Maryland, in pursuance thereof, have proceeded to elect a president and directors of the said company, who have undertaken and are actually engaged in effecting the objects of their said corporation, and to aid in effecting those objects, the said directors have prayed that this General Assembly will assent to, confirm and give effect in the State of Delaware, to the said act of the General Assembly of Maryland: Therefore,

SEC. 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of

each branch of the Legislature concurring herein, and with a reserved power of revocation by the Legislature,) That the above recited act of the General Assembly of Maryland, and every section, clause and provision thereof, be and the same is hereby assented to, confirmed and extended to the State of Delaware, so as to have full effect, validity and operation therein, subject nevertheless to such additional provisions and modifications as are contained in this act.

The aforesaid act assented to and confirmed, with the reserved power to revoke.

Sec. 2. *And be it enacted,* That whenever it shall be deemed necessary by the People's Steam Navigation Company aforesaid to extend or open any road through this State, from the Maryland line to the Delaware river or bay, or to any of the creeks, inlets or waters connected with the said bay or river, or to obtain a landing place on the shore of the said river, bay or of any water connected therewith, and the consent of the owners, or of any owner of any land necessary for that purpose cannot from any cause whatever be obtained, it shall and may be lawful for the president and directors of the said company to apply to the clerk of the Court of Quarter Sessions of the Peace for the county through or in which such road may be intended to pass, or in which any land wanted may lie, who upon such application is hereby empowered and required to issue a writ or writs as occasion shall require, in the nature of a writ of "ad quod damnum," to be directed to the sheriff of the county, thereby commanding said sheriff, that by the oaths or affirmations of twelve disinterested freeholders of his bailiwick, he inquire who is or are the owner or owners of such land; and shall view the proposed location of said road from a place to be designated by said company to the Maryland line, and lay out a wharf and sufficient ground for a landing-place for steam-boats and stages and stables, at the place which shall be designated as aforesaid, and shall lay out and establish the said road between the said place and the said State line, as they or a majority of them shall deem most suitable for such road, and so as to intersect such road as may or shall be laid out in Maryland to said line, under the above recited act; and shall cause a map of the road so by them laid out, to be made and returned to said clerk; and shall value and assess the damages which will be sustained by the owners of any land in laying out said wharf and landing-place or road or any part thereof; and the said sheriff and jury or a majority of them, shall make an inquisition under their hands and seals, of all matters so inquired of and decided by them, which inquisition the said sheriff shall forthwith return with said writ annexed thereto to the clerk aforesaid, and upon paying the costs of said proceedings to the sheriff for the use of those entitled thereto, and the damages assessed as aforesaid into court for the use of the person or persons entitled thereto, the said court shall enter judgment of confirmation on said return; and the said company may thereupon cause the said road, wharf, landing-place and stables to be constructed and made, or contract with any person or persons or company for the construction or use of the same, or any part thereof; and the right to use such road, wharf, stables and landing-place, as may be constructed or made, or as shall be agreed

Roads or landing place in this State, how to be obtained.

Clerk of the peace to issue a writ.

Proceedings under the same.

Limitations. for in virtue of this act shall be vested in said navigation company, their successors and assigns: *Provided*, that nothing in this act contained shall be construed to authorise said company to obtain possession, or the use of any private wharf already established without the consent of the owner or owners of such wharf, nor to shut up any private road, nor to cross the same, in such manner as would impede the travel on the public or private road so crossed.

**Review—
how obtain-
ed.**

SEC. 3. *And be it enacted*, That if any owner aforesaid shall deem himself aggrieved in the assessment, or omitting to assess damages as aforesaid, and shall apply to the court to which the return aforesaid shall be made by petition stating such grievance, the said court shall order a new writ to issue, and the said clerk shall issue the same directed to the sheriff of the county, commanding him to inquire by the oaths or affirmations of twelve other disinterested freeholders of his bailiwick, what damages such owner or petitioner has or will sustain by laying out said landing-place or said road or any part thereof; and the said jury or a majority of them agreeing, shall sign and set their seals to an inquisition, which shall be returned to the next court thereafter, of the damages any such owner or petitioner has or will sustain by laying out said wharf, landing-place or road, or any part thereof; and if by such inquisition any greater damages are allowed to any such owner or petitioner, the said court shall confirm the said return, and enter judgment thereon against said company in favor of the owner or petitioner in whose favor such damages shall be allowed, for which and the costs of said proceedings execution may issue, and be executed to enforce payment thereon; but the said clerk shall indorse on said execution the sum allowed to such owner or petitioner by the first inquisition aforesaid as a credit, and the balance only shall be collected under such execution, but no greater damages shall be allowed to any owner who shall not petition to said court for a new writ as aforesaid, except such owner be an infant, and in that case the said jury may increase but not diminish the damages such infant may sustain as aforesaid; and if no greater damages shall be allowed, then and in that case the petitioner for said writ shall pay the costs of such writ or proceedings.

**Damages—
how collect-
ed.**

**May contract
with any
other compa-
ny having a
right to a
road or load-
ing, for the
use of the
same.**

SEC. 4. *And be it enacted*, That the company incorporated as hereinbefore mentioned may contract with any other company now entitled to use or construct a road between the Maryland line and the water of the Delaware river, bay or tributary stream, for the use or construction and use of such road, or for the construction and use of the landing-place, wharf and road which the company above named is hereby authorised to obtain, construct and use: *Provided always*, that in case the road to be constructed by the before named company by virtue of this act, or to be contracted for by the said company with any other company as aforesaid, shall or may be located between the waters of the Appoquinimink creek and those of the Christiana river or within a distance from the New Castle and Frenchtown Rail-road, on each side thereof, as great as

Limitation.

the mouth of said Appoquinimink creek and of said Christiana river is from said rail-road at the town of New Castle, it shall not be lawful for the beforenamed company or any other company, person or persons, to use or travel on such road by locomotive engines or engines to be propelled by steam.

Sec. 5. *And be it enacted*, That nothing in this act contained shall be construed to restrain the Legislature of the State of Delaware from imposing or levying such reasonable tax by license or otherwise upon all vessels, property, estate and funds in which the capital stock of said company shall be invested, in common with similar vessels, property, estate and funds of any other corporation or individuals within this State. Power of taxation reserved.

Passed at Dover, Feb 1, 1833,



CHAPTER CCXXIX.

AN ACT allowing an additional Justice of the Peace to New Castle county,

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,) That the county of New Castle shall be entitled to one justice of the peace in addition to the number now allowed by law, who shall reside in the hundred of Christiana, as recently formed by the act passed at the present session of the Legislature entitled "An act to divide Christiana hundred into two hundreds." An additional justice of the peace to be appointed for Christiana hundred, N. Castle county. 8th vol. chap. 213, p. 216.

Passed at Dover, Feb, 1, 1833.



CHAPTER CCXXX. (Private Act.)

AN ACT to enable Benaiah Sharp to locate certain vacant lands, situate in Mispillion hundred, in Kent county, and to complete his title to the same,

Passed at Dover, Feb. 1, 1833,



CHAPTER CCXXXI.

AN ACT to incorporate the Powhattan Coal Company.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each*

Limitations.

for in virtue of this act shall be vested in said navigation company, their successors and assigns: *Provided*, that nothing in this act contained shall be construed to authorise said company to obtain possession, or the use of any private wharf already established without the consent of the owner or owners of such wharf, nor to shut up any private road, nor to cross the same, in such manner as would impede the travel on the public or private road so crossed.

Review—
how obtain-
ed.

SEC. 3. *And be it enacted*, That if any owner aforesaid shall deem himself aggrieved in the assessment, or omitting to assess damages as aforesaid, and shall apply to the court to which the return aforesaid shall be made by petition stating such grievance, the said court shall order a new writ to issue, and the said clerk shall issue the same directed to the sheriff of the county, commanding him to inquire by the oaths or affirmations of twelve other disinterested freeholders of his bailiwick, what damages such owner or petitioner has or will sustain by laying out said landing-place or said road or any part thereof; and the said jury or a majority of them agreeing, shall sign and set their seals to an inquisition, which shall be returned to the next court thereafter, of the damages any such owner or petitioner has or will sustain by laying out said wharf, landing-place or road, or any part thereof; and if by such inquisition any greater damages are allowed to any such owner or petitioner, the said court shall confirm the said return, and enter judgment thereon against said company in favor of the owner or petitioner in whose favor such damages shall be allowed, for which and the costs of said proceedings execution may issue, and be executed to enforce payment thereon; but the said clerk shall indorse on said execution the sum allowed to such owner or petitioner by the first inquisition aforesaid as a credit, and the balance only shall be collected under such execution, but no greater damages shall be allowed to any owner who shall not petition to said court for a new writ as aforesaid, except such owner be an infant, and in that case the said jury may increase but not diminish the damages such infant may sustain as aforesaid; and if no greater damages shall be allowed, then and in that case the petitioner for said writ shall pay the costs of such writ or proceedings.

Damages—
how collect-
ed.May contract
with any
other compa-
ny having a
right to a
road or land-
ing, for the
use of the
same.

SEC. 4. *And be it enacted*, That the company incorporated as hereinbefore mentioned may contract with any other company now entitled to use or construct a road between the Maryland line and the water of the Delaware river, bay or tributary stream, for the use or construction and use of such road, or for the construction and use of the landing-place, wharf and road which the company above named is hereby authorised to obtain, construct and use: *Provided always*, that in case the road to be constructed by the before named company by virtue of this act, or to be contracted for by the said company with any other company as aforesaid, shall or may be located between the waters of the Appoquinimink creek and those of the Christiana river or within a distance from the New Castle and Frenchtown Rail-road, on each side thereof, as great as

Limitation.

the mouth of said Appoquinimink creek and of said Christiana river is from said rail-road at the town of New Castle; it shall not be lawful for the beforenamed company or any other company, person or persons, to use or travel on such road by locomotive engines or engines to be propelled by steam.

SEC. 5. *And be it enacted*, That nothing in this act contained shall be construed to restrain the Legislature of the State of Delaware from imposing or levying such reasonable tax by license or otherwise upon all vessels, property, estate and funds in which the capital stock of said company shall be invested, in common with similar vessels, property, estate and funds of any other corporation or individuals within this State. Power of taxation reserved.

Passed at Dover, Feb 1, 1833,



CHAPTER CCXXIX.

AN ACT *allowing an additional Justice of the Peace to New Castle county,*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,) That the county of New Castle shall be entitled to one justice of the peace in addition to the number now allowed by law, who shall reside in the hundred of Christiana, as recently formed by the act passed at the present session of the Legislature entitled "An act to divide Christiana hundred into two hundreds." An additional justice of the peace to be appointed for Christiana hundred, N. Castle county. 8th vol. chap. 213, p. 216.

Passed at Dover, Feb, 1, 1833.



CHAPTER CCXXX. (Private Act.)

AN ACT *to enable Benaiah Sharp to locate certain vacant lands, situate in Mispillion hundred, in Kent county, and to complete his title to the same,*

Passed at Dover, Feb. 1, 1833.



CHAPTER CCXXXI.

AN ACT *to incorporate the Powhattan Coal Company.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each*

Company es- branch of the Legislature concurring herein, and with a reserved
tablished. power of revocation by the Legislature.) That a company shall be
Power to re- established, the capital stock whereof shall not exceed two hundred
peal this act and fifty thousand dollars, divided into five thousand shares each
reserved. of fifty dollars.
Capital.

Commission- SEC. 2. *And be it enacted*, That Isaac Tunnell, David Hazzard,
ers appointed. James Anderson, Matthew Rench and Thomas Robinson, senior,
be and they are hereby appointed commissioners, and they or any
Books to be three of them, are authorised to receive subscriptions to the said
opened. capital stock, and for that purpose to open books at such time and
place in Georgetown as the said commissioners or any three of
Notice, &c. them may appoint, of which ten days' notice shall be given in one
or more of the newspapers published in this State, and such books
shall continue open at least two days, and afterwards at the discre-
tion of said commissioners or any three of them.

Company in- SEC. 3. *And be it enacted*, That the subscribers to the capital
corporated. stock aforesaid, their successors and assigns, shall and hereby are
ordained, constituted and declared to be a body politic and corpo-
Name. rate in fact and in law, by the name of the "Powhattan Coal Com-
pany," and by that name shall have succession, and be capable of
suing and being sued, plead and be impleaded in all manner of ac-
tions, suits, complaints, matters and causes whatsoever, either
in law or equity, and may have a common seal, and make, change
and alter the same at their pleasure, and may make and ordain by-
laws for their own government, not repugnant to the laws or con-
stitution of this State, or of the United States; but it shall not be
lawful for the said company, and they shall not have power to dis-
count notes or bills, or to loan money on interest, or to exercise
any banking powers whatever; and the said company shall not
Not to have have power to purchase, hold and convey, any real or personal
banking pow- estate, and do all acts necessary and proper, to effect the powers
ers. hereby granted or intended: *Provided*, that the real estate so to be
May hold holden, shall be only such as is necessary and proper to effect such
land. powers, or such as shall have been bona fide mortgaged or con-
Proviso. veyed to the company, by way of security or satisfaction of debts
previously contracted, in the course of their dealings, or purchased
at sales, under judgments or decrees to secure such debts, or sales
made under any mortgage given to said company.

Board of di- SEC. 4. *And be it further enacted*, That the stock, property,
rectors—the affairs, and concerns of the said company, shall be managed and
number, &c., conducted by five directors, (of whom one shall be president) to be
time, &c., of elected by the stockholders; and the first election for said directors
elections. shall be held by the commissioners before named, or any three of
them, at such time and place as they, or any three of them, shall
determine on, of which and all subsequent elections, there shall be
given at least ten days' notice, in one or more newspapers printed
in this State; and the directors so elected, or elected in manner
aforesaid, shall hold their offices for one year, and until others shall
be elected to succeed them; and there shall be an election of direc-

tors in each year, at such time and place as may be fixed on in the by-laws of said company; and the directors so elected, shall hold their offices for one year; and until others shall be elected to succeed them, and such elections as aforesaid, shall be made by such stockholders as shall attend for that purpose, in their proper persons or by proxy; and all elections shall be by ballot, each share to be entitled to one vote, and the persons who shall have the greatest number of votes at any election, shall be the directors; and the directors shall appoint one of their number to be their president; and if any vacancy shall happen in said direction by death, resignation or otherwise, the same shall be filled by the other directors, or a majority of them, for the time being.

SEC. 5. *And be it enacted*, That a majority of the directors for Majority of the time being, shall form a board or quorum for transacting all directors to the business of the said company: and that a failure to elect direc- form a board. tors, on the day for that purpose to be appointed, shall not dissolve the corporation; but it shall and may be lawful to hold such elections on such other day in manner aforesaid, as shall be prescribed by the by-laws of the corporation.

SEC. 6. *And be it enacted*, That it shall be lawful for the presi- The presi- dent and directors of said company, to call and demand of the dent and di- stockholders respectively, all such sums of money as shall be by rectors may them subscribed, at such times and in such manner and proportions as they shall deem proper, under forfeiture of their shares, and all call in sub- previous payments thereon to the corporation, provided twenty scrip- tions. Notice there- days' notice of such call and demand be given, in one or more of. newspapers of this State.

SEC. 7. *And be it enacted*, That no transfer of stock shall be Transfers of valid or have effect, until such transfer shall be entered or regis- stock, when tered in the book to be kept by the company for that purpose. valid.

SEC. 8. *And be it enacted*, That the dividends to be made of the Annual divi- profits of the company, if any, shall be annually, and shall be paid dends. to all the stockholders, in proportion to their respective interests therein.

SEC. 9. *And be it further enacted*, That as a consideration of Tax to be the passing of this act, the said Powhattan Coal Company, shall paid to the annually pay to the treasurer of the State, for the use of the State, at the rate of one-fourth of one per centum per annum, on the capi- tal stock, or at the rate of one-half of one per centum per annum, on the stock actually paid in (at the choice of the said company,) for and during the continuance of the present charter.

Passed at Dover, Feb. 1, 1833.

CHAPTER CCXXXII.

Dig. 373.

A SUPPLEMENT to the act entitled "*An act concerning the Levy Court, Clerk of the Peace, Assessors, Collectors and County Treasurers.*"

Overseers of the roads failing to render to the Levy Court a true account, shall be proceeded against. Summons to appear before the L. Court.

Failure to pay, &c. suit to be commenced.

When a balance is found to be due the county, on failure to pay suit to be brought.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in case any overseer of roads hereafter appointed, under and by virtue of the act to which this is a supplement, shall fail to render to the Levy Court and Court of Appeal in his county, a just and true account, according to the terms, and at the time prescribed in the thirteenth section of the act to which this is a supplement, it shall be the duty of the said Levy Court and Court of Appeal, to issue a summons under the hand of their president, attested by the clerk of the peace, and sealed with the seal of his office, directed to any constable of the county, requiring such overseer to appear before the Levy Court and Court of Appeal, on the first day of the ensuing March term of said court, and then and there, to render a just and true account of his proceedings, agreeably to law in such behalf made and provided: and in case said overseer shall fail to appear, in obedience to said summons, or after appearing, shall fail to render a just account as aforesaid, it shall be the duty of the clerk of the peace to give notice of such failure to the county treasurer, who shall immediately sue for and recover, for the use of the county, the full amount of any sum or sums of money, which may have been placed in the hands of such overseer, in the same manner as debts of like amount may be recovered by the laws of this State.

SEC. 2. *And be it further enacted,* That in case of a failure on the part of any overseer of roads, to pay over any balance of money in his hands that may be found due to the county, upon any account rendered by such overseer, and adjusted by the Levy Court and Court of Appeal in his county, it shall be the duty of the county treasurer to sue for and recover the same in manner aforesaid.

Passed at Dover, Feb. 2, 1833.



CHAPTER CCXXXIII.

AN ACT to alter the time of holding the stated annual meeting of the school voters in each school district, in the several counties of this State.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That such parts of the several acts of Assembly of this State, as direct the school

voters, in each school district in the several counties of this State, Annual meeting of school
to hold an annual stated meeting, in each and every year, on the second Monday of October, be and the same are hereby altered, voters, when
amended and supplied, by striking out wherever they occur, the words "second Monday of October," and inserting in place thereof, the words "Saturday before the first Monday of October." Dig. 488, altered by striking out, &c.

SEC. 2. *And be it further enacted,* That such parts of the several acts of Assembly aforesaid, shall be read and construed according to the foregoing amendments, and in any edition of the laws in this State, hereafter to be published, the said several acts shall be printed as amended by this act. To be read, &c. as amended.

Passed at Dover, Feb. 2, 1833.



CHAPTER CCXXXIV. (Private Act.)

AN ACT to enable James Hopkins of Kent county, to locate certain vacant lands in Kent county, and to complete his title to said lands.

Passed at Dover, Feb. 2, 1833.



CHAPTER CCXXXV.

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

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the monies in the treasury of this State, shall be applied in the following manner: that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Superior Court, Attorney General, Secretary of State and Auditor of Accounts, up to the first Tuesday of January, eighteen hundred and thirty-five; and so much thereof as may be necessary, shall be applied to payment of the daily allowance to the members of the Legislature, their clerks other expenses, and for printing the Laws and the Journals of the Senate and House of Representatives; and the residue thereof to the payment of any sums of money due to the citizens of the State, for which provision shall be made by law. Appropriation to pay. Salaries, &c. For printing laws, &c. And claims of citizens.

Passed at Dover, Feb. 2, 1833.

CHAPTER CCXXXII.

Dig. 373. A SUPPLEMENT to the act entitled "*An act concerning the Levy Court, Clerk of the Peace, Assessors, Collectors and County Treasurers.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in case any overseer of roads hereafter appointed, under and by virtue of the act to which this is a supplement, shall fail to render to the Levy Court and Court of Appeal in his county, a just and true account, according to the terms, and at the time prescribed in the thirteenth section of the act to which this is a supplement, it shall be the duty of the said Levy Court and Court of Appeal, to issue a summons under the hand of their president, attested by the clerk of the peace, and sealed with the seal of his office, directed to any constable of the county, requiring such overseer to appear before the Levy Court and Court of Appeal, on the first day of the ensuing March term of said court, and then and there, to render a just and true account of his proceedings, agreeably to law in such behalf made and provided: and in case said overseer shall fail to appear, in obedience to said summons, or after appearing, shall fail to render a just account as aforesaid, it shall be the duty of the clerk of the peace to give notice of such failure to the county treasurer, who shall immediately sue for and recover, for the use of the county, the full amount of any sum or sums of money, which may have been placed in the hands of such overseer, in the same manner as debts of like amount may be recovered by the laws of this State.

SEC. 2. *And be it further enacted,* That in case of a failure on the part of any overseer of roads, to pay over any balance of money in his hands that may be found due to the county, upon any account rendered by such overseer, and adjusted by the Levy Court and Court of Appeal in his county, it shall be the duty of the county treasurer to sue for and recover the same in manner aforesaid.

Passed at Dover, Feb. 2, 1833.

CHAPTER CCXXXIII.

AN ACT to alter the time of holding the stated annual meeting of the school voters in each school district, in the several counties of this State.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That such parts of the several acts of Assembly of this State, as direct the school

voters, in each school district in the several counties of this State, to hold an annual stated meeting, in each and every year, on the second Monday of October, be and the same are hereby altered, amended and supplied, by striking out wherever they occur, the words "second Monday of October," and inserting in place thereof, the words "Saturday before the first Monday of October."

Annual meet-
ing of school
voters, when
to be held.
Dig. 488, al-
tered by stri-
king out, &c.

SEC. 2. *And be it further enacted*, That such parts of the several acts of Assembly aforesaid, shall be read and construed according to the foregoing amendments, and in any edition of the laws in this State, hereafter to be published, the said several acts shall be printed as amended by this act.

To be read,
&c. as amen-
ded.

Passed at Dover, Feb. 2, 1833.



CHAPTER CCXXXIV. (Private Act.)

AN ACT to enable James Hopkins of Kent county, to locate certain vacant lands in Kent county, and to complete his title to said lands.

Passed at Dover, Feb. 2, 1833.



CHAPTER CCXXXV.

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

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the monies in the treasury of this State, shall be applied in the following manner: that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Superior Court, Attorney General, Secretary of State and Auditor of Accounts, up to the first Tuesday of January, eighteen hundred and thirty-five; and so much thereof as may be necessary, shall be applied to payment of the daily allowance to the members of the Legislature, their clerks other expenses, and for printing the Laws and the Journals of the Senate and House of Representatives; and the residue thereof to the payment of any sums of money due to the citizens of the State, for which provision shall be made by law.

Appropri-
ation to pay.
Salaries, &c.
For printing
laws, &c.
And claims of
citizens.

Passed at Dover, Feb. 2, 1833.

CHAPTER CCXXXVI. (Private Act.)

AN ACT to enable Lot Rawlins, of Sussex county, to locate certain vacant lands, situate in Nanticoke hundred in said county, and to complete his title to the same.

Passed at Dover, Feb. 2, 1833.

CHAPTER CCXXXVII.

8th vol. chap.
22, p. 24.

A SUPPLEMENT to the act entitled "*An act to protect the navigation of Mispillion creek in this State, and to prevent the wanton destruction of oysters in the same.*"

Taking oys-
ters in Mis-
pillion creek,
and putting
them in a
boat, &c.,
with intent to
carry them
out of the
State prohib-
ited, if the
quantity ex-
ceeds five
bushels.
Boat, &c. for-
feited.
Proceedings
in case of sei-
sure.
If condemned
sale to be
made.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall not be lawful for any person or persons, to rake or gather any oysters within Mispillion creek, and put them on board of any canoe, flat, scow, boat, or other vessel, with the intent to remove them out of this State, exceeding in quantity five bushels, under the penalty of forfeiting such canoe, flat, scow, boat, or other vessel, together with all the oysters, oyster-rakes, tongs, tackle, furniture and apparel, in and belonging to the same.

SEC. 2. *And be it enacted,* That any person who shall seize any such canoe, flat, scow, boat, or other vessel aforesaid, shall immediately thereupon, give information thereof, to any two justices of the peace of the county, where such seizure shall have been made, who are hereby empowered and required, to meet at such time and place as they shall appoint for the trial thereof; and the same, if condemned, shall with all things thereunto belonging, be sold by the order, and under the direction of the said justices; who, after deducting all legal costs and charges, shall pay the one moiety of the proceeds to the treasurer of the county, for the use of the county, and the other moiety to the person who seized and prosecuted for the same.

Any person
refusing or
resisting an
examination,
&c. shall for-
feit \$30.

SEC. 3. *And be it enacted,* That if any person or persons, on board any such canoe, flat, scow, boat, or other vessel, coming within the meaning of this act, shall refuse to permit any person to enter the same, or shall resist by force any person, either before or after entering the same, whose object shall be to ascertain whether the provisions of this act have been violated, or whose object shall be to carry into execution the provisions of this act, then every person so refusing or resisting, shall forfeit and pay a fine of thirty dollars; to be recovered with costs, before any justice of the peace, in the name of the person who shall sue for the same, in like man-

Fine, how
recovered.

ner as other debts of like amount are now recovered by law; one moiety thereof for the use of the said person suing for the same, and the other moiety to be paid to the treasurer of the county, for the use of the county where the offence is committed.

SEC. 4. *And be it further enacted*, That any person or persons who shall supply or sell, any oysters exceeding in quantity five bushels, taken or gathered from within the said Mispillion creek, to any person or persons, with intent that they shall be removed out of this State, contrary to the provisions of this act, every such person, for such offence, shall forfeit and pay a fine of twenty dollars; to be recovered with costs of suit, before any justice of the peace, in the name of the person suing for the same, as debts of like amount are by law recovered, for the use of the person suing for the same.

Those who supply oysters exceeding 5 bushels, out of the State, shall pay a fine of \$20. Fine, how recovered.

Passed at Dover, Feb. 2, 1833.

CHAPTER CCXXXVIII. (Private Act.)

AN ACT for quieting and confirming the title of Thomas Adams, James Lowry, James M. Buckhannon, Stanley B. Short, Ephraim Collins, William Twiford, junior, and Gilley G. Short and their successors, as trustees, &c., in a certain lot, piece or parcel of land, in the county of Sussex, and village of Middleford.

Passed at Dover, Feb. 4, 1833.

CHAPTER CCXXXIX. (Private Act.)

AN ACT to revive the act authorising Miers Burton, executor of Benjamin Burton, deceased, to sell and convey certain lands of the said Benjamin Burton, of which the said Benjamin Burton died intestate.

Passed at Dover, Feb. 4, 1833.

CHAPTER CCXL. (Private Act.)

AN ACT to enable William Sipple to locate certain vacant lands, situate in Mispillion hundred, in Kent county, and to complete his title to the same.

Passed at Dover, Feb. 4, 1833.

CHAPTER CCXLI.

A SUPPLEMENT to the act entitled "*An act to incorporate the Wilmington and Susquehanna Rail-road Company.*"

8th vol. chap. 110, p. 107. The Wil-
mington and
Susquehanna
rail-road co.
may unite
with other
companies of
Pennsylvania
and Mary-
land. And consti-
tute a com-
mon stock
and one com-
pany.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the president and directors of the Wilmington and Susquehanna Rail-road Company are hereby authorised and empowered, to form a union with such companies as are or may be incorporated in the States of Penn- sylvania and Maryland respectively, for the purpose of construct- ing rail-roads in the said States, to unite with the rail-road contem- plated by the act to which this is a supplement, so that the capital stock of the said companies respectively shall constitute a common stock, and the respective companies shall constitute one company, and be entitled to all the rights, privileges and immunities which each and all of them possess, have and enjoy, under and by virtue of their respective charters,

Passed at Dover, Feb, 4, 1833.



CHAPTER CCXLII. (Private Act.)

AN ACT for the relief of certain minors therein mentioned.

Passed at Dover, Feb, 4, 1833,



CHAPTER CCXLIII.

AN ACT to authorise a gate to be erected across a public road therein mentioned.

Certain per-
sons autho-
rised to erect
a gate across
a public road.

SEC. 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall and may be lawful for Joseph Hoffecker, William Denney, James Hoffecker, William Collins and Gary Longfellow, of Duck Creek hundred, in Kent county, or any or either of them, to erect a gate across the public road or common highway, opened by order of court, in the year one thousand eight hundred and thirty, leading to the marshes at the bottom of Dutch Neck in said hundred, at the proper cost and charges of them the said Joseph Hoffecker, William Denney, James Hoffecker, William Collins and Gary Longfellow, or any or either of them, 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 of like amount are recoverable by the laws of this State, by and in the name of any person or persons who will sue for the same.

Penalty for wilfully injuring or leaving the same open. How recovered.

Passed at Dover, Feb. 4, 1833.

CHAPTER CCXLIV.

A FURTHER ADDITIONAL SUPPLEMENT to the act entitled "An act for the establishment of free schools." Dig. 486.

Whereas, the fund for establishing schools in the State of Delaware has gradually accumulated and increased by the fees on marriage and tavern licenses, whereby the several counties and districts of the State have contributed to that fund in proportion to their population. And whereas, a distribution of the proceeds of said fund among the several counties of the State, according to their white population respectively, would be more equal and more suitably adapted to the great object designed by establishing the said fund: Therefore,

Preamble.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the clear income of the fund for establishing schools in the State of Delaware, accruing since the fourth day of July last, and which shall hereafter accrue, shall be and the same hereby is apportioned among the several counties in this State, as follows: that is to say, all the dividends or profits upon stock in the Farmer's 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 or tavern licenses, received in the several counties, shall be divided and apportioned among the several counties of this State, according to the aggregate number of white population respectively, as set forth in the official returns of the census, taken in the year one thousand eight hundred and thirty; and the share thus apportioned to each of the counties aforesaid, shall be again divided and distributed, as may be provided by law, among the several districts thereof, share and share alike. The trustee of the said fund, as the said clear income shall accrue, shall apportion it among the several counties, and the districts of each thereof respectively, in the manner aforesaid, keeping an account with each district, and entering its portion to its credit.

The clear income of the school fund to be apportioned among the several counties.

According to the aggregate number of white population of the census of 1830.

The share of each county to be divided equally among the districts of the same.

The trustee

SEC. 2. *And be it further enacted by the authority aforesaid*, That

of school fund so much of the act entitled "An act for the establishment of free schools," and to which this is an additional supplement, as is altered, revoked, supplied, or amended by this act, be and the same is hereby repealed, made null and void.

Repeal.

Passed at Dover, Feb. 4, 1833.



CHAPTER CCXLV.

AN ACT *more effectually to prevent swine from running at large in the village of Middletown and its vicinity.*

No swine shall be allowed to run at large within certain limits.

Limits described.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the first day of March, one thousand eight hundred and thirty-three, no swine shall be allowed to run at large within the following limits, viz: Beginning at the mouth of a small branch where it empties into Appoquinimink creek, between lands of Robert Cochran and the heirs of the late Ezekiel Hunn, running up said creek to John Gill's mill; thence by and with said Ginn's mill-pond, passing north of St. Ann's Church; from thence up the said north branch to the line between lands of the heirs of Robert Maxwell and the heirs of Philip Reading, by and with said line to the road from Middletown to Warwick; thence with the said road to the west end of Middletown lane, from thence with the road leading to Bohemia Brick Mill to the Choptank road, at the corner of John Reybold's lands; thence with the said Choptank road, to the corner of lands of Thomas Clayton and Johanna Barnham, and from thence an easterly direction, passing south of James Rogers' buildings, taking the middle of the branch, and running between lands of Charles H. Haughy and Richard Mansfield, continuing the course of said branch into John Cannon's mill-pond, keeping the west shore of said pond to the west end of the dam; from thence, by a direct line through lands of Mrs. Lydia C. Sims, to Samuel Thomas' mill-dam, thence across said dam, and from thence by a straight line to the place of beginning.

Swine taken up within the said limits, forfeited, unless, &c.

SEC. 2. *And be it further enacted,* That if from and after the first day of March next aforesaid, any swine shall be found running at large within the limits aforesaid, the owner or owners thereof, shall forfeit the same, to any person or persons residing within the limits aforesaid, who may or shall take up and secure the same, unless the owner or owners of such swine, shall within three days, after notice being given or advertisement having been made, according to the provision of this act, pay to the person or persons taking up and securing said swine, fifty cents for every such swine not exceeding one hundred weight, and one dollar for every such swine weighing over one hundred weight, and also ten cents per

head per day for keeping the same; and it shall be the duty of every person so taking such swine, to give the owner if known, notice thereof, or if not known, to advertise the same, in three of the most public places within the limits aforesaid.

SEC. 3. *And be it further enacted*, That if any person shall shoot Swine going or otherwise kill or maim any swine, so found going at large within the limits aforesaid, without first giving the owner notice, or advertising the same, as the case may be, agreeable to the second section of this act, he or they shall forfeit and pay to the owner of such swine, five dollars for each and every such swine, so shot or otherwise killed or maimed; to be recovered before a justice of the peace, with costs, as debts not exceeding five dollars and thirty-three cents are recovered. at large within the said limits, are not to be killed, or maimed, unless, &c. Penalty, how recovered.

SEC. 4. *And be it further enacted*, That all laws or parts of laws heretofore passed, for restraining swine from running at large in New Castle county, so far as respects the limits recited in the first section of this act, be and the same is hereby repealed. Repeal.

Passed at Dover, Feb. 4, 1833.

CHAPTER CXLVI.

A FURTHER SUPPLEMENT to the act entitled "*An act respecting the partition of lands and tenements among joint tenants and tenants in common.*" Dig. 168.

Whereas, great inconvenience has arisen in cases of joint tenancy and tenancy in common, from the impossibility of making partition in certain cases, from the nature of the property so held: Therefore, Preamble.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That whenever any proceedings shall take place, under the act to which this is a further supplement, and from the nature of the property so held in joint tenancy or tenancy in common, it is impracticable or highly detrimental to the property, or to the interests of those concerned, that partition should be made among the parties, according to the provisions of the act to which this is a further supplement, and of the act entitled "*An act concerning dower partition and waste,*" and shall be so decided to be, by the commissioners appointed by the court, or a majority of them: it shall be the duty of the said commissioners, or a majority of them, to value the said property, and return the said decision and valuation to the said court, under their hands and seals; and thereupon, the Chancellor shall have power to make an order for the sale of the said property, at public auc- When real estate held in joint tenancy or in common cannot be divided, or where a partition of the same will prejudice those concerned, it may be valued. Comm'rs. to return a valuation under their hands and seals.

Chancellor may order a sale and appoint a trustee.

A deed of conveyance to be made. Effect of the same.

Proceeds of sale, how to be disposed of.

May be taken at the valuation, by the consent of the parties, or upon such terms as may be agreed upon.

A decree shall be made in conformity with such agreement, and shall be binding.

The form of the commission and oath or affirmation to be prescribed by the Chancellor.

tion, to the highest and best bidder or bidders, and for that purpose to appoint a trustee to sell the same, giving such notice of the time and place of sale, as the Chancellor shall order; and who shall execute a deed of conveyance to the purchaser or purchasers, for such interest or estate, as belonged to the said joint tenants or tenants in common, upon payment of the purchase money thereof, free and discharged from all liens, except such as are paramount to the title of the said joint tenants or tenants in common; and the proceeds of the said sale, after deducting the costs of the proceedings, which shall be borne by the parties according to their respective interests, shall be invested under the order of the said court, or divided among the said joint tenants and tenants in common, according to their respective interests, and the rules of law and equity, subject respectively to the liens on the interest or estate of the several and respective joint tenants or tenants in common: *Provided always*, that if any one or more of the tenants in common or joint tenants, will take the said property at the valuation thereof, with the consent of the other parties interested, or such of them as shall have been served with process and appeared in court, or will take the said property upon any other terms, which shall be agreed upon by the said parties, who shall have been served with process and appeared as aforesaid, then no order of sale shall be made; but the Chancellor shall make a decree or order, in conformity with such agreement, and which decree or order, shall be binding upon all the joint tenants or tenants in common, interested in the said property; and all persons claiming or to claim by, from, through or under them, or any of them: the commission to be issued to the freeholders, and the oath or affirmation by them to be taken, according to the provisions of the act, to which this is a supplement, shall be varied by the Chancellor, so as to conform to the provisions of this act.

Passed at Dover, Feb. 4, 1833.



CHAPTER CCXLVII.

AN ACT concerning the sale of Lottery Tickets.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall not be lawful for any person or persons, to sell or dispose of any lottery ticket or lottery tickets, or of any part or share of a lottery ticket or lottery tickets, as a trade or business, either by hawking the same about, or at a particular stand or shop, without having first obtained from the Governor of this State, a license, for which there shall be paid to the Secretary of State, for the use of the State, the sum of one hundred dollars; which license shall bear date on the day on which the same is issued, and shall be and remain in

Sale of lottery tickets as a trade without license, prohibited.

Fee for license.

force for the term of one year; and shall limit the sale of such lottery tickets to a particular stand or shop.

SEC. 2. *And be it further enacted*, That if any person or persons, shall sell or dispose of any lottery ticket or lottery tickets, or any part or share of any lottery ticket or lottery tickets, as a trade or business, contrary to the provisions of this act, such person or persons, shall forfeit and pay a fine of twenty dollars, for every such lottery ticket or share, or part of a lottery ticket, so as aforesaid sold, contrary to the provisions of this act; to be recovered with costs of suit, in the name of the person who shall sue for the same, before any justice of the peace, in like manner, as debts under fifty dollars are by law recovered; the one-half thereof for the use of the person suing for the same, and the other half to be paid to the clerk of the peace, for the use of the county. This act shall take effect from and after the first day of April next, and it shall be the duty of the Secretary of State, to cause a copy of this act to be published in three or more newspapers within this State, for the space of six weeks, previously to the said first day of April next.

How recovered.

When this act shall take effect.

Passed at Dover, Feb. 4, 1833.



CHAPTER CCXLVIII.

A FURTHER SUPPLEMENT to the act entitled "*An act concerning the Levy Court, Clerk of the Peace, Assessors, Collectors and County Treasurers.*" Dig. 373.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That a general rate of persons and valuation of personal property, in each hundred in the several counties of this State, 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 thirty-four, and shall stand and be acted on for three years: and another 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 thirty-seven, and shall stand and be acted on for four 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 every fourth year thereafter. And the present rate of persons and valuation of personal property, shall stand and be acted upon, until the said first Tuesday of February, in the year of our Lord one thousand eight hundred and thirty-four: and a general valuation of the real property, in each hundred in the several counties of this State, shall be made, so as to be returned on the first Tuesday of February, in the year of our

A general rate of persons and valuation of pers. prop to be made and returned on the 1st Feb. 1834. And shall continue 3 years. Another, &c. 1st Feb. 1837 and shall continue 4 years, and shall be made and returned on 1st of Feb. of every 4th year thereafter. The present rate of persons and valuation to continue un-

til 1st Feb. 1834. A general valuation of real property to be returned 1st Feb. 1837. And continue 8 years, and be made and returned 1st Feb. in every 8th year thereafter. The present valuation continued until 1st Feb. 1837. Dig. 373.

Lord one thousand eight hundred and thirty-seven: and shall stand and be acted upon for eight years: and such general valuation of real property shall be made, so as to be returned on the first Tuesday of February, in every eighth year thereafter: and the present valuation of real property, shall stand and be acted upon until the said first Tuesday of February, in the year of our Lord one thousand eight hundred and thirty-seven.

SEC. 2. *And be it enacted by the authority aforesaid,* That so much of the act to which this is a supplement, as is hereby altered, amended or supplied, be and the same is hereby repealed.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCXLIX.

Dig. 410. 4th vol. chap. 146. p. 400.

AN ACT *to repeal the sixth section of the act entitled "An act to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes."*

6th section repealed.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the sixth section of the act entitled "An act to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes," passed at Dover, January 28, 1811, be and the same is hereby repealed.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCL. (Private Act.)

AN ACT *authorising and empowering Cornelius D. Blaney and Edward Williams, to convey a certain messuage or tenement and lot of land, in the town of New Castle.*

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLI.

AN ACT *establishing certain fees for services therein mentioned.*

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

following fees be and they are hereby authorised and established, any law, usage or custom to the contrary notwithstanding, that is to say:—

To Justices of the Peace,	Cents.	Fees to justices of the
For writing advertisements of attachments,	33	peace and
To Constables,		constables,
For summoning garnishees, whether upon execution or		for certain
other attachment, if there be but one, (including mileage,) 33		services.
If there be more than one, for each additional garnishee,	15	
(including mileage,) 15		
For posting up advertisements of attachment,	10	

SEC. 2. *And be it further enacted*, That so much of the act providing for the recovery of small debts as is hereby altered, amended or supplied, be and the same is hereby repealed. Repeal.

Passed at Dover, Feb. 5, 1833,



CHAPTER CCLII.

A SUPPLEMENT to the act entitled "*An act concerning strays.*" Dig 510.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the act entitled "*An act concerning strays,*" be and the same is hereby amended, by substituting for the words "one year," in every place in which they are used in said act, the words "six months;" and the said act shall be construed and have effect as if the words "six months" had been originally inserted in the place of the words "one year." *Amended. By striking out, &c. How to be read, &c.*

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLIII.

A SUPPLEMENT to the act entitled "*An act for granting power to the courts to grant licenses respecting slaves in certain cases.*" Dig. 501.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the passing of this act, the Chief Justice or any Associate Judge of this State, upon petition to him in vacation, within the county in which he resides, shall have power to grant a license to the owner or owners of any negro or mulatto slave, to export the same from this State to any other State, or to bring the same from *Slaves may be exported from or brought into this State, under a license to be granted, &c.*

Slaves may be passed and repassed by the owner of a tract of land in Maryland, situate, &c., under a license to be granted, &c.

any other into this State, upon such conditions as may be deemed proper, whenever in the opinion of such Chief Justice or Associate Judge, the facts and circumstances set forth in the petition will justify the granting of such license; and also shall have power to grant a license to the owner or owners of any tract of land, situate in any of the counties of the State of Maryland, adjoining this State, to employ his, her or their slave or slaves upon such tract of land, and to pass and repass them to and from the State of Maryland to this State for such purpose, if in the opinion of such Chief Justice or Associate Judge, the facts and circumstances set forth in the petition will justify the granting of such license; every such license to be granted shall be issued by the prothonotary of the county where such petition is presented, and shall be under the hand of said prothonotary, and the seal of the Superior Court.

How license shall be issued.

Slaves not to be free.

SEC. 2. *And be it further enacted,* That no negro or mulatto slave, exported from or brought into this State, or passed or repassed to and from the State of Maryland to this State pursuant to a license issued as aforesaid, shall by reason thereof be entitled to his or her freedom.

SEC. 3. *And be it further enacted,* That for every negro or mulatto slave to be brought into this State as aforesaid, and for every negro or mulatto slave to be passed and repassed to and from the State of Maryland to this State as aforesaid, the owner or owners thereof shall, before the granting such license as aforesaid, pay to the prothonotary the sum of ten dollars, for the use of the fund for establishing schools in this State; and for every negro or mulatto slave to be exported as aforesaid, the sum of five dollars for the use of the said fund; and shall also pay to the prothonotary for issuing such license and making a record thereof, the sum of two dollars.

Fee for license. For the use of the school fund.

Fee to prothonotary.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLIV.

AN ACT concerning the records of the several offices of this State.

Public officers (except justices of the peace) whose duty it is to provide books, cases, seals and screws, to be allowed by the Court the actual cost of such articles.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the commissioners of the Levy Court and Court of Appeal in the several counties of this State, are hereby authorised, directed and required, to make a fair, full and just allowance to every public officer whose duty it is to provide books and cases, seals and screws, for the use of their respective offices, for the preservation of the public records, or for the public accommodation, whenever it shall become necessary and proper to provide or to procure any new book or books of record, or case or cases, or seal or screw, or other article ne-

cessary for the safe keeping of the public records: *Provided*, that no higher rates shall be allowed to the said officers than the actual cost of said articles, nor shall any allowance be made for such articles as are now in use in their respective offices: *And provided further*, that the provisions of this act shall not extend to justices of the peace.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLV.

AN ACT concerning the Mayor's Court of the city of Wilmington,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That so much of the twenty-fourth section of the act entitled "A supplement to the act entitled An act to alter and re-establish the charter of the borough of Wilmington," as requires that the jurors therein mentioned should be summoned five days before the first day of the term, be and is hereby repealed, and that hereafter the jurors therein mentioned may be summoned at any time before or during the term, in case a writ or writs of venire facias shall issue for that purpose.

8th vol. chap.
108, p. 97.
Repeal of
part of the
24th sec.
Jurors may
be summoned
to the city or
mayor's
court either
before or in
term.

SEC. 2. *And be it further enacted*, That the nineteenth section of the said act entitled "A supplement to the act entitled An act to alter and re-establish the charter of the borough of Wilmington," shall be construed to extend only to offences which have been committed or shall be committed within the city of Wilmington.

19th sec. how
to be constr-
ed.

SEC. 3. *And be it further enacted*, That to the end and intent that persons indicted for offences committed within the city of Wilmington, but who shall depart therefrom may be brought to justice, the mayor or alderman of the said city for the time being, shall and may, as often as occasion shall require, issue his writ or writs of capias, to the sheriff of any county within the State directed, commanding him to take and bring the body or bodies of any such person or persons as shall be so as aforesaid indicted, before him the said mayor or alderman or either of them, to be dealt with according to law; and every sheriff to whom any such writ or writs of capias shall be directed and delivered, is hereby enjoined and required to use due diligence to execute the same, under such pains and penalties as are by law incurred by any sheriff or other officer for refusing and neglecting to obey and execute any capias or other process to him directed and delivered.

Writs of ca-
pias may is-
sue to the
sheriff of any
county of the
State, to take
persons in-
dicted, &c.

Sheriff bound
to execute
process.

SEC. 4. *And be it further enacted*, That it shall and may be lawful for the said Mayor's Court, or for the said mayor or alderman before whom any complaint, indictment, plea, matter or thing

**Subpoena
process may
be issued to
any person
in the State,
&c.**

of a criminal nature within their jurisdiction shall be made or depending, to issue his or their subpoena to any person or persons within this State, commanding him or them to appear and give evidence therein, and every person to whom the same shall be directed, and on whom service thereof shall be duly made, shall attend accordingly, and give evidence under such pains and penalties as are by law incurred by any person or persons refusing to attend and give evidence, when duly summoned for that purpose.

**Fines impos-
ed in the
mayor's
court, to be-
long to the
corporation.**

SEC. 5. *And be it further enacted*, That the said Mayor's Court shall not be responsible to the State for any fines, forfeitures and amercements which may be taxed, imposed or set in the said Mayor's Court or estreated there, but the same shall be and remain for the use of the corporation of the said city.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLVI.

Dig. 231.

A SUPPLEMENT to the act entitled "*An act concerning sales of the real estate of deceased persons by executors or administrators, for payment of debts.*"

When a judgment is recovered before a justice of peace against an executor or administrator, and there are no assets applicable to the same, the creditor may apply to the register for a citation. Citation to be served at least 10 days before the return thereof. Upon a hearing, the register may order the executor or administrator to apply to the O. Court for an order

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, where any creditor of a deceased person has recovered, or shall hereafter recover judgment before a justice of the peace in this State, against any executor or administrator for a debt under fifty dollars, due from such deceased person and such executor or administrator had not before, nor has at the time of giving such judgment nor afterwards, any assets which according to law, ought to be applied to the cause of action, it shall and may be lawful for such creditor to apply to the register of the county by whom letters testamentary, or letters of administration were granted to such executor or administrator, to issue a citation to such executor or administrator, to appear before the said register at a certain day therein to be specified, to show cause if any he has, why he shall not prefer a petition to the Orphans' Court of the county wherein any lands, tenements or hereditaments of such deceased person are situate, to make an order for the sale of the same or a part thereof, for the payment of such part of the debts of said deceased as his personal estate is not sufficient to satisfy; which citation shall be served at least ten days before the day of the return thereof; and if upon a hearing before the said register, it shall appear that the personal estate of the deceased person is not sufficient for the payment of his debts, and that the said creditor will be remediless without a sale of the lands, tenements or hereditaments of such deceased person or a part thereof, then and in such

case, the register shall have power to direct and order such executor or administrator to prefer a petition to the Orphans' Court of the county wherein any lands, tenements or hereditaments of such deceased person are situate, to make an order for the sale of the same or a part thereof, for the payment of such part of the debts of the said deceased as his personal estate is not sufficient to satisfy; and the proceedings in the said Orphans' Court upon said petition, shall in all respects be the same as prescribed by the act to which this is a supplement, and subject to the rules of the said court.

to sell land
for the pay-
ment of the
debts of the
deceased.

How the pro-
ceedings up-
on such peti-
tion shall be
conducted.

SEC. 2. *And be it further enacted*, That the order of the register shall require the said executor or administrator to prefer such petition to the Orphans' Court of the said county, to be held next after the time of the register's making such order: *Provided*, there be sufficient time under the act to which this is a supplement, and the rules of the said Orphan's Court to prefer such petition; and in case there be not sufficient time, then the order of the said register shall require the said executor or administrator to prefer such petition to the next subsequent Orphans' Court to be held thereafter.

The petition
for an order
to sell, to be
presented at
the next O.
Court after
the register's
order, or at
the second
term thereaf-
ter.

SEC. 3. *And be it further enacted*, That the said register shall have power to issue process of subpoena for the attendance of any witness or witnesses whose testimony may be required in any proceedings under this act; and may enforce obedience to any process to be issued, or any order to be made by virtue of this act, by process of attachment; under which the defaulting party may be arrested, fined and imprisoned; and all process by virtue of this act, may be issued into every county.

The reg. may
issue process
for witnesses.
And compel
their attend-
ance by at-
tachment,
and impose
fines, &c.
Process may
issue into eve-
ry county.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLVII.

AN ACT to establish a College at Newark.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (with the concurrence of two-thirds of each branch,)* That a college for instructing students in languages, arts and sciences, with power to confer degrees, shall be established at Newark in this State, by the name of "Newark College." There shall be a board of trustees of said college, consisting of not more than thirty-three members; there shall be a faculty of said college, composed of the teachers, whom the board of trustees shall from time to time consider it expedient to employ; no member of the faculty shall be a trustee; the board of trustees shall choose by ballot from their own members, their president, secretary and treasurer, and shall fill every vacancy happening in the board by death, resignation, neglect or otherwise, by

College esta-
blished.

Name.
Board of
trustees, who
shall appoint
a faculty and
other officers,
and have the
superintenden-
ce of the
college.

Meetings of the board of trustees to be appointed in the by-laws.

Occasional meetings, how called.

What number shall make a quorum.

Absence from three stated meetings shall vacate the place of a trustee, unless, &c. The place of a person chosen trustee will be vacated, unless, &c.

Authority of the faculty. No religious test shall be required. Trustees appointed by this act.

When they shall meet. Places vacated unless, &c.

Corporate name and powers.

electing by ballot a trustee to succeed him whose place is vacated; this board shall have the superintendence of said college; with power to appoint and remove the faculty and other officers and agents, and to make by-laws as well for the government of the college, as their own government, and to conduct all the concerns of the institution; there shall be two stated meetings of the board of trustees at Newark every year, whereof the day and place shall be appointed by the by-laws; and the secretary shall at least fourteen days before each stated meeting, give notice of the day and place thereof, by advertisement in one or more newspapers printed in this State; the president may in his own discretion, or upon the written application of two or more members, stating a sufficient purpose, call occasional meetings of the board; written notice of the time, place and purpose of every occasional meeting shall be given to each member, or put into the post-office duly directed to him, at least ten days before the day of meeting; the application shall be entered in the minutes of the meeting; and the proceeding shall be confined to the purpose therein stated; at any meeting, stated, occasional or adjourned, seven members shall be a quorum; any number may adjourn; a president or secretary pro tempore may be appointed in the absence of the regular officers; the place of a member who shall be absent from three stated meetings in succession shall be vacated, unless the board shall direct otherwise in the particular case; if the person chosen a trustee shall not attend or signify his acceptance at or before the next stated meeting, his place shall be vacated; the faculty shall have the care, government and instruction of the students, subject to the by-laws; they shall have authority with the approbation of the board of trustees, to confer degrees and grant diplomas; no religious test shall be required from the trustees, faculty, officers or students of said college.

SEC. 2. *And be it further enacted*, That Thomas Clayton, Willard Hall, James R. Black, Peter Robinson, David Hazzard, the Rev. E. W. Gilbert, Samuel Stevens, Andrew Gray, Henry White-ly, George Platt, Joseph Chamberlain, Thomas W. Handy, Henry M. Ridgely, John M. Clayton, Joseph G. Oliver, John C. Groome, Jacob Faris, James Rogers, Rev. S. W. Prestman, William Me-teer, William D. Waples, Alexander L. Hays, Louis M'Lane, Rev. James M'Graw, Rev. Robert Graham, Rev. Samuel Bell, Richard H. Bayard, Benjamin C. Howard, Samuel M'Kean, Rev. Ezekiel Cooper, Arnold Naudain, Allan Thomson and James Booth, be and they are hereby appointed trustees of the college aforesaid; they shall meet at Newark on the first Monday of April next, when or at some adjourned meeting, (a quorum being present) the board of trustees shall be organized; if any of them shall not be present, or signify his acceptance by writing at said meeting, his place shall be vacated.

SEC. 3. *And be it further enacted*, That the trustees aforesaid and their successors, shall be and are hereby constituted a corporation by the name of "The Trustees of Newark College," with

power and capacity to take by gift, grant devise, bequest, contract or otherwise, and to hold and to transfer lands, tenements, hereditaments, goods, chattels, rights and credits, and with all other the incidents and powers belonging to a corporation: *Provided*, that all the property of said corporation shall not exceed in yearly value twenty thousand dollars; and that power is hereby reserved to the General Assembly to revoke this act of incorporation; and that this act of incorporation shall not continue in force for a longer period than twenty years, without the re-enactment of the Legislature.

Limitation.

Charter for 20 years; and may be revoked.

SEC. 4. *And be it further enacted*, That the said corporation shall not be dissolved through a failure of the trustees to organize a board, or to choose a president, secretary or treasurer, or to appoint a faculty, or to hold stated meetings, or to elect members to fill vacancies, so long as there shall be seven members of said board. Gifts, grants or contracts, to or by the corporation, or devises or bequests to the corporation shall not be avoided by misnomer of the corporation, provided there be such a description as can be understood.

Corporation shall not be dissolved by failure of the trustees to make a board &c.

Gifts, &c. shall not be avoided by misnomer, &c., if description can be understood.

SEC. 5. *And be it further enacted*, That after the board of trustees aforesaid are organized, the State Treasurer shall transfer and pay upon the order of said board, signed by their president and attested by their secretary, to "The Trustees of Newark College" aforesaid, all the stock and money of "the college fund," created pursuant to a resolution of the General Assembly, adopted at Dover the twenty-eighth of January, eighteen hundred and twenty-four; and the said stock and money shall be a part of the endowment of the college aforesaid, and shall be held, apportioned and used as such by the said trustees.

When a treasurer shall transfer "the college fund" (6th vol. c. 247, p. 380) and to whom shall be a part of the endowment of the college.

SEC. 6. *And be it further enacted*, That the trustees of the academy of Newark as soon as the college building which they are about to erect in Newark aforesaid, pursuant to the "Act to enable the Trustees of the Academy of Newark to raise a sum not exceeding fifty thousand dollars by a lottery, for the purpose of establishing a college in Newark, in the State of Delaware," passed at Dover, the fifteenth of January, one thousand eight hundred and eighteen, shall be finished, shall transfer the same with the land purchased for the use thereof, to "The Trustees of Newark College" aforesaid; and the balance of the money raised by the lottery authorized by the said act remaining, after defraying the cost and expense of said college building and land, and after all other just allowances shall be paid to "The Trustees of Newark College" aforesaid, by the managers of the said lottery, appointed by the supplement to said act, passed at Dover, the tenth of February, one thousand eight hundred and twenty-five; or by such other person or persons in whose hands the same may be; which said balance shall be appropriated and invested as a fund for the endowment and support of said college.

When the college building is finished trustees of Newark academy shall transfer the same and the land purchased, to the trustees of the college. The balance of the lottery fund shall be also transferred to the same, for the endowment of the college.

SEC. 7. *And be it further enacted*, That the Secretary of State,

Copy of this act to be furnished to the second named trustee. when he shall have collated this act with, and corrected it by the original roll, shall furnish the second named trustee hereinbefore appointed with a duly authenticated copy thereof; and the fees due for such service shall be paid to the said secretary by the treasurer of the trustees of Newark Academy; and the said second named trustee, upon being so furnished with such authenticated copy of this act, shall give notice of the meeting of the before named trustees to be held at Newark, on the said first Monday of April next, in at least two newspapers printed in this State; which notice shall be inserted in said newspapers at least ten days before the time of said meeting.

Who shall give notice of the first meeting of the board of trustees.

6th vol. chap. 49, p. 61. SEC. 8. *And be it further enacted*, That the act entitled "An act to establish a College in the village of Newark or its vicinity, in New Castle county, in the State of Delaware, and for other purposes," passed at a session of the General Assembly, in the year of our Lord one thousand eight hundred twenty-one (nothing having been done under said act,) be and the same is hereby repealed.

Repeal.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLVIII.

AN ACT to incorporate a company for the purpose of cutting and making a Canal, between the waters of the Nanticoke river and Broadkilm creek, in the county of Sussex, and for other purposes.

Subscription books to be opened by managers.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each each branch of the Legislature concurring therein,)* That it shall and may be lawful to open books for receiving and entering subscriptions, to the amount of five hundred thousand dollars, in shares of fifty dollars each share, under the management of Isaac Tunnel, David Hazzard, Samuel Paynter, Jesse Green, William D. Waples, Solomon Prettyman, Jacob Cannon, Caleb Ross, Robert H. Griffith, Thomas Robinson, Jun., Henry F. Rodney, John H. Harris and Caleb S. Layton, or any two or more of them, for the purpose of cutting and making a canal from the waters of the Nanticoke river, in an easterly direction, to the Broadkilm creek, in the county of Sussex, and perfecting the navigation of said canal; to commence at such place upon the said river, or upon any branch or creek running into the same, and to extend to such place upon the said Broadkilm creek, as may be deemed most suitable: that the said books shall be opened on the first day of June next, and shall continue open for this purpose until the first day of July next, at such place as the said managers may appoint; when and where, they or any two of them, will attend with books for receiving and entering such subscriptions, they giving ten days' notice by adver-

On the 1st June 1833, and continue open until, &c.
Notice to be given.

tisements, of the respective times and places, so by them appointed; and that every subscriber shall, at the time of subscribing, pay to the manager or managers, receiving such subscriptions, five dollars on each and every share so by him or her subscribed for, which shall be deemed in part of the share or shares subscribed for; which sums so received, shall be deposited in the Farmers' Bank of the State of Delaware, at Georgetown, for the use of the said company.

Five dollars to be paid on each share at the time of subscribing.

SEC. 2. *And be it further enacted by the authority aforesaid,* That there shall be a general meeting of the subscribers at George-town, in the county of Sussex aforesaid, on the first Tuesday of August next; and the said managers, or such of them as shall act, shall lay before the subscribers, then and there meeting, all the books containing the subscriptions which shall be made as aforesaid; and if it shall appear that the said capital sum shall not have been subscribed, the said managers are authorised to receive further subscriptions, to make up the deficiency, at the time and place of such meeting; and if the subscriptions received and entered before and at such meeting, shall not amount to the sum of three hundred thousand dollars, then the subscribers so meeting as aforesaid, or a majority of them, are authorised to adjourn the said meeting to such further time, and from time to time, as they, or a majority of them, may deem proper; and that in the mean time, the said books shall continue open under the management of the persons before named, or any two or more of them, and they shall be authorised to take and receive subscriptions, and appoint times and places for that purpose, according to the provisions of the first section of this act; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said managers, or any five or more of them, under their hands, to the recorder of deeds, in and for Sussex county aforesaid, to be by him kept and recorded, as deeds are usually recorded in his office; and upon every share subscribed, the sum of five dollars shall be paid and deposited as aforesaid, and before every meeting to be held, pursuant to any such adjournment, the books containing the subscriptions, shall be laid before the meeting; and in case more than five hundred thousand dollars shall be subscribed for, on the said first Tuesday of August next, or on any day of any subsequent and adjourned meeting, then the sum shall be reduced to that sum, by the said managers or a majority of them, or a majority of the survivors of them, by beginning at, and striking off a share from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the capital of five hundred thousand dollars, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the numbers in which such subscribers shall stand, on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the said rule, until the sum subscribed, is re-

Meeting of stockholders on the first Tuesday of Aug. next. Subscription books to be laid before them. If capital is not subscribed, the managers may reopen the books.

A list of subscribers shall be returned to the recorder of Sussex county.

How an overplus of capital shall be reduced.

Notice of
stockholder's
meeting to be
given in
newspapers.
Unless \$250,-
000 are sub-
scribed be-
fore June 1,
1835, all sub-
scriptions
shall be void.

duced to the capital aforesaid, or all the subscriptions are reduced to one share; and if there still be an excess, then lots to be drawn, to determine the subscribers who are to be excluded, to reduce the subscriptions to the capital aforesaid; which striking off, shall be certified in the list aforesaid, and no person shall subscribe less than one whole share: *Provided*, that ten days' public notice, in two of the newspapers published in this State, in one of the newspapers published in the city of Philadelphia, and in one of the newspapers published in the city of Baltimore, of the time and place of every meeting of the subscribers, shall be given by the said managers, or such of them as shall act: *And provided also*, that unless two hundred and fifty thousand dollars of the said capital shall have been subscribed, on or before the first day of June, in the year eighteen hundred and thirty-five, all subscriptions made previous to that date, and in consequence of this act, shall be void.

Company in-
corporated.

Name.

May elect a
president and
directors.

Votes, how
given.

Sec. 3. *And be it further enacted by the authority aforesaid*, That the aforesaid subscribers, and their heirs and assigns, from the time of their said meeting, on the first Tuesday of August in the present year, in case subscriptions shall then have been, or be received and entered in the books aforesaid, to the amount of two hundred and fifty thousand dollars: and if not, then from the time of their subsequent meeting, pursuant to adjournment, according to the provision of the second section of this act, at which time it shall appear, that the subscriptions received and entered in said books, amount to the said sum of two hundred and fifty thousand dollars or upwards, shall be, and they are hereby declared to be incorporated by the name of "The Sussex County Canal Company," and may and shall have perpetual succession, and sue and be sued, and make and use a common seal, which they may break, alter, and renew at pleasure; and shall have and enjoy all the privileges and franchises incident to a corporation: and such of the said subscribers as shall be present at the said meeting, at which the said subscribers shall be incorporated, according to the foregoing provision of this section, are empowered and required to elect by ballot, a president and nine directors, for conducting, directing, and completing said canal, and managing the business of said corporation, for and during such time, not exceeding five years, as the said subscribers present at said meeting, or a majority of them, may deem proper; and every subscriber shall be allowed one vote for every share, not exceeding five shares, and one vote for every three shares above ten shares, and not exceeding fifteen shares; and one vote for every five shares above twenty shares, and not exceeding fifty shares; and one vote for every ten shares above fifty shares, and not exceeding one hundred shares; and any subscriber may, by writing under his or her hand and seal, executed before two credible witnesses, depute any other subscriber to vote, and act as his or her proxy, at any general or adjourned meeting.

Sec. 4. *And be it further enacted by the authority aforesaid*, That the said president and directors so elected, and their successors, or

a majority of them assembled, shall have full power and authority to agree with any person or persons, in behalf of the said company, to cut such canals, and erect and make such dams and locks, and perform such other works as may be necessary in their opinion for opening, improving, extending, and completing the navigation between the said Nanticoke river, or the waters thereof, and the Broadkilk creek, and carrying on the same from place to place; and from time to time, and upon such terms and in such manner as they shall think fit; and out of the money arising from the subscriptions and tolls, and other aids hereinafter given, to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all necessary and incidental charges; and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers and servants, as they shall judge requisite; and to agree for and settle their respective wages or allowances, and settle, pass and sign their accounts; and also to make and establish rules of proceedings, and to transact all other business and concerns of the said company, in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall by a general meeting of the subscribers be determined: *Provided always*, that the treasurer, and every officer and every other person employed by the said company, shall give bond in such penalty and with such security as the said president and directors, or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him or them; and that the allowance to be made to the said treasurer for his services, shall not exceed five dollars in the hundred, for the disbursements by him made; and that no officer in the said company, shall have any vote in the settlement or passing of his own account.

Powers of the president and directors.

Officers,

Shall give bond.

SEC. 5. *And be it further enacted by the authority aforesaid*, That the said president and directors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time and in what proportion, the proprietors shall advance and pay the sums subscribed; which orders shall be advertised at least three months, in two of the newspapers printed in this State, and in one of the newspapers printed in the city of Philadelphia, and in one of the newspapers printed in the city of Baltimore; and they are hereby authorised and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced, for carrying on and executing or repairing, and keeping in order the said works until the sums subscribed shall be fully paid; and to order the said sums to be deposited in the hands of the treasurer, to be by him disbursed and paid out, as the said president and directors, or a majority of them, shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the time of payment, so ordered and advertised as aforesaid, then the share or shares of the said proprietor, and all monies thereon paid, shall be

President and directors may order the payment of subscriptions,

Treasurer to receive and pay the same.

Penalty for neglecting to pay subscriptions.

forfeited to the said company, and shall be sold by them to any person willing to purchase, for such price as can be obtained therefor; and the said purchaser or purchasers, shall be subject to the same rules and regulations, as if the said sale and conveyance had been made by the original proprietor: *Provided*, that in case of the death of any stockholder, the refusal or neglect of his executor, administrator or legatee, to make the payment that may be required as aforesaid, shall not have the effect to forfeit immediately, the said share or shares, held by the said stockholder, in his lifetime: but the said executor, administrator or legatee, shall have one whole year next after the said death, to make the payment required.

Exception.

Continuance of officers.

SEC. 6. And to continue the succession of the said president and directors, and to keep up the same number—*Be it further enacted by the authority aforesaid*, that from time to time, upon the expiration of the said terms for which the said president and directors were appointed, the proprietors of the said company, at the next general meeting, shall either continue the said president and directors, or any of them, or choose others in their stead; and in case of the death, removal, resignation, or incapacity of the president, or any of the said directors, may and shall in manner aforesaid, elect any other person or persons to be president and directors, in the room of him or them, so dying, removing, or resigning, or becoming incapable; and may at any of their general meetings, remove the president or any of the directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

Oath of office.

SEC. 7. *And be it further enacted by the authority aforesaid*, That every president and director, before he acts as such, shall take an oath or affirmation, for the faithful execution of his office.

Stockholders owning at least 500 shares may hold a general meeting. Time of meeting.

SEC. 8. *And be it further enacted by the authority aforesaid*, That the presence of proprietors having five hundred shares at the least, shall be necessary to constitute a general meeting, and there shall be a general meeting of proprietors on the second Tuesday of June in every year at Georgetown, in the said county of Sussex; but if a sufficient number should not attend on that day, the proprietors who do attend on that day, may adjourn said meeting from time to time, till a general meeting of proprietors shall be had, which may be continued from day to day, till the business of the company is finished; at which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings, and in finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which, shall be entered on the said company's books; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors, or a majority of them shall judge necessary, for repairs and contingent charges, an equal dividend of all the nett profits arising from the tolls hereby granted, shall be ordered and made, to and among all the proprietors of the said company, in proportion to their several shares.

President and directors shall report their proceedings, &c.

Dividends.

SEC. 9. *And be it further enacted by the authority aforesaid, That* for and in consideration of the expenses the said stockholders will be at, not only in cutting the said canal and other works, for opening the said navigation, but in maintaining and keeping the same in repair, the said canal and the said canal 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 condition hereafter mentioned; and that it shall and may be lawful for the said president and directors, after the said canal shall be made navigable, to demand and receive the following tolls, at such place or places, in said canal, as they may hereafter direct: *Provided*, that the whole toll received, shall not amount to more than the rates fixed by this act: that is to say—

Profits vested
in the corpo-
ration.

Rates of toll.

Dolls. Cts.

Every pipe of wine, French brandy, or other spirits,	1 25
Every hogshead of wine, rum, or other spirits,	1 00
Every hogshead of tobacco or sugar,	1 00
Every hogshead of beer, cider, rice or molasses,	75
Every barrel, other than empty barrels,	25
And all other casks or kegs in proportion, according to the quantity and quality of their contents, for casks of linseed oil, same as spirits.	
Every bushel of wheat, peas, beans or flaxseed,	04
Every bushel of Indian corn, or other grain or salt,	02
Every barrel of beef, pork or fish,	30
Every barrel of flour, crackers, biscuit or coffee,	20
Every ton of hemp, flax, potash, cotton, bar or manufactured iron,	2 00
Every ton of pig iron or castings,	1 00
Every ton of copper, lead or other ore, other than iron ore,	1 00
Every ton of stone or iron ore,	50
Every chaldron of coals,	37½
Every hundred pipe or hogshead staves or pipe or hogshead heading,	10
Every hundred barrel staves or barrel heading,	06
Every thousand shingles, two feet long or more,	75
Every thousand shingles less than two feet long,	50
Every hundred cubic feet of plank, scantling or board,	75
Every cord of oak wood,	50
Every cord of hickory wood,	75
Every cord of bark, other than Spanish-oak bark,	75
Every cord of Spanish-oak bark,	1 00
Every ton of ground black-oak bark or other ground bark,	2 00
Every ton of ground Spanish-oak bark,	2 50
On every passenger, excepting only such as are necessarily engaged in working the vessel or boat, ten cts. per mile	
Every gross hundred weight of all other commodities not herein before enumerated,	10
And for all other commodities the same proportion, agreeably to the articles herein enumerated.	

Every boat which has not commodities or passengers on board, to pay the sum of four dollars, shall pay so much as with the commodities on board, will yield the sum aforesaid. And every empty boat or vessel four dollars, except an empty boat, or vessel returning, whose load has already paid the tolls affixed, in which case, she shall pass toll free: *Provided*, such boat or vessel shall return within thirty days after paying said tolls.

SEC. 10. *And be it further enacted by the authority aforesaid,* That in case of refusal or neglect to pay toll, at the time of offering to pass through the said canal, and previous to the vessel passing through the same, the collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel or boat of any description not belonging to the said company shall pass without paying said toll, then the said collectors may seize such vessel or boat wherever found, and sell the same at auction for ready money; which, so far as is necessary, shall be applied towards paying said toll, and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner; and the person having the direction of such vessel shall be liable for such toll, if the same is not paid by the sale of such vessel as aforesaid: *Provided*, that the said proprietors or a majority of them, holding at least two thousand shares, shall have full power and authority at any general meeting, to lessen the said tolls or any of them: *And provided also*, that the said rate of tolls may be graduated by the said company for any distance on said canal, and that the same rate of toll shall be charged on vessels, articles and passengers, passing through the said canal by either end thereof.

SEC. 11. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Sussex County Canal Company, at any time hereafter, whenever it may be deemed necessary and expedient by a majority of the said company, at any annual or special meeting, to survey, lay out, locate, construct and complete a rail-road, M^dAdamized, or other artificial road, from any point on the said waters of the Nanticoke, to any point on the said Broadkilk creek; and for this purpose it shall be lawful to and for the president, directors and company of the said Sussex County Canal Company, in the manner already herein-before authorised and provided by this act, to increase the capital stock of the said company, by the addition of three hundred thousand dollars: *Provided*, that the route of the said artificial road shall not be more than four miles northwardly or southwardly of the route of the said canal, but may be extended at each end of the said canal, to any point on the said river or creek, so as to promote the convenience of the public and of the said company.

SEC. 12. *And be it further enacted by the authority aforesaid,* That it is and shall be lawful for the said Sussex County Canal Company, by their engineers, artists, superintendents, contractors, workmen and laborers, with their instruments, implements, carts, wagons and other carriages, and beasts of draught or burden, to enter upon

and occupy the lands within the boundaries of the said canal, or of the said artificial road, for the purpose of making, cutting, constructing and perfecting the same, and either of them, and all the necessary works thereto belonging: *Provided always*, that the said Sussex County Canal Company shall be liable to pay to the several and respective owners of lands, within the boundaries of the said canal, or of the said artificial road, a fair and reasonable compensation (if compensation be demanded,) for the damages sustained by reason of taking such lands for the location and use of the said canal or artificial road, or either or both of them; such damages to be ascertained or assessed in the manner hereinafter mentioned.

Company liable to damages.

SEC. 13. *And be it further enacted by the authority aforesaid*, That in all cases where the damages (if any) sustained by any owner or owners of lands within the boundaries of the said canal, or of the said artificial road, when it may be deemed expedient by the said company to construct the same, by reason of taking such lands, for the location and use of the said canal or artificial road have not been, or because of disagreement cannot be ascertained by private contract between such owner or owners and the said Sussex County Canal Company, or in case the owner or owners of any such lands be out of the State, or be under the disability of infancy, coverture, or incompetency of mind, or be otherwise incapacitated or unable to make such contract aforesaid, or to convey lands, then, and in each and every such case, it shall and may be lawful for the said Sussex County Canal Company, or for the owner or owners of any such lands, who have made no such private contract as aforesaid, to make application to the Superior Court for the county of Sussex, in term time, or to the Chief Justice of the said court in vacation, first giving at least five days' notice of making such application, to the opposite party; but notice to such party, if out of the State, or under any of the disabilities aforesaid, shall not be required of the said company; and the said Court or Chief Justice, is hereby authorized and required to nominate and appoint five fit and impartial freeholders of Sussex county, to view the premises and assess the damages (if any) sustained by the reason aforesaid; and it shall be the duty of the party upon whose application the said freeholders are appointed, to give five days' notice to the opposite party of the time and place of meeting of the said freeholders; and it shall be a sufficient service of such notice upon the said company, or of any other notice required by this act, to deliver a copy thereof to the president and secretary personally, or to leave a copy at the dwelling-house of each of them; and such notice from or on behalf of the said company, with any other notice required by this act, from or on behalf of the said company, may be served by the delivery of a copy thereof, to the owner or owners of such lands, or leaving a copy at their respective dwelling-houses; but in case such owner or owners are out of the State or under any of the aforesaid disabilities, it shall be a sufficient service of the notice of the time and place of meeting of the said freeholders, to leave a copy thereof at the dwelling-house, or some conspicuous place on the land through

Damages, how ascertained.

After notice, application to be made to the S. Court in Sussex, or to the chief justice in vacation.

Duty of the court or chief justice.

And of the parties.

Freeholders
to be sworn
or affirmed.

Duties of the
freeholders.

Report,
where to be
returned, and
confirmed,
&c.

Fee of the
freeholders,
and of pro-
thonotary.

Same mode
of ascertain-
ing damages
respecting
the road.

which the said canal or the said artificial road, or either or both of them may be located; and each of the said freeholders, before he proceeds to perform the duties required of him by this act, shall take an oath or affirmation before some judge or justice of the peace of this State, that he will faithfully and impartially, according to the true intent and meaning of this act, and to the best of his skill and judgment, estimate and assess the damages (if any) sustained by such owner or owners of lands within the boundaries of such canal, (or such artificial road, if one should hereafter be constructed,) by reason of taking such lands for the location and use of said canal, (or of said artificial road:) And the said freeholders shall proceed to view the premises, and in assessing damages shall take into consideration the advantages derived from the said canal, or from the said artificial road passing through the lands of such owner or owners; and having estimated and ascertained the damages, shall make a report under their hands and seals, or the hands and seals of a majority of them, describing the lands, and stating the amount of damages (if any) which such owner or owners have sustained, or will sustain by reason of taking such lands for the location and use of the said canal, or the said artificial road, and vesting the same in the said company; which said report shall be forthwith returned to the office of the prothonotary of the said county, and judgment of confirmation shall be entered by the said court, unless good and sufficient cause be shown to the contrary; in which case, the said court may refer the matter back to the same freeholders, or appoint other five freeholders to proceed in manner aforesaid, and assess the damages, if any be sustained. And when judgment of confirmation upon any report made as aforesaid, pursuant to this act, shall be entered by the said court, then the said Sussex County Canal Company, paying to such owner or owners aforesaid, the damages assessed in such report aforesaid, on bringing the same into court for the use of such owner or owners, and paying the costs of said proceedings, shall have and hold, to them and their successors and assigns forever, all and every the lands described in such report, as fully and effectually as if the same had been well and sufficiently granted to them by the several and respective owners thereof, by any legal and perfect mode of conveyance or assurance whatsoever; and each freeholder appointed as aforesaid, shall receive for every day's attendance in the performance of the duties hereby required of him (if regular return be duly made,) the sum of one dollar; and the prothonotary shall receive such fees as are given to him by law for like services; and if after the said canal has been completed, the said artificial road shall be located and constructed, the same proceedings, for the purpose of ascertaining the damages (if any) sustained by the respective owners of lands, along the route and within the boundaries of the said road, by reason of constructing and locating the same, shall be had and used by the said canal company, or by the said respective owners, as are herein before provided for and on behalf of the said canal.

SEC. 14. *And be it further enacted by the authority aforesaid, That* in every case where the said Sussex County Canal Company may be, and are entitled by gift or private contract to deeds of conveyance, for lands through which the said canal or artificial road, or both of them may run and be located, or where by the award of arbitrators amicably chosen, deeds of conveyance are to be executed to the said company, their successors and assigns, for certain other lands through which said canal or artificial road, or both of them are or is located, in order to save to the said company the great expense which the drafting, execution and proof, acknowledgment and recording said deeds of conveyance might occasion, it shall and may be lawful for the said Sussex County Canal Company, and they are hereby authorised, instead of such deeds of conveyance as aforesaid, to obtain from the parties so contracting, or required by an award to make such deed or deeds, a certificate to be made and executed, under the hand and seal of such party, in the presence of, and attested by the chancellor, or by any judge or justice of the peace of this State; which said certificate shall contain an acknowledgment of the receipt from the said company of the consideration money (if any,) or of the damages awarded to such party (if any;) and shall also contain a description of the lands of the said party, within the boundaries of the said canal, or of the said artificial road, or of either of them, with the declaration that the said party conveys all his or her right and title to the said lands so described, unto the said canal company and their successors and assigns forever. And the said certificate when so executed, shall vest in the said company and their successors and assigns forever, all the estate, right, title and interest of the party or parties making it, in and to the lands therein described, as fully and effectually as if the same were well and sufficiently granted by such party or parties, by any perfect and legal mode of conveyance or assurance whatsoever. And it shall be the duty of the recorder of Sussex county aforesaid, to record such certificate so executed and attested; for which he shall receive such fees as are given to him by law for the like services, and the record of such certificates, or an office copy thereof, shall be sufficient evidence in all courts of law and equity in this State.

Where company entitled by gift or private contract &c.

What shall be a good conveyance to them, &c.

Certificate shall vest title, &c. in the company.

To be recorded.

SEC. 15. *And be it further enacted by the authority aforesaid, That* whenever hereafter any rail-road, Mac Adamized road, or other artificial road shall be constructed by the said canal company pursuant to this act, in consideration of the expenses the said stockholders will be at, not only in surveying, locating, constructing and completing said road, but in maintaining and keeping the same in repair, the said road so located as aforesaid, and all the property, rights, powers and privileges granted to the said Sussex County Canal Company by this act, shall be and are hereby vested in the said company, their successors and assigns forever; and it shall and may be lawful for the said president and directors of the said Sussex County Canal Company to demand and receive the same rate of tolls at such places on the said road as they may here-

Road, &c. vested in said company.

Same rate of toll on the road as on the canal,

after direct, as is provided for and secured to said company for, in and upon said canal in and by the ninth section of this act; which said tolls upon said road may be reduced by said company, as hereinafter provided for the said canal.

SEC. 16. *And be it further enacted by the authority aforesaid,* That the said canal and the works to be erected thereon in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway; and also that the said artificial road when completed, shall forever thereafter be esteemed and taken to be a public highway, free and each of them free, for the transportation of all goods, commodities or produce whatsoever, and for the free passage of all passengers whatsoever, on payment of the tolls imposed by this act.

SEC. 17. *And be it further enacted by the authority aforesaid,* That dividends of so much of the profits of the said canal, and of the said road when the same shall be completed, as shall appear advisable to the president, directors and company aforesaid, shall be declared at least twice a year, in every year, and paid to the stockholders on demand, at any time after the expiration of ten days therefrom; but they shall in no case exceed the amount of the nett profits actually acquired by the company; so that the capital stock shall never be thereby impaired.

SEC. 18. *And be it further enacted by the authority aforesaid,* That the said president and directors or a majority of them, are hereby authorised to agree with the proprietors for the purchase of a quantity of land not exceeding three acres, at or near convenient places for the receipt of tolls aforesaid, for the purpose of erecting necessary buildings; in case of disagreement, or any of the disabilities aforesaid, or the proprietor being out of the State, then such land may be valued, condemned and paid for as aforesaid; and the company shall, upon payment of the valuation of the said land, be seized thereof in fee simple as aforesaid.

SEC. 19. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for every of the said proprietors to transfer his share or shares by deed, executed before two witnesses, and registered after proof of the execution thereof, in the said company's books, and not otherwise, except by devise; which devise shall also be exhibited to the president and directors and registered in said company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls: *Provided,* that no transfer whatsoever shall be made, except for one or more whole share or shares, and not for part of such shares; and that no share shall at any time be sold, conveyed, transferred or held in trust, for the use and benefit, or in the name of another, whereby the said president and directors, or proprietors of said company, or any of them shall or may be challenged, or made to answer concerning any such trust; but that every person appearing as aforesaid to be a proprietor, shall as to others of the said company, be

to every intent taken absolutely as such, but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

SEC. 20. *And be it further enacted by the authority aforesaid,* That if the said capital and the other aids already granted by this act shall prove insufficient, it shall and may be lawful for the said company from time to time to increase the said capital, by the addition of so many more whole shares, as shall be judged necessary by the said proprietors or a majority of them, holding at least one thousand shares, present at any general meeting of the said company; and the said president and directors or a majority of them, are hereby empowered and required, after giving at least one month's previous notice thereof in the newspapers as herein before directed in this behalf, to open books at such place or places as shall be directed by said meeting, for receiving and entering such additional subscriptions in which the proprietors of the said company for the time being, shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose; and the said president and directors are hereby required to observe in all other respects the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner under the hands of any five or more of them, an exact list of such additional subscriptions, with the sums by them respectively subscribed, into the recorder's office aforesaid to be there recorded; and all proprietors of such additional shares, shall be and they are hereby declared to be from thence forward incorporated into the said company.

The company may from time to time increase the capital, as they may judge necessary.

SEC. 21. *And be it further enacted by the authority aforesaid,* That if the stockholders, or the president and directors aforesaid, shall neglect or omit, or by any accident be prevented from performing any act or thing on the particular day on which it is directed by this act to be done and performed, such neglect or omission shall not be construed or taken in any manner to destroy or invalidate this charter, but the said act may be done at the next convenient day.

Stockholders omitting their duty shall not destroy this charter.

SEC. 22. *And be it further enacted by the authority aforesaid,* That whenever said canal shall cross any public road, it shall be the duty of said company at the proper expense of the same, to make and keep good and sufficient bridges across the said canal, so as to prevent any inconvenience in the usage of said road or roads, by reason of said canal crossing the same; and that it shall be lawful for the Legislature of this State, at all times hereafter, to enact laws for the erecting and maintaining bridges across the said canal, at the expense of the said company, and to subject the said company to forfeitures, pains and penalties, for not complying with such laws.

Bridges to be kept across the canal at all public roads. Legislature may enact laws for erecting bridges.

SEC. 23. *And be it further enacted by the authority aforesaid,*

Company may procure and use steam-boats in connexion with said canal or road. And for that purpose may increase the capital. May establish rates of passage, &c.

Proviso as to charges.

Account to be kept of tolls, &c.

Dividends to be declared of the clear profits.

That it shall and may be lawful to and for the said Sussex County Canal Company, to purchase or procure steamboats for the conveyance of passengers and merchandise, and use the same in connexion with said canal, or with the said artificial road, or with both the canal and road aforesaid; and for this purpose it shall be lawful to and for the president, directors and company, in the manner hereinbefore authorised and empowered by this act, to increase the capital stock of the said company, by the addition of two hundred and fifty thousand dollars, and to establish such rates of passage and transportation in and by said steamboats, as may be deemed reasonable by the said company; and it shall be the duty of the said Sussex County Canal Company, to convey through and upon the said canal or the said road, the passengers and merchandise of steamboats belonging to any other company at the same rate of toll, with the same facilities, in like manner, and upon as favorable terms as the passengers and merchandise of the said Sussex County Canal Company: *Provided*, that the said Sussex County Canal Company shall not make for the conveyance of passengers on said canal or road, any greater charge than one-fifth of the price received by any steamboat company, for the conveyance of passengers, nor greater than one-fourth of the price received for the conveyance of merchandise; unless the price of conveying passengers between the city of Philadelphia in the State of Pennsylvania, and Norfolk in Virginia, shall be less than ten dollars per capita for adults, with their usual baggage, and minors in proportion: and when the price of conveying passengers from and to the places aforesaid shall be less than ten dollars, the said Sussex County Canal Company shall receive for conveying passengers or merchandise of any other company, agreeably to the rates of toll established in the ninth section of this act: *Provided however*, that the price of transportation of passengers, from the city of Philadelphia to Norfolk aforesaid, shall not be less than eight dollars, so as to place the said canal company upon equal footing with other companies, in regard to the transportation of passengers and merchandise.

SEC. 24. *And be it further enacted by the authority aforesaid*, That the said president, managers and company, shall keep a just and true account of all the monies to be received by the several and respective gatherers and collectors of tolls, at the several places on the said canal, and on the said road for that purpose established, and from the several and respective captains or other officers of the steamboats so as aforesaid to be employed by the said company; and shall make and declare a dividend of the clear profits and income thereof, (all contingent costs and charges and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved,) among all the subscribers to the work of the said company, and shall on the second Tuesday of the months of January and July in every year, publish the half-yearly dividend to be made of the clear profits among the stockholders, and of the time and place when

and where the same will be paid, and shall cause the same to be paid accordingly.

SEC. 25. *And be it further enacted by the authority aforesaid,* That if any person or persons shall destroy, break, damage, or in any manner injure the canal or the bank of the canal, or any of ^{Destroying,} the locks, works, or otherwise injure any part of the same, or of ^{injuring, &c.} any thing thereto belonging; or shall destroy, break, damage, or in any manner injure the said rail-road or Mac Adamized road or other artificial road, when the same shall have been established, surveyed or located, or after the same shall have been completed, or shall injure any part of the same, or shall injure any boat or boats, vessel or vessels, or any of the fixtures or furniture thereof, or any other thing or things belonging to the said company, or shall aid, abet, or counsel the doing of the same, or if any person or persons shall destroy, break, damage, or in any manner injure the level or surface, edges, or sides of the said canal or road, or any part thereof, or the embankments, culverts, bridges, birms, drains, ditches, fences, hedges or trees, or any of them, of or belonging to the said canal or artificial road, or shall aid, abet, or counsel the doing of the same; or if any person shall throw, put or place any obstruction in or upon the said canal, or in or upon the said road, or any part thereof, or of either of them, or any obstacle or impediment in the way of any car, carriage, vehicle, locomotive engine, or machine going or being upon the said rail-road, or shall aid, abet, or counsel the doing of the same, or if any person or persons shall destroy, break, damage, or in any manner injure the cars, carriages or other vehicles, or any of them, or any locomotive engine or machine of the said company, or the buildings, wharf or wharves, landing-places, or any of them, or any improvement or improvements whatsoever of the said company, or shall aid, abet, or counsel the doing of the same; all and every such person or persons so offending, shall be liable to indictment in the Court of General Sessions of the Peace and Gaol Delivery, within Sussex county aforesaid, and on conviction upon such indictment, shall be fined in any sum not exceeding five thousand dollars, at ^{Penalty.} the discretion of the court, and shall be sentenced to pay the fine with all the costs; and such proceedings shall be had, as in all other cases of indictable offences, shall be liable to the said Sussex County Canal Company in a civil action for the injury sustained, and the form of such action shall be trespass vi et armis, in which treble damages and full costs of suit shall be recovered; but in no case shall both those remedies be had by the said Sussex County Canal Company for one and the same offence or damage: *Provided however,* that limitation to actions under this act shall be according to the existing laws of this State.

SEC. 26. *And be it further enacted by the authority aforesaid,* That whenever and so long as the nett profits arising from the said ^{Proportion of} tolls shall amount to eight per centum per annum or more, the Sus- ^{profits to be} sex County Canal Company aforesaid shall pay into the treasury ^{paid to the} State.

of the State, for the use of the State, one tenth part of the said nett profits annually, in half-yearly payments forever.

Right of the State to subscribe to the stock. SEC. 27. *And be it further enacted by the authority aforesaid,* That the State of Delaware hereby reserves to itself the right of subscribing to the capital stock of the said company, whenever hereafter it may be deemed advisable, to any amount not exceeding one hundred thousand dollars at the par value of said stock.

This act to be construed most beneficially for the company. SEC. 28. *And be it further enacted by the authority aforesaid,* That this act shall in all cases be construed, taken and understood most beneficially for the said Sussex County Canal Company.

Power of revocation. SEC. 29. *And be it further enacted by the authority aforesaid,* That power to revoke this corporation is hereby reserved to the Legislature of this State.

Passed at Dover, Feb. 5, 1833.



CHAPTER CCLIX. (Private Act.)

AN ACT *to enable Turpin, Jacob and Charles Wright, to remove certain negroes therein mentioned, from this State into the State of Maryland.*

Passed at Dover, Feb. 6, 1833.



CHAPTER CCLX. (Private Act.)

A SUPPLEMENT *to the act entitled "An act granting to William Russel of Kent county, a certain tract or parcel of marsh therein described."*

Passed at Dover, Feb. 6, 1833.



CHAPTER CCLXI. (Private Act.)

AN ACT *to enable George Hearn of Sussex county, to locate certain vacant lands, situate in Little Creek hundred in said county, and to complete his title to said lands.*

Passed at Dover, Feb. 6, 1833.

CHAPTER CCLXII.

A SUPPLEMENT to the act entitled "*An act allowing for a limited time an additional Justice of the Peace in the county of New Castle.*" vol. 4, chap. 151, p. 159.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the justice of the peace in New Castle county, appointed and commissioned under the act to which this is a supplement, which said act was passed at Dover, on the fourth day of February, one thousand eight hundred and thirty-two, shall not be required to reside within one mile of the village of St. George's; but it shall be lawful for the said justice of the peace to reside either in or near the said village, or in the vicinity of the Buck Tavern, in St. George's hundred, or at any intermediate spot between the said village and tavern, so that he may transact business at any of said places in Red Lion or St. George's hundred.

Justice of the peace appointed under the above act may reside in or near the village of St. George's, or in the vicinity of the Buck tavern.

Passed at Dover, Feb. 6, 1833.



CHAPTER CCLXIII.

A FURTHER SUPPLEMENT to the act entitled "*An act providing for the recovery of small debts.*" Dig. 330.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever an execution shall be delivered to any constable, under the provisions of the act to which this is a supplement, in case the said constable shall not produce to the justice issuing the said execution, on or before the return day of the same, the receipt of the plaintiff or person entitled to the benefit thereof, for the amount levied for his or her use, or shall not make such other return as may be sufficient in law, or shall make a false return, the said justice shall issue at the request of the plaintiff or person entitled to the benefit thereof, or his or her agent, a summons directed for service to a constable, or to some other fit person who will consent to serve the same, or to the sheriff of the county, commanding the said constable to appear before him on a day certain, to be mentioned in the said summons, not exceeding five days from the date thereof, then and there to show cause why an execution should not issue against him for the amount of the first above mentioned execution; the summons shall be served by producing it to the said constable, and stating the substance thereof, or by leaving a copy thereof at the said constable's place of abode, in the presence of one or more of his family or neighbors, at least two days before the day therein appointed for the said constable's appearance before the justice; the summons

Liability of constable on execution process.

May be proceeded against by summons. Who may serve the same.

How summons shall be served.

And return- shall be returned to the said justice with an indorsement stating the
ed. manner of service, and which shall be verified by the oath or af-
firmation of the person serving the same; the constable and sheriff
Constable, as well as the person who shall consent to serve such summons,
&c., bound to shall be bound to execute the same under a penalty of twenty dol-
serve such lars, to be recovered in the name, and for the use of the plaintiff or
summons. other person interested, as debts under fifty dollars are by law re-
Penalty for covered.
neglect.

Judgment
may be enter-
ed against
constable,
and execu-
tion issued.

May be di-
rected to a
constable or
sheriff.
More than
one summons
may be issu-
ed.
The remedy
herein is cu-
mulative.

SEC. 2. *And be it further enacted*, That if the said constable on whom a summons as aforesaid shall have been served, and the summons duly returned as aforesaid, shall neglect to appear on the day mentioned in the said summons, or does not show sufficient cause why the execution should not issue against him, then the said justice shall enter judgment against such constable for the amount of the first above mentioned execution, together with costs; on which judgment there shall be no stay of execution; and upon application of the plaintiff or person entitled to the benefit thereof, or his or her agent, the said justice shall issue an execution against the said constable for the amount of such judgment; which execution may be directed to any constable of the county, or to the sheriff of the county, whose duty it shall respectively be to execute the same, subject to the provisions of the eighteenth section of the act to which this is a further supplement; the justice may issue a second, third or other summons, in case a previous summons shall not have been duly returned according to the provisions of the first section of this act. The remedy herein provided is cumulative, and nothing herein contained shall be construed in any manner to alter or affect the responsibility of the said constable or his sureties, on the official obligation of the said constable.

Passed at Dover, Feb. 6, 1833.



CHAPTER CCLXIV.

AN ACT to incorporate a company for the purpose of making a Canal to connect the waters of Leves creek with Indian river and the Chesapeake bay, by Pocomoke river.

Managers.

Subscription
books to be
opened.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (with the concurrence of two-thirds of each branch thereof,)* That Miers Burton, George Truitt, William Dunning, Joseph L. Barnard, William D. Waples, Thomas Robinson of Wm., Lewis West, Robert Burton of Lewis, Capt. Nathaniel Tingle, are hereby appointed managers to open books for receiving subscriptions to the amount of two hundred and fifty thousand dollars, in shares of twenty dollars each share, for the purpose of cutting a canal to connect the waters of

Lewes creek with Indian river and the Chesapeake bay, by the Pocomoke river, and perfecting the navigation of said canal; which said books shall be opened at such times and places and continue open for such time as said managers shall appoint, who shall give at least twenty days' notice, by advertisement in such newspapers as they deem proper, of the times and places of opening said books. A majority of said managers shall have power to act in all respects as if all the said managers were present.

Notice to be given of the time and place.

SEC. 2. *And be it further enacted*, That a general meeting of the subscribers shall be held at Millsborough, in Sussex county, on the first day of May, in the year one thousand eight hundred and thirty-four, of which at least twenty days' notice shall be given by the said managers or any three of them, in such newspapers as they may deem proper. And the acting managers at such meeting shall lay before such of the subscribers as shall attend according to the said notice, the books by them respectively kept, containing the said subscriptions; and if one-half of the capital sum aforesaid, shall upon examination appear not to be subscribed, then the said managers shall have power to receive subscriptions in such manner as they may deem expedient, to make up such deficiency; and in case more than two hundred and fifty thousand dollars shall be subscribed, then the subscriptions shall be reduced to that sum by the managers, by beginning at and striking off a share from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the capital of two hundred and fifty thousand dollars, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the numbers in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the said rule until the sum subscribed is reduced to the capital aforesaid; which striking off shall be certified on the list aforesaid: *Provided*, that if subscriptions equal one hundred thousand dollars of the said capital cannot be obtained, all subscriptions made by virtue of this act shall be void.

Subscribers to meet at Millsborough.

Books to be laid before them by the managers. If half the capital be not subscribed, the books may be reopened.

How an excess of subscription shall be reduced.

If \$100,000 be not subscribed, all subscriptions are void.

SEC. 3. *And be it further enacted*, That in case one-half of the capital aforesaid or a greater sum shall be subscribed in manner aforesaid, the subscribers and their executors, administrators and assigns, from the time of their first said meeting, shall be and they are hereby declared to be a corporation, by the name of the "Lewes and Pocomoke Canal Company;" and shall have perpetual succession, and may sue and be sued as such, and shall have all the powers and rights incident to a corporation. And such of the subscribers as shall be present at the said first meeting are hereby authorized and required to elect a president and seven directors for making and completing said canal, and managing the business of the said company, for and during such time, not exceeding three years, as a majority of said subscribers shall think proper. Every

Incorporation of the company.

Name.

A president and directors shall be elected.

And returned.

Constable, &c., bound to serve such summons. Penalty for neglect.

shall be returned to the said justice with an indorsement stating the manner of service, and which shall be verified by the oath or affirmation of the person serving the same; the constable and sheriff as well as the person who shall consent to serve such summons, shall be bound to execute the same under a penalty of twenty dollars, to be recovered in the name, and for the use of the plaintiff or other person interested, as debts under fifty dollars are by law recovered.

Judgment may be entered against constable, and execution issued.

May be directed to a constable or sheriff. More than one summons may be issued. The remedy herein is cumulative.

SEC. 2. *And be it further enacted*, That if the said constable on whom a summons as aforesaid shall have been served, and the summons duly returned as aforesaid, shall neglect to appear on the day mentioned in the said summons, or does not show sufficient cause why the execution should not issue against him, then the said justice shall enter judgment against such constable for the amount of the first above mentioned execution, together with costs; on which judgment there shall be no stay of execution; and upon application of the plaintiff or person entitled to the benefit thereof, or his or her agent, the said justice shall issue an execution against the said constable for the amount of such judgment; which execution may be directed to any constable of the county, or to the sheriff of the county, whose duty it shall respectively be to execute the same, subject to the provisions of the eighteenth section of the act to which this is a further supplement; the justice may issue a second, third or other summons, in case a previous summons shall not have been duly returned according to the provisions of the first section of this act. The remedy herein provided is cumulative, and nothing herein contained shall be construed in any manner to alter or affect the responsibility of the said constable or his sureties, on the official obligation of the said constable.

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Lewes creek with Indian river and the Chesapeake bay, by the Pocomoke river, and perfecting the navigation of said canal; which said books shall be opened at such times and places and continue open for such time as said managers shall appoint, who shall give at least twenty days' notice, by advertisement in such newspapers as they deem proper, of the times and places of opening said books. A majority of said managers shall have power to act in all respects as if all the said managers were present.

Notice to be given of the time and place.

SEC. 2. *And be it further enacted*, That a general meeting of the subscribers shall be held at Millsborough, in Sussex county, on the first day of May, in the year one thousand eight hundred and thirty-four, of which at least twenty days' notice shall be given by the said managers or any three of them, in such newspapers as they may deem proper. And the acting managers at such meeting shall lay before such of the subscribers as shall attend according to the said notice, the books by them respectively kept, containing the said subscriptions; and if one-half of the capital sum aforesaid, shall upon examination appear not to be subscribed, then the said managers shall have power to receive subscriptions in such manner as they may deem expedient, to make up such deficiency; and in case more than two hundred and fifty thousand dollars shall be subscribed, then the subscriptions shall be reduced to that sum by the managers, by beginning at and striking off a share from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the capital of two hundred and fifty thousand dollars, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the numbers in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the said rule until the sum subscribed is reduced to the capital aforesaid; which striking off shall be certified on the list aforesaid: *Provided*, that if subscriptions equal one hundred thousand dollars of the said capital cannot be obtained, all subscriptions made by virtue of this act shall be void.

Subscribers to meet at Millsborough.

Books to be laid before them by the managers. If half the capital be not subscribed, the books may be reopened.

How an excess of subscription shall be reduced.

If \$100,000 be not subscribed, all subscriptions are void.

SEC. 3. *And be it further enacted*, That in case one-half of the capital aforesaid or a greater sum shall be subscribed in manner aforesaid, the subscribers and their executors, administrators and assigns, from the time of their first said meeting, shall be and they are hereby declared to be a corporation, by the name of the "Lewes, Pocomoke and Pocomoke Canal Company;" and shall have perpetual succession, and may sue and be sued as such, and shall have all the powers and rights incident to a corporation. And such of the subscribers as shall be present at the said first meeting are hereby authorised and required to elect a president and seven directors for making and completing said canal, and managing the business of the said company, for and during such time, not exceeding three years, as a majority of said subscribers shall think proper. Every

Incorporation of the company.

A president and directors shall be elected.

How votes
shall be given.

subscriber shall be allowed one vote for every share not exceeding five shares, and one vote for every three shares above ten, held by him or her in said company. Any stockholder by writing, executed under hand and seal, in the presence of two subscribing witnesses, may depute any other member or stockholder to vote and act as his or her proxy at any general meeting.

Powers of
president and
directors.

SEC. 4. *And be it further enacted*, That the said president and directors when so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of the said company, to cut such canals and erect such locks, and perform all such other works as they shall judge necessary for opening, improving, and extending the navigation between the waters of Lewes creek, Indian river and the Chesapeake bay by Pocomoke river, and carrying on the same from place to place, and from time to time, and upon such terms and in such manner, as they shall think fit; and out of the money arising from the subscriptions and tolls hereinafter mentioned, to pay for the same; and to repair and keep in good order the said canals, locks, and all other works necessary thereto; and to defray all incidental expenses; and also to appoint a treasurer, secretary, and all such other officers, toll-gatherers, agents and servants, as they shall deem necessary to carry this act into effect; and the same, or any of them in their discretion, to remove or dismiss: and to agree for and settle their salaries, wages or allowances; and to settle and pass all accounts; to fix the time and place, and direct notice of the election of the president and directors, and other meetings of the stockholders; and the same from time to time to change; to appoint judges of all elections; to fill up vacancies which may occur in their own body; to make and establish all by-laws, as they deem necessary for the transaction of all other business and concerns of the said company, and such by-laws from time to time, to alter and repeal: *Provided*, that such by-laws shall not be contrary to the laws or constitution of this State, or of the United States.

Treasurer
shall give
bond.

SEC. 5. *And be it further enacted*, That the treasurer shall give bond in such penalty and with such security, as shall be directed by the by-laws, for the true and faithful discharge of the trust reposed in him; and shall receive such compensation for his services as the by-laws shall prescribe. No officer in the said company shall have any vote in the settlement or passing of his own account.

Subscriptions
to be paid on
notice.

SEC. 6. *And be it further enacted*, That the said president and directors, or a majority of them, shall have full power and authority from time to time, as money shall be wanted, to make and sign orders for that purpose; and direct at what time and in what proportions, the stockholders shall pay the sums subscribed; of which reasonable notice shall be given in such newspapers as the said president and directors, or a majority of them shall order; which said sums shall be paid into the hands of the treasurer, to be disbursed by him as the president and directors, or a majority of them shall

Treasurer to
receive pay-
ment.

direct. If any stockholder shall neglect or refuse to pay any proportion or instalment within thirty days after the time of payment so ordered and advertised as aforesaid, the share or shares of such stockholder and all monies thereon paid, shall be forfeited to the company, and shall be sold by them to any person or persons willing to purchase the same, for such price as can be obtained therefor; and such purchaser or purchasers shall be subject to the same rules, regulations and by-laws, in all respects, as if such share or shares had been assigned by the original proprietor. But if the said president and directors, or a majority of them, shall deem it more beneficial to the interests of the company, they shall have full power and authority, instead of forfeiting such share or shares, to recover from all or any defaulting stockholders, by due course of law, such instalment or instalments, which may remain unpaid after the expiration of thirty days from the time of payment so ordered and advertised as aforesaid, together with full costs of suit, Penalty for neglect.

SEC. 7. *And be it further enacted,* That upon the expiration of the term for which the said president and directors shall be elected pursuant to the third section of this act, the stockholders shall meet at such time and place as shall be fixed upon, pursuant to the provisions of the fourth section of this act, and either continue the said president and directors, or any of them, or elect others in their stead. The president and directors elected from time to time, pursuant to the provisions of the said fourth section, shall continue in office until others shall be duly elected at such time, place, and in such manner, as shall be prescribed by the by-laws. Continuance of officers.

SEC. 8. *And be it further enacted,* That the presence of the stockholders, either in person or by proxy, who have a majority of the whole number of shares subscribed for, shall be necessary to constitute a general meeting. The president and directors shall annually, at such general meeting, make report and render distinct and just accounts of all their proceedings; and shall make such dividend of the nett profits arising from the tolls hereby granted as they shall deem proper, to and among all the stockholders of the said company in proportion to their several shares. How a general meeting of subscribers shall be constituted. Annual report to be made. Dividends.

SEC. 9. *And be it further enacted,* That for and in consideration of the expenses which the said stockholders will be at, in cutting the said canal and making the other works for opening and perfecting the said navigation, and for keeping the same in repair, the said canal and other works, with all their profits, under the limitations aforesaid, shall be and are hereby vested in the said corporation forever, under the limitations aforesaid, subject nevertheless, to the power of the Legislature to revoke this act of incorporation, which is hereby reserved by the Legislature. Profits vested in the corporation. Power of revocation.

SEC. 10. *And be it further enacted,* That it shall and may be lawful for the said president and directors, after the said canal shall be made navigable, to demand and receive tolls, at such place or Rates of toll,

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places, in the said canal as they may direct, not exceeding the following rates, that is to say:—

	<i>Dolls. Cts.</i>
Every pipe of wine or French brandy,	1 87½
Every hogshead of wine, rum, or other spirits,	1 50
Every hogshead of tobacco,	1 50
Every hogshead of beer, rice or molasses,	1 12½
Every barrel,	37½
And all other casks or kegs in proportion, according to the quantity and quality of their contents,	25
Every bushel of wheat, peas, beans or flaxseed,	6
Every bushel of Indian corn, or other grain or salt,	4
Every barrel of pork, beef or fish,	50
Every barrel of flour,	30
Every ton of hemp, flax, potash, bar or manufactured iron,	3 00
Every ton of pig iron or castings,	1 50
Every ton of copper, lead or other ore, other than iron ore,	1 50
Every ton of stone or iron ore,	75
Every chaldron of coals,	50
Every ton of anthracite coal,	1 50
Every hundred pipe or hogshead staves or pipe or hogshead heading,	15
Every hundred barrel staves or barrel heading,	10
Every thousand shingles, two feet long or more,	1 12½
Every thousand shingles less than two feet long,	75
Every hundred cubic feet of plank or scantling,	60
Every hundred cubic feet of other timber,	1 00
Every cord of wood,	1 50
Every gross hundred weight of all other commodities or packages,	15

And for all other commodities in the same proportion, agreeably to the articles above enumerated.

Every boat or vessel not having commodities on board which will pay the sum of six dollars, shall pay so much as with the commodities on board, will yield the sum aforesaid. And every empty boat or vessel shall pay six dollars, except an empty boat or vessel returning, whose load has already paid tolls according to the aforesaid rates; in which case, she shall pass toll free: *Provided*, such boat or vessel shall return within thirty days after paying said tolls.

Penalty for
refusal to pay
toll.

SEC. 11. *And be it further enacted*, That in case of neglect or refusal to pay the toll, at the time of offering to pass through the said canal, and previous to the vessel passing through the same, the collector or collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass without paying said toll, such collector or collectors may seize such vessel wherever found, and sell the same at auction for ready money, and apply such money towards paying said toll, and all expenses of seizure and sale; and the balance, if any, shall be paid to the owner; and the person having the direction of such vessel shall be liable for

such toll, if the same be not paid by the sale of such vessel as aforesaid.

SEC. 12. *And be it further enacted*, That if any master, shipper or agent, shall falsely or fraudulently present to any collector of tolls, or other agent of said company, a false manifest or account of cargo of any vessel or boat passing or about to pass through the said canal, or give a false statement of the toll thereon, or otherwise attempt to defraud in said tolls, such master, shipper or agent, shall after paying to the said company the toll due, and costs of ascertaining the same, forfeit and pay double the amount of tolls so charged, on which such fraud shall be attempted; to be recovered by action of debt with costs of suit, in any court of record in this State, or before any justice of the peace within Sussex county, having jurisdiction thereof, in the same manner as debts under fifty dollars are now recoverable by law; one moiety of which forfeiture shall be for the use of the party suing for the same, and the other moiety shall be for the use of the State.

Penalty for fraud against the company.

How recovered.

SEC. 13. *And be it further enacted*, That the said canal, when completed shall thereafter be esteemed and taken to be navigable as a public highway, for the transportation of all goods, commodities, or produce whatsoever, on the payment of the tolls authorised by this act.

Canal to be a public highway.

SEC. 14. *And be it further enacted*, That it shall be lawful for the said canal company, by their engineers, artists, superintendents, contractors and laborers, with their instruments and implements, to enter upon from time to time, any lands in the county of Sussex, through or near which it may be intended to cut the said canal; and explore and survey such lands for the purpose of determining the best route and location of the said canal and the erection of all works proper for such navigation.

SEC. 15. *And be it further enacted*, That it shall and may be lawful for the said president and directors, or a majority of them, to contract and agree with the owner or owners of any lands or tenements, for the purchase of so much thereof as may be necessary for making, digging and perfecting so much of the said canal as may pass through this State, and of erecting and establishing all the necessary locks, works and devices, to such a navigation belonging, if such contract or agreement can be made with such owner or owners; but in case of disagreement, or in case the owner or owners of any such lands and tenements be out of the State, or under the disability of infancy, coverture, or incompetency of mind, or be otherwise incapacitated or unable to make such contract, or to convey lands, then and in each and every such case, it shall and may be lawful to and for the said president and directors or a majority of them, to apply to the Superior Court of this State, in the county of Sussex, in term time, or to the Associate Judge residing in said county in vacation, first giving at least ten days' notice thereof to such owner or owners, if within the State; and the said

Lands necessary for the canal or locks &c. may be purchased by contract with the owner.

If a contract cannot be made, freeholders may be appointed.

Proceedings
in such case,
how to be
conducted.

court or Associate Judge is hereby authorised and required to nominate and appoint five fit and impartial men freeholders of said county to examine whether such owner or owners will suffer or sustain any, and what damages, by reason of taking any such lands or tenements for the use of the said canal and navigation and the locks and works thereto belonging, or by any ways and means whatever. And it shall be the duty of the president or secretary of the said company, to give at least ten days' notice in writing to such owner or owners, of the time and place of meeting of the said freeholders; and such notice or any other notice required by this act to such owner or owners, may be served by the delivery of a copy thereof to him, her or them, or leaving a copy at their respective dwelling-houses; if living within the State; or if living out of the State, by affixing a copy of such notice in some conspicuous place on the premises. And each of the said freeholders before he proceeds to perform the duties required of him by this act, shall take an oath or affirmation that he will faithfully and impartially, according to the true intent and meaning of this act, and to the best of his skill and judgment, estimate and assess the damages (if any) which such owner or owners will suffer or sustain by reason of taking any such lands or tenements for the use of the said canal, navigation, and the locks and works thereunto belonging, or by any ways or means whatever; which oath or affirmation the said freeholders shall severally have authority to administer to each other. And the said freeholders shall proceed to view and examine the premises; and, in assessing damages, shall take into consideration the advantages to be derived from the said canal passing through the lands of such owner or owners, and having estimated and ascertained the damages (if any) shall make a report, under their hands and seals, or the hands and seals of a majority of them, describing the lands by metes and bounds, or other particular description, and stating the amount of damages (if any) which such owner or owners will sustain by reason of taking such lands or tenements for the use of the said canal or navigation, and the locks or works thereto belonging, or by any ways or means whatever, and vesting the same in the said company; which said report shall forthwith be returned to the office of the prothonotary of the said county, and judgment of confirmation shall be entered by the said court, unless good and sufficient cause be shown to the contrary; in which case, the said court in their discretion, may refer the matter back to the same freeholders, or appoint other five freeholders, to proceed in manner aforesaid and assess the damages, if any; and when judgment of confirmation upon any report made as aforesaid shall be entered by the said court, then the said "Leves and Pocomoke Canal Company" paying to such owner or owners aforesaid, the damages assessed in such report aforesaid, or bringing the same into court for the use of such owner or owners, and paying the costs of the said proceedings shall take, have and hold, to them and their successors and assigns, all and every the lands described in said report, as fully and effectually as if the same had been well and sufficiently granted to them by the several and respective owners

thereof, by any legal and perfect mode of conveyance and assurance whatsoever, and notwithstanding any of the disabilities aforesaid.

Each freeholder appointed as aforesaid, shall receive for every day's attendance in the performance of the duties hereby required of him (if regular return be duly made) the sum of one dollar, with mileage, at the rate of three cents per mile, going and returning; but mileage shall not be allowed for more than three day's attendance.

Fees of freeholders and prothonotary.

The prothonotary shall receive such fees as are given to him by law for like services.

SEC. 16. *And be it further enacted*, That the said president and directors, or a majority of them, are hereby authorised to agree with the owner or owners of any lands or tenements, for the purchase of any land, at or near convenient places for the receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement or any of the disabilities aforesaid, or the owner or owners being out of the State, then such land may be valued, condemned and paid for, in the same manner and by the same mode of proceeding as directed in the foregoing section; and the said company shall, upon payment of the valuation money of the said land be seized thereof in fee simple, as fully and effectually as mentioned in said section.

Lands may be purchased for erection of buildings.

If contract cannot be made, proceedings may be had as in sec. 15.

SEC. 17. *And be it further enacted*, That the shares of the capital stock of the said company shall be personal property, and shall be assignable in such manner as shall be regulated by the by-laws and subject thereto.

Shares of capital stock assignable.

SEC. 18. *And be it further enacted*, That if the said capital shall prove insufficient to accomplish the beneficial purposes intended by this act, it shall and may be lawful for the said president and directors, or a majority of them, at any stated meeting under the by-laws, to increase the capital stock of the said company, by the addition of as many shares as they may deem necessary; for which purpose they shall be at liberty, as may appear most advisable for the interest of the said company, either to open books and receive subscriptions in such manner as they may deem expedient, or to sell all or any such additional shares for the benefit of the said company, for any sum or sums of money not under the par value of such shares, to wit: not under the sum of twenty dollars for each share. And the said president and directors, or a majority of them, shall have power to borrow money for effecting the beneficial purposes of this act, and to issue certificates or other evidences of loan, and to pledge the property of the said company for the payment of the same and interest thereon: *Provided nevertheless*, that the increase and addition of and to the capital stock of the said company, to be made as aforesaid, shall not exceed five hundred thousand dollars.

The capital stock may be increased.

Limitation of capital.

SEC. 19. *And be it further enacted*, That the said corporation

Corporation
shall not be
dissolved by
failure, &c.

created by this act, shall not be dissolved through a failure of the stockholders to hold any meeting as prescribed by this act, or to elect a president and directors as directed by this act, or by the by-laws; or through a failure of the president and directors, or a majority of them, to do any act or thing on any particular day or time, or to fill vacancies in their own board.

Bridges to be
kept where
the canal
shall cross a
public road.

Laws may be
enacted to
erect and
maintain
bridges.

SEC. 20. *And be it further enacted*, That in case the said canal shall cross any public road, it shall be the duty of the said company, at the proper expense of the same, to make and keep a good and sufficient bridge or bridges across the said canal, so as to prevent any inconvenience in the usage of such road or roads, by reason of said canal crossing the same; and that it shall be lawful for the Legislature of this State, at all times hereafter, to enact laws for the erecting and maintaining bridges across the said canal, at the expense of the said company, and to subject the said company to forfeitures, pains and penalties, for not complying with such laws.

Per centum
to the State.

SEC. 21. *And be it further enacted*, That whenever and so long as the nett profits arising from the said tolls shall amount to ten per centum per annum or more, the said company shall pay into the treasury of the State, one tenth part of the excess of said profits over ten per centum annually, in half-yearly payments forever; and that all property of the said company shall be liable and subject to such payments. The books, papers, and transactions of the said company, shall at all times be open to the examination of the Auditor of Accounts, or such other person or persons as shall be appointed by the General Assembly of this State, for the purpose of ascertaining the nett profits arising from the said tolls.

Penalty for
injuring the
canal or
locks, &c.

SEC. 22. *And be it further enacted*, That if any person or persons shall destroy, damage, or in any manner injure the said canal, locks, works, or any of them, or any of the property of the said company, or shall aid, abet, or counsel the doing of the same, all and every such person or persons so offending, shall be liable to indictment in the Court of General Sessions of the Peace and Gaol Delivery within the county of Sussex; and on conviction upon such indictment, shall be fined in any sum not exceeding five thousand dollars, at the discretion of the court; and shall be sentenced to pay the fine and all the costs; and such proceedings shall be had as in all other cases of indictable offences; or such person or persons shall be liable to the said company in a civil action for the injury sustained; and the form of such action shall be trespass vi et armis, in which treble damages and full costs of suit shall be recovered. But in no case shall both the said remedies be had by the said company, for one and the same offence and damage.

How recover-
ed.

Passed at Dover, Feb. 6, 1833.

CHAPTER CCLXV.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act* Vol. 8, chap. 17, p. 19.
to extend the time for recording of deeds."

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all deeds or letters of attorney concerning lands, tenements or hereditaments, sealed and delivered before the first day of September, one thousand eight hundred and thirty-two, and being acknowledged or proved, and the acknowledgment or proof certified according to the laws of the State, in force at the time when such acknowledgment or proof was made, may with the certificate of the acknowledgment or proof, and all indorsements and annexations, be recorded in the office for recording of deeds, in the county wherein such lands, tenements or hereditaments are, or any part thereof are situate, if lodged in such office on or before the first day of September, in the year of our Lord one thousand eight hundred and thirty-three, and the said record or an office copy thereof, shall be sufficient evidence; and from and after the first day of September, in the year last aforesaid, no deed or letter of attorney, sealed and delivered before the said first day of September, in the year of our Lord one thousand eight hundred and thirty-two shall be recorded.

Time for recording deeds extended to 1st of Sept. 1833.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of State, and he is hereby required, to publish for the space of two months from the first day of March next, a copy of this act in three or more newspapers printed within this State.

This act to be published.

Passed at Dover, Feb. 6, 1833.



CHAPTER CCLXVI.

AN ACT concerning the bridge over Lewes creek, in Sussex county.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever commissioners or freeholders shall be appointed in pursuance of an act of assembly of this State, entitled "*An act concerning roads and bridges,*" for the purpose of viewing and selection a site or point for the laying off a road or causeway, and for the erection of a bridge across Lewes creek to Cape Henlopen, the said commissioners or freeholders shall have authority to select such site or sites as they may deem most eligible and proper, and make return thereof to the Superior Court of Sussex county, in order for confirmation; and the said court shall have authority to confirm the same, any law of this State to the contrary notwithstanding.

When com'rs. are appointed to select a site for a causeway and bridge over L. creek, they may take the most eligible.

S. Court may confirm their return.

SEC. 2. *Be it enacted by the authority aforesaid,* That whenever the report of the freeholders aforesaid shall have been duly confirmed by the said Superior Court, and the same shall come before the Levy Court of Sussex county for approval, the said Levy Court shall be authorised to select and receive such site or location for a bridge and causeway or road over such creek as shall be deemed most eligible, or for which the greatest amount of voluntary contribution can be obtained to aid in the construction of the same,

SEC. 3. *Be it further enacted by the authority aforesaid,* That after all contributions have been made by any or all person or persons, the deficiency if any remaining, which shall be necessary to build and complete said bridge and causeway, may be paid by the inhabitants of Lewes and Rehoboth hundred, and not by the inhabitants of the other hundreds of Sussex county.

Passed at Dover, Feb. 6, 1833,



CHAPTER CCLXVII.

Dig. 34. **A SUPPLEMENT** to the act concerning apprentices and servants,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, the justice or justices of the peace, or trustees of the poor, approving or executing any indenture or deed of apprenticeship or servitude, shall at the time of approving or executing the same, demand and receive of and from the master or mistress of the apprentice or servant, for the use of the recorder of deeds for the county where the same is executed, the fees of the said recorder for recording the said indenture or deed, and the note or certificate of approval or other indorsement thereon, at the rate of one cent for every twelve words, and thirty cents for the recorder's certificate, under his hand and seal of office; and such justice or justices of the peace, or trustees of the poor, when he, they or any of them, deliver or cause to be delivered, such indenture or deed to the said recorder, to be recorded pursuant to the act to which this is a supplement, shall at the same time pay or cause to be paid to the said recorder, his fees aforesaid; and in case of neglect or refusal so to do, such justice or justices of the peace, or trustees of the poor, shall severally forfeit and pay to the said recorder of deeds, a sum of money quadruple the amount of such fees, to be recovered in the same manner as debts under fifty dollars are recoverable, together with costs of suit.

Passed at Dover, Feb. 6, 1833,

CHAPTER CCLXVIII.

AN ACT to incorporate the Milford Rail-road and Canal Company.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,)* That a com-pany shall be established for making a rail-road and cutting a ca-nal (or either of them, as shall be deemed most expedient) from the town of Milford to such point on Mispillion creek, as the said com-pany shall think most eligible; the capital stock of this company shall not exceed fifty thousand dollars, divided into one thousand shares of fifty dollars each.

SEC. 2. *And be it enacted,* That Benjamin Potter, Purnel Hall, William C. Williams, Lowder Layton, Joseph G. Oliver, Peter F. Causey, William E. Jester, Benaiah Watson, Henry Hudson and Trusten P. M'Caulley, shall be commissioners to receive subscrip-tions to the said capital stock; and any two of them may open books for this purpose at such time and place as they may appoint, giv-ing ten days' notice thereof in two or more of the newspapers of this State; the books shall be kept open at least two days, and if more than the capital stock be subscribed, the commissioners shall apportion the same by deducting the excess from the largest sub-scriptions.

SEC. 3. *And be it enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns shall be and they are hereby created a corporation by the name of "The Milford Rail-road and Canal Company," and by that name shall have power and capacity to sue and be sued in courts of law or equity; to purchase, take, enjoy, sell and alien lands, tenements, hereditaments, goods, chattels, rights, credits and effects connected with or conducive to the purposes of said company; to have a common seal, to make by-laws not repugnant to the constitution or laws of this State or of the United States, and to enjoy the franchises incident to a corpora-tion; but said company shall have no banking powers whatever.

1st. The business of the corporation shall be managed by five directors, to be elected by the stockholders at their annual meeting in Milford; the commissioners or any five of them shall call the first meeting of the stockholders for this purpose, by advertisements in two of the newspapers of this State, and by circulars addressed to each of the stockholders; the directors shall continue in office until the next annual meeting of the stockholders succeeding their election, and until successors be chosen, but an intermediate va-cancy in the office of directors may be filled by a majority of the board; the directors shall be stockholders; they may choose one of their number for president, and if he be absent, may appoint a pre-sident pro tempore, and three of them shall form a board.

2d. The directors shall have power to locate and construct a

rail-road and cut a canal, or both or either of them, as may be deemed most expedient, from the town of Milford to such point on Mispillion creek as a majority of them may think most eligible. For this purpose the said directors may employ all such engineers, agents, contractors and workmen, with their implements, carts, wagons, horses or beasts of draught or burthen as may be necessary for the prosecution of the work; and to contract for, purchase and hold all such lands as they may deem necessary for the purposes of said rail-road or for the said canal and rail-road; and in case such lands as may be necessary for the location and use of the said rail-road and canal cannot be obtained by purchase, the said company may apply to the Superior Court, or to any judge thereof, by petition, giving the other party five days' notice of such application, if within the State; and the said court or judge shall appoint five judicious and impartial freeholders to view the premises which the said company may wish condemned for the use of the said rail-road and canal, and assess the damages (if any) that the owner thereof will sustain by the condemnation of the same for the use of the said company; the referees appointed as aforesaid, shall be sworn or affirmed faithfully and impartially to perform the duty aforesaid; they shall notify the owner of the property, if he be within the State, and also the president of said company, of the time they will meet for the discharge of this duty. They shall make report in writing under their hands, or the hands of the majority, to the next Superior Court in Kent county after their appointment. And the said court may either confirm said report, refer the matter back to the same persons, or appoint five other judicious and impartial freeholders to perform the duties aforesaid, in manner aforesaid. When judgment of confirmation is rendered by the said court in any report made as aforesaid, and on the payment by the said company, of the amount of damages awarded to the owner of said property, or on the payment of the same into court for his use, the title to the lands and premises mentioned and described in the said report, shall be absolutely vested in the said rail-road and canal company, their successors and assigns forever. The fees to the referees and prothonotary on any such proceeding shall be determined by the said court, and paid by the said company. The directors shall further have power to do all acts requisite to effect and carry on the purpose for which the company is established, and to this end, to use the capital stock and funds of said company; to bind by their contracts, under seal of the corporation and hand of the president, all the property, estate, common stock and joint funds of the corporation, but not the persons or separate property of themselves, or any of the stockholders; they may make, amend, and alter by-laws, for the government of the corporation and the regulation of its business and concerns; prescribe the officers of the corporation, other than those of president and directors, appoint the officers and take bond from the same.

Powers of directors.

Lands may be purchased.

Or condemned by freeholders.

Proceedings in such case.

General powers of directors.

May appoint officers, &c.

Meeting of stockholders.

3d. The annual meeting of the stockholders shall be on the first Monday of April, and shall be held in Milford. If a meeting shall

not be held at this time, or there shall be no election of directors, the corporation shall not be dissolved for this cause. Occasional meetings may be called at any time by the directors.

4th. In all meetings of the stockholders regularly held, those assembled may proceed to business; the election of directors shall be by ballot, and be determined by a plurality of votes. On all other questions a majority of votes shall be necessary. Each stockholder shall be entitled to one vote for every share of stock he holds, not exceeding one hundred, and absent stockholders may vote by proxy. Voting by stockholders.

5th. The shares of the capital stock shall be personal property, and shall be assignable, subject to the regulation of the by-laws. Stock assignable.

6th. The time and manner of making dividends of the profits of the corporation shall be fixed by the by-laws. Dividends.

Sec. 4. *And be it enacted*, That the subscribers to the capital stock of the said company shall respectively pay an instalment of ten dollars on each share of stock so subscribed for, on the day of the first meeting of the stockholders to be called as aforesaid, to the directors then to be elected; and the directors may require the payment of the balance of said subscriptions, in instalments of five dollars each, at such time as they may deem expedient, giving thirty days' notice thereof in two of the newspapers of this State, and by circulars addressed to each of the stockholders; and on failure of any stockholder to pay the sum required to be paid by such notice, he shall forfeit ten per cent. on such sum, to be added thereto, and paid by the said stockholder, and in case of a second failure to pay upon notice given as aforesaid, the said directors may proceed to forfeit the sum already paid by such defaulting stockholder on the stock so subscribed for by him, or may sue for and recover the sums subscribed for and remaining unpaid, with the forfeiture, according to the terms of the subscription. Forfeited shares may be disposed of for the benefit of the corporation. Payment of instalments.
Failure to pay.
Penalty.

Sec. 5. *And be it enacted*, That the directors of the said Milford Rail-road and Canal Company, may procure and use on any rail-road or canal which shall be constructed by them in virtue of this act, all engines, machines, wagons, carriages, boats, vessels, and other vehicles which they may deem proper or necessary for the purposes of transportation on said road or said canal, and they shall have power to charge and receive as tolls for using said road or canal or for transportation thereon, any sum not exceeding the following rates, to wit:—For passengers, twenty-five cents, including customary baggage of one hundred pounds each; for a trunk, box, bale, basket or package, not being the baggage or part of the baggage of a passenger, and not exceeding one hundred pounds weight, twelve and a half cents; for wheat, corn and rye, one and a half cents per bushel; for oats and other grain, one cent per bushel; for clover seed, three cents per bushel; for molasses, one dollar per hogshead; rum and other liquors, seventy-five cents per hogshead; lime, fifty cents per hogshead; flour, twelve and a half cents per Tolls.

License to
use rail-road
or canal.

barrel; other articles per barrel, twelve and a half cents; hogshead staves per thousand, two dollars and twenty-five cents; barrel staves, one dollar and fifty cents per thousand; for bark, one dollar and twenty-five cents per cord; for hickory wood, one dollar and twenty-five cents per cord; oak and other wood per cord, one dollar; for cedar rails, one dollar per hundred; oak rails, two dollars per hundred; for board and scantling, one dollar and fifty cents per thousand feet; for untanned hides, one dollar per hundred; for other articles not enumerated, not exceeding one dollar per ton. And it shall not be lawful for any person or company to use or travel upon any part of said rail-road or canal, or to transport persons or property of any description thereon, without the license or permission of the directors of the said Milford Rail-road and Canal Company.

Power to re-
voke.

SEC. 6. *And be it further enacted*, That the Legislature hereby reserves the power to revoke this charter.

Passed at Dover, Feb. 6, 1833.



CHAPTER CCLXIX.

AN ACT supplementary to the act entitled "*An act for the establishment of Free Schools.*"

Two or more
districts may
unite.

Powers of
united dis-
trict.

And of the
school voters
of the same.

The accounts
of the trustee
of school fund
not to be ef-
fectuated.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That two or more school districts, in either county of this State, shall have power to unite for the purpose of establishing and supporting a free school for the common benefit of the united districts; and such districts when united, shall compose one district, and shall be called United School District, numbers — in — county, inserting in the first blank the numbers distinctly, of which the united district is composed. Such united school district shall have all the powers and privileges of a school district, and shall exercise these powers and privileges, in the same manner as if the united district had been originally laid off as one school district. The school voters in the united district shall meet at one place, and choose a clerk and two commissioners, who shall be the school committee of the united district, with all the powers in and over the united district, as if it had been originally laid off as one district. The school voters of the united district shall have all the powers which school voters in the original districts have, and shall exercise the same in the same manner: but the union of the districts shall not affect the account of the trustee of the fund for establishing schools in the state of Delaware; but notwithstanding the union, a dividend of the income of said fund shall be apportioned to and placed to the credit of the original districts of which the union is made, in

the same manner as if no union had been formed; and all the sums placed to the credit of the several districts of which the union is formed, shall be paid upon the order of the school committee of the united district, upon their showing that an aggregate amount, sufficient to entitle these several districts to draw their several dividends has been raised, and the dividends so paid shall be applied for the benefit of the united district. The place of the school-house in the united district, may be determined as a part of the terms of union, or may be afterwards settled as shall be determined by the school voters.

The place of school house how determined.

SEC. 2. *And be it further enacted,* That the manner of forming an union of districts shall be as follows: At least ten days before the meeting of the school voters of the districts which it is proposed to unite, advertisements shall be posted in five or more of the most public and suitable places of each district, stating the day and place of meeting, and that it is intended at the meeting to propose the uniting of the said district with some other district or districts, for the purpose of establishing and supporting a school for the common benefit of the united districts. The districts with which union is proposed, need not be specified in the advertisement. If at the meeting held under this notice, two-thirds of the voters present are in favor of appointing a committee to arrange a union between that district and other district or districts, a committee of three of the school voters of the district shall be appointed, and the meeting shall be adjourned to some future day, to receive the report, and the adjournment may be from day to day till report be made. If the committee, or a majority of them, shall agree upon an union with any other district or districts, and settle the terms thereof, the same shall be reported to an adjourned meeting; and if such report shall be adopted by a vote of two-thirds of the voters present at such adjourned meeting, the report shall be established and obligatory, and the districts mentioned shall be united, provided like proceedings be had in all the said districts; but if in either district the report be not adopted by a vote of two-thirds, this shall not defeat the union between two or more districts in which the report shall be so adopted, but the districts approving of the report shall be united, and the other shall not be comprehended.

How an union of districts shall be made.

SEC. 3. *And be it further enacted,* That the first meeting of each united school district after the union, shall be at such time and place as the report of the committee concerning the union shall appoint, when a clerk and two commissioners for the united school district shall be chosen, and a vote may be passed to raise money by contribution, in order to obtain the dividend from the school fund: but no power of taxing shall be exercised at this meeting. The place of meeting of the school voters of the united school district, shall be the school house of the district; and until there be such school house, the place appointed in the aforesaid report shall be the place of meeting.

First meeting when and where to be held. Clerk and two comm'rs. to be chosen, &c.

Other meetings where to be held.

capital stock aforesaid, their successors and assigns, shall and are hereby ordained, constituted and declared to be a body politic and corporate in fact and in name, by the name of "The Broad Mountain Coal Company," and by that name shall have continual succession, and be persons capable of suing and being sued, pleading and being impleaded, in all manner of actions, suits, complaints, matters and causes whatsoever, either in law or equity; and may have a common seal and make, change, and alter the same at their pleasure; ordain by laws for their own government, not repugnant to the laws of this State or of the United States; but it shall not be lawful for said company, and they shall not have power to discount notes or bills, or to loan money on interest, or to exercise any banking powers whatever; and the said company shall have power to hold, purchase and convey, any real or personal estate, and to do all acts necessary and proper, to effect and accomplish the declared objects of this act: *Provided*, that the real estate so to be holden, shall be only such as is necessary and proper to effect such objects, or such as shall have been bona fide mortgaged or conveyed to the company, by way of security or satisfaction of debts previously contracted in the course of their dealings, or purchased at sales upon judgments or decrees, which shall have been rendered in their favor, for such debts or sales made by virtue of any mortgages given to said company.

Company incorporated.

Name.

Not to have banking powers.

May hold lands.

Proviso.

SEC. 4. *And be it further enacted*, That the stock, property, affairs and concerns of the said company, shall be managed and conducted by seven directors, of whom one shall be president, to be elected by the stockholders; that the first election for said directors shall be held by the commissioners before named, or any five of them, on the first Monday of April next, of which and all subsequent elections, there shall be given at least ten days' notice in two or more of the papers printed in this State, and also in two or more papers printed in the city of Philadelphia: that the directors so elected, shall hold their offices until the second Tuesday in January, one thousand eight hundred and thirty-four; and in all subsequent elections, the directors shall hold their offices for the term of one year; and the elections shall be held on the second Tuesday of January in each and every year thereafter; that all elections under this act, shall be held in the city of Wilmington; and the said elections shall be made by such of the stockholders as shall attend for that purpose, in their proper persons or by proxy; and all elections shall be by ballot, each share of the stock having one vote, and the persons who shall have the greatest number of votes at any election shall be the directors; and if it shall happen at any election, that two or more persons have an equal number of votes, so that no choice shall have been made as to such persons, then the stockholders hereinbefore authorised to vote at such elections, shall proceed to ballot a second time, and by plurality of votes determine which of the persons so having an equal number of votes shall be the director or directors, so as to complete the whole number of seven; and the said directors, as soon as may be, after their elec-

Board of directors.

Number to be elected.

When.

Place of election.

Voting.

tion, shall proceed in like manner to elect by ballot one of their number to be their president; and if any vacancy shall be occasioned in the said direction by death, resignation or otherwise, the same shall be filled for the remainder of the term in which it may happen, by such person or persons as the remainder of the directors for the time being or the major part of them shall appoint.

Quorum. SEC. 5. *And be it further enacted,* That a majority of the directors for the time being, shall form a board or quorum for transacting all the business of said company, and that a failure to elect directors on the day that pursuant to this act it ought to be done, shall not be deemed to operate a dissolution of the said corporation; but it shall and may be lawful to hold such election on such other day, in the manner aforesaid, as shall be prescribed by the by-laws and ordinances of the said corporation.

Subscriptions to be paid. SEC. 6. *And be it further enacted,* That it shall be lawful for the president and directors of said corporation to call on and demand of the stockholders respectively, all such sums of money as are by them subscribed at such times and in such manner and proportions as they shall deem fit, under pain of forfeiture of their shares, and all previous payments thereon, to the said corporation, always giving at least thirty days' previous notice of such call and demand, in two or more of the newspapers printed in this State and in the city of Philadelphia.

Transfers of stock, when valid. SEC. 7. *And be it further enacted,* That no transfer of stock shall be valid or effectual until such transfer shall be entered or registered in the book or books to be kept by the president and directors for that purpose.

Dividends. SEC. 8. *And be it further enacted,* That the dividends to be made upon the profits of the corporation, if any, shall be semi-annually, and shall be paid equally to all the stockholders thereof, in proportion to their respective interests therein.

Construction of this act. SEC. 9. *And be it further enacted,* That the provisions of this act shall not be deemed or taken to grant any exclusive right to supply coal as hereinbefore mentioned, but that the General Assembly of this State may from time to time pass any other act or acts of incorporation for the like purpose.

Continuance of this charter. SEC. 10. *And be it further enacted,* That this act of incorporation shall not be in force for a longer period than twenty years without the re-enactment of the Legislature, and the power to revoke this act is hereby reserved by the Legislature.

Per centum to the State. SEC. 11. *And be it further enacted,* That as a condition of the passing of this act, the president, directors and company of the Broad Mountain Coal Company, shall semi-annually pay to the treasurer of the State, for the use of the State, at the rate of one-fourth of one per cent. per annum on the capital stock, or one-half of one

per centum on the stock actually paid in, (at the choice of the said company,) for and during the continuance of the present charter.

Passed at Dover, Feb. 6, 1833.



CHAPTER CCLXXI.

AN ACT *regulating the commissions to be received by the collectors of New Castle and Christiana hundreds and the collectors of the city of Wilmington, in the county of New Castle.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the collectors of New Castle and Christiana hundreds, and the collector of the city of Wilmington, shall be respectively entitled to receive for collecting and paying over State, county, road or poor taxes, a commission to be stipulated between the State Treasurer or Levy Court and Court of Appeal, or other authority making the appointments, and the person appointed collector, not exceeding eight per centum of the sum which the collector shall collect and account for. Commissions of collectors of N. Castle and Christiana hundreds, and the city of Wilmington.

Passed at Dover, Feb. 7, 1833.



CHAPTER CCLXXII.

A FURTHER SUPPLEMENT *to the act entitled "An act providing for the punishment of certain crimes and misdemeanors."* Dig. 127.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That if any person or persons shall wilfully and maliciously deprive any person of any one or more of the genital members, every person so offending shall be deemed guilty of felony, and upon conviction thereof shall suffer death. Mayhem of a genital member punished by death.

SEC. 2. *And be it further enacted,* That so much of the first section of the act to which this is a supplement, as is repugnant thereto, be and the same is hereby repealed, except so far as the same provides for the punishment of the above offence committed before the passing of this act; such offence committed before the passing of this act, shall be punished according to the provisions of the act to which this is a supplement. Repeal.

Passed at Dover, Feb. 7, 1833.

CHAPTER CCLXXIII.

AN ACT *allowing an additional Constable to Mispillion hundred in Kent county.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Levy Court of Kent county, be and they are hereby authorised and required to appoint an additional constable in Kent county, who shall be appointed and reside in Mispillion hundred aforesaid. The office of constable hereby created shall continue until this act shall be repealed, and the appointment thereto shall be made and vacancies filled, as provided by the laws and constitution of this State.

An additional constable to be appointed to Mispillion hundred, in Kent county.

Passed at Dover, Feb. 7, 1833,



CHAPTER CCLXXIV.

AN ACT *for the payment of claims against the State, and against the school fund.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be and he is hereby authorised and directed to pay the following claims, to wit: to Reed & Bostick for fourteen cords of hickory wood, on the order of J. W. Many, fifty-nine dollars and J. W. Many. fifty cents; to J. W. Many, for his trouble in regard to said wood, ten dollars; to Caleb S. Layton, late Secretary of State, for making an index to the session acts of 1832, twenty dollars; to John H. Eccleston, for furnishing paper, ink, &c. to the Court of Errors and Appeals, twelve dollars; to Jacob Biddle, Auditor of Accounts, for postage and paper, four dollars and twenty-five cents; to Joseph Buckmaster, cryer of the Court of Errors and Appeals, for his attendance and ringing the bell, fifteen dollars; to Jacob Biddle, for the accounts of R. & J. B. Porter and John N. Harker against him, three dollars and sixty cents; to William P. Brobson and Willard Hall, for a balance due them for transcribing the amended constitution, examining proof sheets and superintending the printing of the same, thirty dollars; to R. & J. B. Porter, for printing the journal of the convention and sundry other printing in the Delaware Journal, two hundred and eighty-eight dollars and fifty cents; to Nathaniel Mitchell, for printing, sixteen dollars; to William P. Brobson, for superintending the printing of the journal of the convention and making an index thereto, and to the journal of the committee of the whole, two hundred dollars; to David C. Wilson, former sheriff of New Castle county, for executing certain process under the authority of the House of Representatives of 1823, five dollars; to

State Treasurer to pay certain claims to Reed & Bostick.

J. W. Many.
C. S. Layton.
J. H. Eccleston.
Jacob Biddle.

J. Buckmaster.
Jacob Biddle.

W. P. Brobson and W. Hall.

R. & J. B. Porter.

N. Mitchell.
W. P. Brobson.

D. C. Wilson.

Thomas Stevenson, for a book-case for the Auditor of Accounts, T. Stevenson.
 fifteen dollars; to James S. McCalla, for printing, forty dollars; to J. S. McCalla.
 William Burton, sheriff of Kent county, for attendance on the Court W. Burton.
 of Errors and Appeals, twenty-seven dollars; to John R. Draper, J. R. Draper.
 for services and expenses in procuring this State's quota of public
 arms, under an authority from the Governor, ninety-seven dollars
 seventy-five cents; to Thomas H. Tatlow, for two per cent. in ad- T. H. Tat-
 dition to the six per cent. commissions allowed by law for the col- low.
 lection of the State tax in New Castle hundred, for the year 1830,
 sixteen dollars and thirty-five cents, and to Ignatius T. Cooper and I. T. Cooper
 William Johnson each the sum of twenty-five dollars, for arranging and W. John-
 books, pamphlets and papers in the libraries of the two Houses of son.
 the General Assembly, and for all other services relating thereto.

SEC. 2. *And be it further enacted*, That the trustee of the fund
 for establishing schools in this State, be and he is hereby authorised From the
 and directed to pay out of the portion of said fund in his hands be- school fund,
 longing to New Castle county, to John G. Wilson, for the tuition To J. G. Wil-
 of sundry poor children in New Castle county, in the year 1829, son.
 the sum of thirty dollars and nine cents; and out of that portion of
 said fund belonging to Kent county, to Joseph G. Oliver, assignee J. G. Oliver.
 of Elizabeth Revel, for the tuition of sundry poor children in Kent
 county, in the year 1829, twenty-one dollars.

SEC. 3. *And be it further enacted*, That the State Treasurer be
 and he is hereby authorised to pay to the Secretary of State, the Appropriation for the
 sum of two hundred dollars, to be applied by him to the payment use of the
 of the contingent expenses of his office for the year one thousand Secretary's
 eight hundred and thirty-three, and is further authorised to pay to office.
 the said Secretary of State, in the year one thousand eight hun-
 dred and thirty-four, the further sum of two hundred dollars, for
 the contingent expenses of his office in that year, an account of To be ac-
 which shall be submitted to the General Assembly at the next bien- counted for.
 nial session.

Passed at Dover, Feb. 7, 1833.



CHAPTER CCLXXV.

AN ADDITIONAL SUPPLEMENT to the act entitled "*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.*" 6th vol. chap.
 130, p. 206.

SEC. 1. *Be it enacted by the Senate and House of Representatives
 of the State of Delaware in General Assembly met*, That from and
 after the recording of this act as hereinafter provided for, at all
 stated or occasional meetings of the owners and possessors of the Blackbird
 creek marsh
 company.

How voting
shall be con-
ducted.

marsh, cripple and low grounds mentioned in the original act to which this is an additional supplement, upon all questions that may come before such meetings, required to be decided by ballot, the votes shall be regulated as follows, to wit: the owner or possessor of not less than one and under five acres, shall be entitled to one vote for every ten acres above five, and under fifty, one additional vote; for every twenty acres above fifty, and under four hundred, one additional vote; and for every one hundred acres above four hundred, one additional vote. Any person having a right to vote at any such meetings may vote by proxy, in the same ratio, provided the appointment of such proxy be made under the hand of the constituent and attested by two competent witnesses.

This act to
be submitted
to the owners
for accep-
tance.

When and
how meeting
to be called.

How accep-
tance shall
be made.

To be record-
ed.

SEC. 2. *And be it further enacted*, That it shall be the duty of the managers for the time being, of the Blackbird Creek Marsh Company, to call an occasional meeting of the owners and possessors of the said marsh, according to the provisions of the second section of the act to which this is an additional supplement, for the purpose of submitting this act to such meeting for acceptance. The occasional meeting shall be held on the first day of May next, at Taylor's bridge, and the notice to be given to the said owners and possessors, as well as the public notice, shall state the object of the said meeting. If at the said meeting the majority of the votes given shall be in favor of accepting this supplement to the charter of said company, then this act shall immediately take effect, and a certified copy thereof, with a certificate of such acceptance indorsed thereon, under the seal of said corporation, shall be recorded in the office for recording of deeds in and for New Castle county; but if the majority of votes then given shall be against accepting this supplement, then this act shall be null and void.

Repeal.

SEC. 3. *And be it further enacted*, That so much of the said original act and supplement or supplements to which this is an additional supplement, as is hereby altered or supplied, shall be and the same is hereby repealed. This repeal to take effect from and after the recording of this act as aforesaid.

Passed at Dover, Feb. 7, 1833.



CHAPTER CCLXXVI.

Dig. 410.

A SUPPLEMENT to the act entitled "*An act to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes.*"

Free negroes
and mulat-

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That where any proceedings under the act to which this is a supplement, passed the

twenty-eighth day of January, one thousand eight hundred and eleven, are or shall hereafter be had against any free negro or free mulatto, it shall and may be lawful for such free negro or free mulatto to apply to the Superior Court in term time, or to the Chief Justice, Chancellor, or any Associate Judge in vacation, for a hearing of the case, which shall be granted; and the said Court, Chief Justice, Chancellor or Associate Judge, upon such hearing, may in their or his discretion, under all the circumstances of the case, authorise such free negro or free mulatto to remain in the State, or may order him or her to depart from the State, within such reasonable time as shall be specified in such order; the original act to which this is a supplement, or any other law to the contrary notwithstanding. And in case the said Court, Chief Justice, Chancellor or Associate Judge shall make such order, commanding such free negro or free mulatto to depart from the State, and such free negro or free mulatto shall not depart pursuant to the terms of the said order, he or she shall be liable to the penalties and punishment in the said original act mentioned.

toos from
other States
when warned
to depart.
May apply to
the S. Court,
or to the
Chancellor or
any Judge in
vacation, for
a hearing of
the case, and
may be au-
thorised to
remain or or-
dered to do-
part.

Penalty for
refusal.
4th vol. chap.
140, p. 400.

Passed at Dover, Feb. 7, 1833.



CHAPTER CCLXXVII.

AN ACT *repealing part of the act entitled "An act to carry into effect the amended constitution, and for other purposes."*

8th vol. chap.
106, p. 91.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the seventh section of the act entitled "An act to carry into effect the amended constitution, and for other purposes," be and the same is hereby repealed, made null and void.*

Repeal of the
7th section.

SEC. 2. *And be it further enacted, That the Chancellor shall not sit in any cause in which his parent, grand-parent, child, grand-child, brother or sister, nephew or niece, uncle or aunt, his brother-in-law or his son-in-law, shall be a party.*

Chancellor
excluded
from sitting
in any cause
where his
parent, &c.
is a party.

Passed at Dover, Feb. 7, 1833.



CHAPTER CCLXXVIII.

AN ACT *to incorporate the "Trustees of the Milford Circuit Parsonage."*

Whereas, it is represented to this General Assembly, that the

Preamble. members of the Milford Episcopal Church, residing within the limits of Milford circuit, are desirous of building or purchasing and furnishing a dwelling-house with suitable appurtenances for the accommodation of the ministers of the gospel, who may from time to time, according to the order and regulation of said church, be appointed to the pastoral charge of the congregations comprised in said circuit; and that the accomplishment of this object without legislative aid is impracticable: Therefore,

Company in-
corporated. **Sec. 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring herein,)* That Samuel Ratchliff, Benjamin Henderson, George S. Adkins, Trusten P. McCaulley, William N. Polk, Henry Cannon and Obadiah Baker and their successors be, and they are hereby created and declared to be, one community, corporation, and body politic in law and in fact, by the name and style of "The Trustees of the Milford Circuit Parsonage," and by the said name shall have perpetual succession. And the said trustees and their successors by the name aforesaid, shall be able and capable in law to purchase, receive and hold any lands, tenements, rents, goods and chattels, which shall be given, sold or conveyed to them; and to sell, dispose of, alien and demise the same, in such manner and form as they may deem most beneficial, and best calculated to provide and furnish a comfortable residence for such ministers or preachers of the gospel (with their families respectively) as may from time to time, according to the order and regulations of the Methodist Episcopal Church in the United States of America, be appointed to the pastoral charge of the societies or congregations under the care of said church, within the bounds of Milford circuit aforesaid. *Provided nevertheless, and it is hereby expressly enacted and declared,* that the aggregate value of all the lands, tenements, rents, goods and chattels which may be held by the said corporation at any one time, shall not exceed the sum of five thousand dollars.

Name.

May hold and dispose of property.

Limitation.

Vacancies in the board of trustees, how supplied. **Sec. 2.** *And be it further enacted by the authority aforesaid,* That whenever any vacancy shall happen in the said board of trustees, either by death, resignation, refusal to serve, removal from within the limits of such circuit, or in any other manner, the members of the quarterly conference of said circuit, at any of the meetings of said conference may, and they are hereby authorised and empowered by a resolution of said conference, passed by a majority of the members present, to appoint a person or persons to fill such vacancy, and if any of the said trustees hereby appointed, or hereafter to be appointed under this act, shall at any time after such appointment secede from, or cease to be a member of the said Methodist Episcopal Church, such secession or other determination of membership shall be deemed and taken to be a resignation of his or their said trusteeship, and the vacancy thus occasioned shall be filled as hereinbefore is provided for filling other vacancies which may happen in said board of trustees.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the said corporation shall have power and authority to hold such meetings and appoint such officers from their own body, and do such other acts and things as shall be necessary to carry into effect the provisions of this act, according to the true intent and meaning thereof; may by the name aforesaid sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in courts of law and equity, or in any other place whatsoever; may have and use a common seal and change, break and alter the same, and establish another or others; and all acts certified under the seal of the said corporation, relating to the affairs thereof, shall have full faith and credit, in and before all and every the courts and jurisdiction within this State.

Passed at Dover, Feb. 7, 1833.

AN ACT *requiring Sheriffs to give security.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That every sheriff now in commission, or hereafter to be commissioned within the several counties of this State, at the first term of the Superior Court to be held in the county for which he shall be elected sheriff, after the second Tuesday of November annually, and within the three first days of the term, shall enter into a recognizance to the State of Delaware, 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

Sheriffs shall annually enter into recognizance, with sufficient sureties. When.

Condition of
the recogni-
zance.

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.*

Sheriffs of
Kent and
Sussex, and
such persons
as may be
appointed by
the Governor
to fill a va-
cancy, to en-
ter into re-
cognizance.
How taken.

SEC. 2. *And be it enacted, That every sheriff hereafter to be elected in the counties of Kent and Sussex respectively, and every sheriff who shall be appointed by the Governor, to fill a vacancy in the office of sheriff in either of the counties of this State, shall, together with three or more good and substantial freeholders in the county in which he shall be so elected or appointed, within thirty days after such election or appointment, acknowledge a joint and several recognizance to the State of Delaware, before the Chancellor or some judge of the State, residing in the county for which he shall be so elected or appointed, in the sum of twelve thousand dollars, upon the condition expressed and set forth in the first section of this act. The recognizance of the sheriffs shall be entered of record in the Superior Court for their respective counties, and the approval of the sureties of such sheriffs and of the recognizances respectively, shall appear in the record thereof; the entry of said recognizances in the said Superior Court shall be made at the time the same are approved by the said Chancellor or judge. In case of an appointment by the Governor to fill a vacancy in the office of sheriff, it shall be the duty of the person so appointed, within thirty days after his appointment, to deposit in the office of the Secretary of State, a certificate by the Chancellor or judge, as the case may be, that such person has entered into recognizance as required by this act.*

Where recor-
ded.

And certified.

Forfeiture of
office by
sheriff's ne-
glecting to
comply with
1st. sec.

SEC. 3. *And be it enacted, That if any sheriff shall neglect or refuse to give the security required by the first section of this act, at the time and in the manner by that section required, every such sheriff so neglecting or refusing, shall ipso facto forfeit his said office of sheriff; and it shall be the duty of the judges of the said court, forthwith after the expiration of the time allowed for giving such security, to certify such neglect or refusal to the Governor for the time being: and the Governor, upon the receipt of such cer-*

tificate, shall commission some other sufficient person, being an inhabitant of the county where such forfeiture shall happen, to supply the place of such person as shall so neglect or refuse as aforesaid, and the person so appointed shall act and continue in the office of sheriff, on entering into recognizance with sureties as required by the second section of this act, until the next general election, and until the said office shall be duly filled after such election.

SEC. 4. *And be it enacted*, That if any sheriff hereafter to be elected in the counties of Kent and Sussex respectively, shall neglect or refuse to give the security required by the second section of this act, within the time and in the manner by that section required, every such sheriff so neglecting or refusing, shall *ipso facto* forfeit his said office of sheriff; and it shall be the duty of the said Chancellor or judge, before whom the said security ought to have been given, forthwith after the expiration of the time allowed by the said second section for giving such security, to certify such neglect or refusal to the Governor for the time being, who shall fill the vacancy thus occasioned, in the manner prescribed by the third section of this act; and the person appointed to fill such vacancy shall give security, and continue in office agreeably to the provisions of said section.

Forfeiture of office by sheriffs of Kent and Sussex, neglecting to comply with 2d section.

SEC. 5. *And be it enacted*, That if any person, appointed by the Governor to fill a vacancy in the office of sheriff, shall neglect or refuse to give the security required by the second section of this act, within the time and in the manner by that section required; or shall refuse or neglect for the space of thirty days after his appointment, to deposite in the office of the Secretary of State, a certificate by the Chancellor or judge, as the case may be, that the said sheriff hath given security within the time and in the manner required by said section, every such sheriff so neglecting or refusing shall, *ipso facto* forfeit his said office of sheriff; and the Governor shall thereupon fill the vacancy thus occasioned, in the manner prescribed by the third section of this act; and the person appointed to fill such vacancy shall give security and continue in office agreeably to the provisions of said section.

Forfeiture of office by person appointed to fill a vacancy; in what case.

SEC. 6. *And be it enacted*, That it shall be the duty of the Chancellor or judge, to whom any person appointed sheriff as aforesaid shall apply, to take the recognizance aforesaid, and thereupon immediately to make out and deliver a certificate thereof to the said sheriff.

Duty of chancellor or judge.

SEC. 7. *And be it enacted*, That the act entitled "An act requiring sheriffs to give security" passed June 17, 1793, and the act entitled "A supplement to the act entitled 'An act requiring sheriffs to give security,'" passed at Dover, January 18, 1821; and so much of the fifteenth section of the act entitled "An act to carry into effect the amended constitution and for other purposes," passed at Dover, January 17, 1832, as is hereby altered and supplied, be and the same are hereby repealed, except as regards any recogni-

Repeal. 2 vol. ch. 32, p. 1129. Dig. 453. 6th vol. chap. 30, p. 32. Dig. 454. 8th vol. ch. 106, p. 95.

15th sec. Recognizances entered into shall remain in force. zances heretofore entered into, or any duty which has attached, or any forfeiture that has accrued under or by virtue of such acts or section, or either of them; and in relation to any such recognizance, duty or forfeiture, the said acts and section and every part thereof shall continue and be in force.

Passed at Dover, Feb. 7, 1833.



CHAPTER CCLXXX.

6th vol. chap. 321, p. 587. **A FURTHER SUPPLEMENT** to the act entitled "*An act to incorporate the Delaware Fire Insurance Company.*"

Delaware fire insurance co. may make insurances on lives, &c. **SEC. 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the president and directors of the Delaware Fire Insurance Company shall have full power and authority, on behalf of the said corporation, to make insurances on lives by sea and on shore, and to contract for; grant and sell, annuities and reversionary payments, and generally to make all kinds of contracts in which the casualties of life are principally involved; and to make, execute, and perfect such and so many contracts, bargains, agreements, policies, and other instruments as the nature of the case shall or may require.

Per centum to the State. **SEC. 2.** *And be it further enacted,* That as a condition of the passing of this act, the president, directors and company of the Delaware Fire Insurance Company, shall semi-annually pay to the treasurer of the State, for the use of the State, at the rate of one quarter of one per centum per annum on the stock actually paid in, for and during the continuance of the charter, to which this is a further supplement: *Provided always,* that this act shall not take effect until its acceptance is signified to the Secretary of State, by a formal certificate thereof under the seal of the said corporation.

This act not to take effect until accepted.

Passed at Dover, Feb. 7, 1833.



CHAPTER CCLXXXI.

AN ACT to authorise Abel Jeans to construct a rail-road across a public road.

Whereas, it appears to this General Assembly, that Abel Jeans, of Mill Creek hundred, in New Castle county, is constructing a rail-road upon his own land, for the purpose of more conveniently working his lime quarries, and that in the construction of said

rail-road it will be necessary or convenient to cross a public road near the present dwelling of the said Abel Jeans: *And whereas*, by petition to this General Assembly, the said Abel Jeans has prayed that a law be passed, authorising him to construct his said rail-road across the said public road; and it is but reasonable to grant the prayer of the said petitioner.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Abel Jeans in the construction of any rail-road or rail-roads by the said Abel Jeans, for the purpose of more conveniently working his lime quarries, or for the improvement of his lands, if he shall find it necessary or convenient that such rail-road or rail-roads should cross or intersect any public road, or other road or way, then and in such case it shall and may be lawful to and for the said Abel Jeans, to construct such rail-road or rail-roads across any public road, or other road or way, but in such manner as not to obstruct the travelling or transportation of property along the same.

That Abel Jeans authorised to cross any public road, in the construction of a rail road for working his lime quarries, &c. Travelling, &c. not to be obstructed.

SEC. 2. *And be it further enacted,* That this act shall be deemed and taken to be a public act, and shall be published as such.

This a public act.

Passed at Dover, Feb 7, 1833.

RESOLUTIONS.

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CHAPTER CCLXXXII.

C. P. Come-
gys State
Treasurer.

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

Adopted at Dover, Jan. 7, 1833.

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CHAPTER CCLXXXIII.

Resolution,
that the con-
stitution of
the U. S. is
not a treaty
or compact,
&c.
The people
owe to the
government
of the U. S.
allegiance.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the constitution of the United States is not a treaty or compact between sovereign States, but a form of government emanating from, and established by the authority of the people of the United States of America.

Resolved, That the government of the United States, although one of limited powers, is supreme within its sphere, and that the people of the United States owe to it an allegiance which cannot be withdrawn, either by individuals or masses of individuals, without its consent.

Sup. Court of
the U. S. the
tribunal, &c.

Resolved, That the Supreme Court of the United States is the only and proper tribunal for the settlement, in the last resort of controversies in relation to the constitution and the laws of Congress.

Elective fran-
chise the cor-
rective, &c.

Resolved, That if in the regular action of the government, mischief of any kind be produced, the proper remedy is to be found in the elective franchise, and the responsibility of its officers.

Intolerable
oppression
may be resis-
ted.

Resolved, That in cases of gross and intolerable oppression, which in a government like that of the United States, can be little else than a hypothesis, the natural right of self-defence remains; but which must, in the nature of things, be an appeal to arms, and subject to all the consequences of resistance to the constituted authorities. In such a case, the measure is revolutionary, and the result remains in the hands of the Almighty.

Such acts are
revolutiona-
ry.

Resolved, That the Convention of South Carolina, can have no

other or greater right to annul or resist the laws of Congress than any assemblage of an equal number of individuals in any part of the United States; nor can any assemblage however large, have any other or greater right for such a purpose, than belongs to each individual citizen, considered as a constitutional measure.

Convention of S. C. has no greater right to annul a law of Congress, &c.

Resolved, That it is a subject of regret, that such a delusion should exist among any portion of the citizens of that State, towards whom the people of this State entertain the kindest feelings, with whom they stood side by side in the war of the Revolution, and in whose defence their blood was freely spilt. But if the measure which has been adopted is intended as the precursor of resistance to the government, the people of Delaware will not falter in their allegiance, but will be found now, as then, true to their country and its government.

Resistance to the government of the U. S. deprecated, with a determination to adhere to our allegiance.

Resolved, That we cordially respond to the sentiments on this subject, contained in the able proclamation of the President of the United States, and shall be at all times prepared to support the government in the exercise of its constitutional rights, and in the discharge of its constitutional duties.

The president's proclamation approved.

Resolved, That the Governor be requested to transmit a copy of these resolutions and the accompanying report of the committee, to the President of the United States, to each of our Senators and our Representative in Congress, and to the Governors of the respective States and Territories of the United States of America.

Copies to be sent, &c.

Adopted at Dover, Jan. 16, 1833.



CHAPTER CCLXXXIV.

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

Directors of the Farmers' Bank appointed.

For the principal bank at Dover, John M. Clayton, Jonathan Jenkins and William K. Lockwood.

Dover.

For the branch at Wilmington, Charles I. du Pont, John J. Miligan and Joseph C. Gilpin.

Wilmington.

For the branch at New Castle, Thomas Stockton, George B. Rodney and George Platt.

New Castle.

For the branch at Georgetown, David Hazzard, Henry Little and George Hickman.

Georgetown.

Adopted at Dover, Jan. 23, 1833.

CHAPTER CCLXXXV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the prothonotary of Sussex county in this State, be and he is hereby authorised and directed to sell at public vendue, after giving at least four weeks notice in the newspaper printed at Georgetown, in said county, and by one or more printed advertisements, set up in some public place in each of the hundreds in said county, all the copies in his possession of the first, second, third, fourth, fifth and sixth volumes of the bound laws of this State, and all the pamphlet acts of the different sessions of the Delaware Legislature, previous to the year of our Lord one thousand eight hundred and thirty, to the highest and best bidder or bidders therefor, for cash.

Resolved further, That the said prothonotary shall pay over to the Secretary of State, after deducting therefrom ten per cent., for his care and trouble, all the money arising from the sale of the volumes and pamphlet acts aforesaid, and upon its appearing to the satisfaction of the Secretary of State, (and the return of the said prothonotary, certified under his hand, and a certificate thereto attached, under the hand of one or more respectable citizens of Georgetown in said county, shall be deemed and taken to be sufficient evidence to the said Secretary of State,) that the said volumes and pamphlet acts have been sold according to the provisions of this resolution, and the money paid him as aforesaid, he shall discharge the said prothonotary from all liability and charge, for and on account of such numbers of the said volumes and pamphlet acts aforesaid, as shall be by him sold and disposed of as aforesaid: *Provided however,* that the said prothonotary shall not set up for sale, to be struck off at any one bid, more than one set of single numbers of said volumes, until the same shall be reduced to two numbers only, and then the lots may be of ten or more volumes; and the said pamphlet acts may be sold in lots of any convenient number.

Adopted at Dover, Jan. 25, 1833.



CHAPTER CCLXXXVI.

Preamble. *Whereas,* certain resolutions passed in December last, by both branches of the Legislature of South Carolina, declaring "that it is expedient that a convention of the States be called as early as practicable, to consider and determine such questions of disputed power as have arisen between the States of this confederacy and the General Government," have been transmitted by the Executive of that State to the Governor of this, and by him laid before the General assembly for an expression of its sentiments: Therefore,

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the constitution of the United States of America, which is a form of government established by the people of the United States of America, has expressly provided a tribunal in the Supreme Court of the United States, for the settlement of all controversies between the United States and the respective States, and of all controversies arising under that instrument itself. Resolution that the constitution of the U. S. has provided a tribunal in the Supreme Court, &c.

Resolved, That the constitution of the United States of America does not recognize any such tribunal or political assemblage as a convention of the States; but has expressly provided for modes of amendment, if amendment be necessary, in the fifth article, as follows:—"That Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress. Any other mode must therefore be repugnant to its provisions. Constitution does not recognize, &c. But has expressly provided for modes of amendment.

Resolved, That such a convention to propose amendments, when called by Congress, must be in the nature of things, a convention of the people from whom the constitution derives its authority, and by whom alone it can be altered, and not a convention of the States. Any other mode repugnant to the constitution.

Resolved, That no such political assemblage as a convention of the States could take place as a constitutional organ of government, and that if assembled, it could have no such power as that set forth by the resolution of South Carolina, "to consider and determine such questions of disputed power as have arisen between the States of this confederacy and the General Government." A convention of the States could not take place as a constitutional organ of the government, &c.

Resolved, That it is not expedient for Congress to call "a convention for proposing amendments" at this time. But that if any amendments be necessary, it comports with the views of the General Assembly of this State, that they should be proposed by the other mode provided by the constitution "by two-thirds of both Houses of Congress." Not expedient to call 'a convention for proposing amendments,' at this time, &c.

Resolved, That the Governor be requested to transmit copies of these resolutions to the Governors of the several States, with a request that they may be laid before the Legislatures of the respective States; and also to our Senators and to our Representative in Congress, to be by them laid before Congress for consideration. Governor to transmit copies, &c.

Adopted at Dover, Jan. 25, 1833.

CHAPTER CCLXXXVII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the organization of the militia of the United States, being a matter entrusted by the constitution to the General Government, requires its attention and can be only efficiently and satisfactorily done by that government.

Resolved, That our Senators in Congress be, and they are hereby instructed, and our Representative requested to use their exertions to procure the passage of a law providing for a more perfect and uniform organization of the militia of the several States of the Union.

Resolved, That His Excellency the Governor of this State, be directed to transmit to each of our Senators, and to our Representative in Congress, a copy of the foregoing resolutions. Also a copy to the Governors of the other States in the Union, with a view that the same may be submitted to their different Legislatures.

Adopted at Dover, Feb. 1, 1833.



CHAPTER CCLXXXVIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Joseph Smithers and Henry F. Rodney of the Senate, and John H. Harris, Ignatius T. Cooper and Christopher Brooks of the House of Representatives, be and they are hereby appointed a committee on the part of this General Assembly, whose duty it shall be to meet at Dover, on the first Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-four, for the purpose of settling the accounts of the State Treasurer, and of receiving the report of the Auditor of Accounts for the current year.

Resolved, That it shall be the duty of said committee, after their settlement with the State Treasurer as aforesaid, to cause a statement of such settlement under their hands or the hands of a majority of them, to be published in two of the newspapers printed in this State, for the space of one month from the time of effecting the same.

Resolved, That said committee have full power and authority to audit the accounts of the Clerk of the Senate and Clerk of the House of Representatives, for superintending the printing of the Journals of the two Houses of the Legislature during the present session, and for making indexes thereto; and to make such allow-

ance for said services as they may think just and proper, which said allowance shall be paid by the State Treasurer, upon orders drawn by the chairman of the committee in favor of said clerks.

tending the
printing of
the journals,
&c.

Resolved, That said committee shall receive the same compensation as is by law allowed to members of the General Assembly; to be paid by the State Treasurer, upon orders drawn by the chairman of said committee, out of any money in the hands of said State Treasurer not otherwise appropriated.

To make pro-
per allow-
ance, &c.
Compensa-
tion of the
committee.

Adopted at Dover, Feb. 2, 1833.



CHAPTER CCLXXXIX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That John M. Clayton, Jonathan Jenkins, William K. Lockwood, Charles I. du Pont, John J. Milligan, Joseph C. Gilpin, Thomas Stockton, George B. Rodney, George Platt, David Hazzard, George Hickman and Henry Little, who have been appointed directors of the Farmers' Bank of the State of Delaware, by a resolution of this General Assembly, adopted on the twenty-third day of January, eighteen hundred and thirty-three, shall be capable of serving by virtue of said appointment, for two years from the date thereof, agreeably to the provisions of an act entitled "An additional supplement to the act entitled 'An act to establish a bank, and incorporate a company under the name of the Farmers' Bank of the State of Delaware,'" passed during the present session of the General Assembly.

Directors of
Farmers'
Bank to serve
for 2 years,
from 23d Jan.
1833.

Adopted at Dover, Feb. 2, 1833.



CHAPTER CCXC.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in the opinion of this Legislature it would greatly promote the interest, comfort and prosperity of the inhabitants of the peninsula, formed by the waters of the Chesapeake and Delaware bays, if they were united under one government.

Resolution
respecting
the union of
the eastern
shore of Ma-
ryland with
Delaware.

Resolved, That it comports with the views and wishes of the people of this State, that the people of the eastern shore of Maryland and of this State, should be united under one government, and that the region of country inhabited by them respectively, should be denominated the State of Delaware.

If united to
be denomina-
ted the State
of Delaware.

Resolved, That the Governor of this State be, and he hereby is authorized and empowered, in case the above measure should meet the approbation of the Legislature of the State of Maryland, to appoint three commissioners on the part of this State, to meet such as may be appointed on the part of the State of Maryland, to carry the measure into execution and settle the details thereof, subject to the final ratification of the Legislature of this State, and that of the Congress of the United States.

Resolved, That the Governor of this State be requested to transmit the foregoing resolutions to the Governor of the State of Maryland, to be laid by him before the Legislature of that State.

Adopted at Dover, Feb. 4, 1833.



CHAPTER CCXCI.

Resolution respecting payment of interest on expenditures for the common defence during the last war.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act passed at the last session of Congress, making provision for the payment of claims for interest on expenditure made by the several States, for the common defence during the late war, and which did not become a law from its not having received the signature of the Executive, was so just and proper in its nature and so fully accords with the views of this Legislature, being particularly calculated to meet the claim of this State, that our Senators and Representative in Congress, be and they are hereby requested to exert themselves to procure the enactment of a similar law, so soon hereafter as the same can be effected.

Resolution respecting the distribution of proceeds of sales of public lands.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the bill which lately passed the Senate of the United States, for making distribution of the proceeds arising from the sales of the public lands for a limited period amongst the several States of the Union, to be applied by them to the purposes of education, internal improvement and colonization, is so just and patriotic in all its provisions and bearings, having for its object the promotion of the happiness and welfare of the whole American people, that it meets the fullest approbation, and accomplishes the wishes of this General Assembly.

Copies to be sent to senators and our Representative.

Resolved, That copies of the foregoing resolutions be signed by the speakers of the Houses respectively, and sent to each of our Senators and our Representative in Congress.

Adopted at Dover, Feb. 5, 1833.

CHAPTER CCXCII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the account rendered to this General Assembly by John H. Eccleston, Esquire, of his expenses in procuring seals for the courts, under an act passed at the last session of the General Assembly is correct, and that said John H. Eccleston be, and he is hereby discharged from all liability for any balance which may remain in his hands of the sum of two hundred and fifty dollars, which was appropriated to defraying the expenses aforesaid.

Account of J.
H. Eccleston
approved.

Adopted at Dover, Feb. 7, 1833.



CHAPTER CCXCIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in the opinion of this General Assembly, the protective system ought to be sustained, because it encourages domestic industry, and is essential to the prosperity of the agricultural and manufacturing States.

Resolution
approving of
the proteo-
tive system.

Resolved, That the abandonment of this system at the present time, would be a surrender of the rights and interests of a large majority of the people to the menaces of a few, and destroy confidence in the ability of the general government to sustain the laws and constitution of the United States.

Resolved, That the tariff bill reported at the present session of Congress to the House of Representatives, by the chairman of the Committee of Ways and Means, will have an injurious effect upon the industry of this State, and of the other agricultural and manufacturing States, and that our Senators and Representative in Congress be, and they are hereby requested to use their exertions to prevent the passing of the said bill.

Resolved, That copies of these resolutions be transmitted by the Governor to our Senators and to our Representative in Congress.

Adopted at Dover, Feb. 7, 1833.



CHAPTER CCXCIV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in case payment of the

State Treasurer to make payment to E. Needham's ex'rs. of \$10,000, or to borrow for that purpose.

sum of ten thousand dollars, due from the State of Delaware to the executors of Ezekiel Needham, deceased, shall be demanded of the State Treasurer, the said State Treasurer be, and he is hereby authorised and directed to make such payment out of any money in his hands, not otherwise appropriated; and if there should not be sufficient funds in the treasury to pay said sum, then and in that case, it shall be the duty of the said treasurer, and he is hereby authorised and empowered to borrow the same from the trustee of the fund for establishing schools in this State, to be repaid as soon as the said treasurer may have in hand money belonging to the State, sufficient for that purpose.

Adopted at Dover, Feb. 8, 1833.



CHAPTER CCXCV.

W. R. Morris appointed to take charge of the books, &c. in the Senate chamber and hall of the House of Representatives.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William R. Morris be, and he is hereby appointed to take charge of all the books, papers and furniture, belonging to the State, in the Senate chamber and the hall of the House of Representatives, and shall cause the books and papers of each House to be put into their cases according to their catalogues respectively and locked up, and shall cause the furniture of both Houses to be safely deposited in one or the other of the said rooms and locked up, and from time to time shall examine and attend to the same, that they may be preserved from injury.

Adopted at Dover, Feb. 8, 1833.

SECRETARY'S OFFICE,

DOVER, DEL. *April 12, 1833.*

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

JAMES ROGERS,

Secretary of the State of Delaware.

L A W S

OF THE

STATE OF DELAWARE.



CHAPTER CCXCVI.

A SUPPLEMENT to the act entitled "*An act to amend the act entitled An act concerning the Auditor of Accounts.*" Dig. 54.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That hereafter, the Auditor of Accounts shall hold his office for the term of two years from the second Tuesday of January, in the year in which he shall be appointed; and that the "Act concerning the Auditor of Accounts," be and the same is hereby amended by striking out the word "three" between the words "of" and "years," in the fourth line of the first section of said act, and inserting the word "two." The act before mentioned shall be read and construed according to the amendment herein prescribed; and in any edition of the laws of this State hereafter to be published, the act aforesaid shall be printed as amended by this act.

Term of of-
fice reduced
to two years.
Amended by
striking out,
&c.
How to be
read and con-
strued.
And printed.

Passed at Dover, Jan. 15, 1835.



CHAPTER CCXCVII. (Private Act.)

AN ACT vesting in, and granting and conveying to James Kimmey, all the right, title, interest and demand of the State of Delaware, in and to certain lands and real estate and personal property of which a certain Joseph Kimmey, now deceased, died possessed of or entitled to, therein mentioned.

Passed at Dover, Jan. 16, 1835.

CHAPTER CCXCVIII. (Private Act.)

AN ACT *for the relief of Charlotte Harker, wife of Jeremiah Harker.*

Passed at Dover, Jan. 16, 1835.



CHAPTER CCXCIX.

AN ACT *to amend the act entitled "A supplement to the act entitled An act to alter and re-establish the charter of the borough of Wilmington."*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "A supplement to the act entitled An act to alter and re-establish the charter of the borough of Wilmington," be and the same is hereby altered, amended and supplied, by striking out the words "first Tuesday of October," in the eleventh line of the fourth section thereof, and inserting in the place thereof the words "second Tuesday of October."

Del. L. vol. 8, chap. 108, p. 97.
Amended by striking out and inserting.

SEC. 2. *And be it further enacted by the authority aforesaid,* That all such officers as have been chosen at the election held on the first Tuesday of October last, for the term of one year from the said first Tuesday of October, shall continue in office until the second Tuesday of October in the present year, or until an election can be legally held under the provisions of this act; and that the period at which shall expire the term of office of those officers hereafter to be elected for one year, shall be dated from the second Tuesday of October, in each and every year hereafter.

Term of present officers extended.

Passed at Dover, Jun. 19, 1835.



CHAPTER CCC. (Private Act.)

AN ACT *authorising Thomas T. Moore of Sussex county, as guardian of John Solomon Turpin Moore, Julia Ann Moore, Thomas Asbury Moore, George Horsey Moore and Margaret Emily Moore, minors, under the age of twenty-one years, to purchase for them certain lands, situate in Little Creek hundred, in the county aforesaid.*

Passed at Dover, Jan. 19, 1835.

CHAPTER CCCI. (Private Act.)

A SUPPLEMENT to the act entitled "*An act to authorise the owners and possessors of the marsh and low grounds, commonly called and known by the name of the Culbreath's Marsh, situate in the forest of Murderkill and Dover hundreds, in Kent county, to cut a ditch or drain through the same.*"

Passed at Dover, Jan. 20, 1835.



CHAPTER CCCII.

A SUPPLEMENT to the act entitled "*An act concerning the dis-* Dig. 480.
charging of road taxes in Sussex county, by work or materials."

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, that whenever and as often as any road or common highway, or any bridge or causeway, shall from any cause become obstructed or require repairs, it shall and may be lawful for the overseer of the road, under the direction of the Levy Court Commissioners, where such repairs are necessary, at any time before the first day of July next, ensuing the passing of this act, and between the fifteenth day of September and the first day of July in every succeeding year, to summon in writing, as many of the taxables of the hundred (in which the said road is situate, and who are most contiguous and convenient to the place where the repairs may be required,) as he shall deem necessary to make such repairs, to go upon and work or labor, or to furnish materials necessary for the repairing of any such road, bridge or causeway, whether such taxables have been assigned by the Levy Court and Court of Appeal, to perform work and labor thereon, or furnish materials therefor or not. And it shall be the duty of every such overseer, and he is hereby required to give to each and every such person or persons, who under him, or by his order or direction, shall perform any work or labor, or furnish any materials for the purposes aforesaid, a certificate specifying the number of days work performed, or the materials furnished, and the sum allowed therefor to each; which said certificate shall be received and allowed by the collector in payment and discharge of the road tax of a subsequent year, of every person to whom such certificate is given, any law, usage or custom, to the contrary in anywise notwithstanding.

Overseer of the road empowered (under direction of L. Court comm'rs.) between 15th of Sept'r. and 1st day of July to summon in writing taxables to labor or furnish materials, &c.

Overseers required to give certificates of work done or materials furnished. Sum allowed in such certificates shall be rec'd. and allowed in payment of road tax.

SEC. 2. *And be it further enacted by the authority aforesaid,* That any road tax, or any balance of any road tax, which on the fifteenth day of September, in each and every year, shall not have been discharged by work and labor, or materials furnished according to or

Road tax not paid by 15th Sept. in work or materials,

shall be paid certificates duly granted, shall be payable in money and levied and in money, collected by the collector.
&c.

SEC. 3. *And be it further enacted*, That so much of the act entitled "An act concerning the discharging of road taxes in the county of Sussex, by work or materials," as is hereby altered or supplied, and also the third section of said act, be and the same is repealed, &c. hereby repealed.

Passed at Dover, Jan. 20, 1835.



CHAPTER CCCIII.

AN ACT to incorporate the Wilmington Theatre Company.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each House concurring therein,)* That William W. Baker, William Chandler, Henry Whitely, and other subscribers to the stock of the Wilmington Theatre Company and their successors, shall be and are hereby created and made a corporation and body politic, by the name or style of "The Wilmington Theatre Company," and by that name shall have succession, for and during the period of twenty years from the time of passing this act, and be capable by law to hold property, sue and be sued, plead and be impleaded, answer and defend, be answered and defended, in courts of law and equity, or in any other place whatever, to receive and make all deeds, transfers, contracts, covenants, conveyances and grants whatsoever, and make and have a common seal, and the same to change and renew at pleasure, and generally to do every other matter or thing necessary to carry into effect the provisions of this act: *Provided always*, that the said company shall not hold, at any time, any other real estate than the lot of ground on which the theatre and buildings connected therewith shall be erected, with the curtilage belonging to the same: *And provided further*, that the personal property of the said company shall not at any time exceed the sum of five thousand dollars.

Company in-
corporated.

Name.

Continuance.

Powers.

Restrictions
as to real es-
tate.

Personal pro-
perty limited
to \$5000.

SEC. 2. *And be it further enacted*, That the said corporation shall annually, on the first Monday of April, or within ten days thereafter, at the city of Wilmington, or at such other time as by the by-laws hereafter to be made may be appointed, elect from the members of the said corporation, nine managers, to serve for the term of twelve months, or until others shall be chosen; who, during their term of service, shall have the sole management and direction of the concerns of said corporation, elect a president from their own body, be authorised to make from time to time, as they may deem expedient, such by-laws or other rules for the regulation and

Time for
election.

Managers.

Power of ma-
nagers.

government of themselves and the members of said corporation, and the same to change, add to or amend, as may appear necessary or proper: *Provided always*, that such by-laws be not contrary to the constitution and laws of the United States, or of the State of Delaware: *And provided also*, that the said corporation shall not be authorised to make bills or notes of the nature or description of bank notes: *And provided also*, that the business and objects of the said corporation shall be, and the same hereby are limited, and restricted to the usual and ordinary business and objects of theatre companies or corporations.

Restrictions.

Banking power prohibited.

Business.

SEC. 3. *And be it further enacted*, That the power to revoke this act at any time hereafter, is hereby reserved to the Legislature.

The act may be repealed.

Passed at Dover, Jan. 21, 1835.

CHAPTER CCCIV.

AN ACT to authorise Peter F. Causey and Charles Polk to erect a gate across a public road.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall and may be lawful for Peter F. Causey and Charles Polk, or either of them, to erect and place a gate across the public road in Mispillion neck, in Kent county, leading from Cannon's corner to Long Point, on the Delaware bay, at or near the place where the line dividing the lands of the said Peter F. Causey and Charles Polk, cross the said road.

Gate may be erected across a certain public road.

SEC. 2. *And be it further enacted*, That if any person or persons shall destroy or injure the said gate, or pass through and leave the same open, he, she or they so offending, shall for every such offence, forfeit and pay a sum of money not exceeding ten dollars, which may be sued for and recovered as debts of like amount are recoverable by the laws of the State, by any person or persons who shall sue for the same: *Provided nevertheless*, that it shall be the duty of the said Peter F. Causey and Charles Polk, and of each of them, their and each of their heirs, devisees, and assignees of the said lands of the said Peter F. Causey and Charles Polk, to keep the said gate in good and sufficient repair, and in such manner as shall be most convenient for the citizens or persons passing and re-passing through the same, to open and shut the same.

Forfeiture for destroying, injuring or leaving it open. Penalty. How recover.

Must be kept in good repair.

Passed at Dover, Jan. 21, 1835,

CHAPTER CCCV.

Del. L. vol. 8, AN ADDITIONAL SUPPLEMENT to an act entitled "*An act to extend the time for recording of deeds.*"
chap. 265, p. 273.

Time for re-
cording ex-
tended to Sep.
1, 1835.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all deeds or letters of attorney concerning lands, tenements or hereditaments sealed and delivered before the first day of September, one thousand eight hundred and thirty-four, first being acknowledged or proved, and the acknowledgment or proof certified according to the laws of this State, in force at the time when such acknowledgment or proof was made, may with the certificate of the acknowledgment or proof, and all indorsements and annexations, be recorded in the office for recording of deeds in the county wherein such lands, tenements or hereditaments, or any part thereof are situated, if lodged in such office on or before the first day of September, in the year of our Lord one thousand eight hundred and thirty-five, and the said record or copy thereof shall be sufficient evidence; and from and after the first day of September, in the year last aforesaid, no deed or letter of attorney, sealed and delivered before the said first day of September, in the year of our Lord one thousand eight hundred and thirty-four shall be recorded.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of State, and he is hereby required to publish for the space of two months, from the first day of March next, a copy of this act, in two or more newspapers printed within this State.

Passed at Dover, Jan. 21, 1835.



CHAPTER CCCVI.

AN ACT to incorporate the members of the *Water Witch Fire Company of the city of Wilmington.*

Company.

Incorporation.
Name, continuance.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Joseph C. Grubb, William M. Cooper, Samuel Denny, Lewis H. Whitsal, James D. Lowe, Daniel W. Martin, Edward Cox, James McLary, Theodore Schrader, Gregg Chandler, Robert Porter, jr., and such other persons as shall hereafter be admitted or become members of the Water Witch Fire Company, of the city of Wilmington, according to the laws and constitution of the said company, shall be by virtue of these presents, one body politic and corporate in deed, fact, name and in law, to have continuance by the name of "The Water Witch Fire Company, of the city of Wilmington."

SEC. 2. *And be it enacted*, That the said corporation by the name aforesaid, shall be capable to sue and be sued, plead and be im- ^{Powers.} pleaded, answer and defend, be answered and defended, in the courts of law or equity, or in any other place whatsoever, and to purchase, take and hold real estate and personal property, and to dispose of the same, and to receive and make all deeds, transfers, contracts, covenants, conveyances and grants whatsoever. *Pro- provided nevertheless*, that the said corporation shall not take, have, ^{Restriction of} hold or possess, at any time, any other real estate or property, ^{real estate.} house or houses, than what shall and may be necessary for the purposes of the protection, sheltering, housing and taking care of the engines, hose and other implements and property of said company connected with the business and objects of the said company: *And* ^{Personal prop- erty limited to \$1,500.} *provided*, that the personal property of said corporation shall not at any time exceed the sum of fifteen hundred dollars: *And provided* ^{Restriction of business and objects.} *further*, that the business and objects of the said corporation shall be, and the same hereby are limited and restricted to the usual and ordinary business and objects of such fire companies.

SEC. 3. *And be it enacted*, That it shall and may be lawful to and for the said Water Witch Fire Company of Wilmington and ^{Common seal.} their successors, to have and use a common seal, with such device or devices as they think proper, for sealing all and singular deeds, grants, conveyances, contracts, bonds, articles of agreements, assignments, powers, and all and singular other affairs touching or concerning the said corporation.

SEC. 4. *And be it enacted*, That it shall and may be lawful for the said company and their successors to assemble and meet to- ^{Meetings.} gether as often as occasion may require, at such convenient place or places as they may from time to time appoint, due notice being given of the same; and shall have full power and authority from time to time to make, ^{Power of co. to establish laws, &c.} constitute and establish such laws, statutes, orders, by-laws or constitutions as shall appear to them, or the major part of them, to be good and useful, honest and necessary, according to the best of their judgment and discretion, if necessary for the government, regulation and direction of the company and every member thereof, and for the appointing or regulating the electing or nominating of such or so many as they shall think fit, ^{New mem- bers.} and for limiting and appointing their trust and authority, and admitting of new members, and to do all things concerning the government, estate, goods, lands and revenues, as also all the business and affairs of said company; all of which laws, statutes, orders, by-laws or constitutions so to be made as aforesaid shall be binding on every member, and be from time to time, inviolably observed according to the tenor and effect of them.

SEC. 5. *And be it further enacted*, That the right and power at any time hereafter to change, alter, annul or revoke this act, and ^{Power of re- vocation, &c. reserved.} all and every the provisions of the same, be and the same are here- by reserved to the Legislature.

Passed at Dover, Jan. 22, 1835.

CHAPTER CCCVII. (Private Act.)

AN ACT for the relief of the widow and children of John Cummins, deceased.

Passed at Dover, Jan. 22, 1835.



CHAPTER CCCVIII.

AN ACT to incorporate the Wilmington Whaling Company.

Incorporation. SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That those who are at the time of the passing of this act, or who hereafter shall be or become holders of stock or shares in the said Wilmington Whaling Company, be and they are hereby constituted a body politic, by the name, style and title of the "Wilmington Whaling Company," to be located in the city of Wilmington, for the purpose of engaging in and prosecuting the whale fishery and the manufacture of oil and spermaceti candles.

Name.

Business of company.

Powers. SEC. 2. *And be it further enacted,* That the said corporation by the same name, may make contracts and sue and be sued in all courts of law or equity in this State or elsewhere, and may make and have a common seal, and change the same at their pleasure; and also may make, ordain and establish such by-laws or regulations as shall appear necessary or proper for the government of the said company, not being contrary to the constitution and laws of this State or of the United States.

Capital. SEC. 3. *And be it further enacted,* That the capital stock of the said company shall not exceed three hundred thousand dollars, divided into three thousand shares of one hundred dollars each; and such additional subscriptions as may be necessary to complete that amount, the directors for the time being may from time to time and at such times and places as they shall determine, receive and call in by instalments; the said directors giving at least ten days' notice, as well in reference to the time and place of the subscription as to the time of paying each instalment, in two or more of the newspapers printed in the city of Wilmington; and in case of failure in the payment of all or any part of the said instalments at the time or times so required, every share on which such failure shall have taken place, and the interest or dividends on all moneys previously paid on such shares, may be forfeited by the directors for the benefit of the company.

When and how to be paid.

Shares and dividends forfeited.--when.

SEC. 4. *And be it further enacted,* That it shall and may be

lawful for the said corporation to sue, either at law, by action of Directors
debt or assumpsit or in equity, for the recovery of any sum or sums onpowored
of money, due or to become due from any subscriber, to either the to sue for
original articles of association, or to any additional subscriptions money due
authorised by this act, by virtue or in consequence of his subscri- bers.
bers.
tion, where the directors do not elect to forfeit the share or shares
on which said sum or sums may be due, or hereafter become due;
and in all suits, either at law or in equity, in the courts of this State, In all suits
by or against the said corporation, this act shall be deemed and this act to be
taken to be a public act, and need not be set forth in the pleadings deemed a
or given in evidence. public act.

SEC. 5. *And be it further enacted,* That the affairs of the com-
pany shall be managed and conducted by seven directors, to be Directors.
elected by the stockholders, the said directors being also stock-
holders; each share shall entitle the holder to a vote; the stock-
holders may vote in person or by proxy. The election shall be
triennial, the first election to be on the fourth Monday of Novem- Election of
ber, in the year one thousand eight hundred and thirty-six, in the directors
city of Wilmington, of which election and of all subsequent elec-
tions to be held at the same place, and on the same day triennially
thereafter; at least ten days' notice shall be given by the directors
in two of the newspapers printed in the city of Wilmington. The
directors so chosen, shall hold their offices for the term of three Their duties.
years and until others are duly elected; and in case of vacancy by
death, resignation or otherwise, they shall fill the same by choosing
another from among the stockholders. They shall at their first
meeting choose one of their number to be president, and shall have
power to appoint a treasurer and secretary, and to employ such President.
other officers, seamen and artificers as shall be necessary, and Power to
generally to do all such matters and things as are necessary, and appoint offi-
proper to the conduct and management of the whaling business. cers and em-
They shall have power also to make by-laws, ordinances and regu- ploy seamen,
lations as provided by the second section. Four directors shall &c.
constitute a quorum for the transaction of business, but no by-law Also to make
shall be enacted or repealed by the vote of less than five directors. by-laws, &c.

SEC. 6. *And be it further enacted,* That the present president
and directors of the said company and the officers by them ap- Continuance
pointed, pursuant to the articles of association shall be and remain in office of
in office, and exercise all the duties and functions to their respec- present offi-
tive offices appertaining, during the full period for which they were cers.
appointed under and by virtue of the said articles.

SEC. 7. *And be it further enacted,* That in case it should at any
time happen, that an election of directors shall not be made on the Failure to
day upon which, pursuant to this act it should be made, the said hold election
corporation shall not for that cause be dissolved; but it shall on day speci-
may be lawful to hold such election on such other day in the man- fied not to
ner aforesaid, as shall be prescribed by the by-laws of the company. dissolve the
corporation.

SEC. 8. *And be it further enacted,* That no transfer of stock

Transfer of stock. shall be valid or effectual, until such transfer shall be entered or registered on a book or books to be kept by the directors for that purpose.

Meetings. SEC. 9. *And be it further enacted*, That the directors shall call a meeting of the stockholders whenever they shall be thereto requested by the proprietors of one-third of the capital stock of the company.

Power reserved to the Legislature of laying a tax upon capital stock. SEC. 10. *And be it further enacted*, That the right and power at any time hereafter to impose a tax upon the said corporation, at a rate not exceeding one quarter of one per cent. annually, upon the whole capital stock of three hundred thousand dollars of the said corporation shall be, and the same hereby are reserved to the Legislature; which tax shall be paid by the said corporation in such manner and for such uses and at such times as the Legislature shall provide and direct; and that the right and power, at any time hereafter to alter, change, or repeal this act, and any of the provisions of the same; and to revoke all or any of the corporate rights, powers and privileges in this act granted, shall be and the same hereby are reserved to the Legislature.

Power to revoke, alter or repeal.

Passed at Dover, Jan. 23, 1835.



CHAPTER CCCIX.

Dig. 453. A SUPPLEMENT to the act entitled "*An act to preserve the public buildings and records from destruction by fire.*"

Provisions of the act not to extend to any officer using exclusively mineral coal. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the provisions contained in the act to which this is a supplement, which require every officer to extinguish or cause to be extinguished, the fires in his office, or the room occupied by him, shall not apply to any officer in the said act mentioned, who shall exclusively use, in any room occupied by him for the transaction of the business of his office, a stove or grate, for the purpose of burning mineral coal.

Passed at Dover, Feb. 23, 1835.



CHAPTER CCCX. (Private Act.)

AN ACT for the relief of Hannah Reid.

Passed at Dover, Jan. 23, 1835.

CHAPTER CCCXI. (Private Act.)

AN ACT to enable James T. Bird and James Harwood, to locate certain vacant lands, situate in Pencader hundred in New Castle county and State of Delaware, and to complete their title to the same.

Passed at Dover, Jan. 23, 1835.



CHAPTER CCCXII.

A SUPPLEMENT to the act entitled "*An act to incorporate the Wilmington and Susquehanna Rail-road Company.*"

Vol. 8. chap.
110, p. 107.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the time provided in the first section of the act to which this is a supplement, for opening books to receive subscriptions to the stock of said company, be extended to the first Monday of October, next ensuing the date hereof, and that the commissioners shall have power to transfer the said books, and to adjourn from time to time in the manner provided by the said section.

Time for
opening
books extend-
ed to 1st
Monday in
October next.

SEC. 2. *And be it further enacted,* That in addition to the commissioners named in the act, to which this is a supplement, the following persons be, and hereby are appointed commissioners, to wit: Joshua Gilpin, David C. Wilson, Jacob Alricks and Jonathan Bonney, of New Castle county, and John White, Nathan Bunker, Aquilla Brown and John Hemphill, of the city of Philadelphia.

Additional
commission-
ers.

SEC. 3. *And be it further enacted,* That in constructing the said rail-road in the manner provided by the twelfth section of the act, to which this is a supplement, the said company shall have power to commence the said rail-road at the city of Wilmington, and construct the same from the said city, towards or in the direction of the Susquehanna; and that where the nature of the ground or other circumstances may require, they shall have power to make the said rail-road of the width of one hundred feet, any thing in the said act to the contrary notwithstanding.

Commence-
ment of rail-
road.

Width of
road.

SEC. 4. *And be it further enacted,* That the said company are hereby authorised to purchase, hold and enjoy, such real estate as may be necessary and proper for promoting the objects of the said company, whereon they may erect all needful buildings, wharves, stables, and other edifices requisite for the business of the said company; and also, that the said company shall have power to establish a line or lines of steamboats between Philadelphia and Baltimore, in connection with the said rail-road, and to purchase steam-

Power to hold
real estate.
Erect build-
ings.

Establish a
line of steam-
boats, &c.

boats, and to do all other matters and things necessary for that purpose.

Passed at Dover, Jun. 26, 1835.



CHAPTER CCCXIII.

AN ACT to incorporate the members of the Phoenix Fire Company in the city of Wilmington.

- Company.** SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each House concurring,)* That James Canby, Jno. H. Price, Mark Breacr, Edmund Canby, James E. Price, William Young, Jacob Pierson, Henry McCallister, Jas. Canby, Jr., Achilles Hollingsworth, Amor Harvey, Jeremiah Springer, Jacob File, Thomas F. Young, and such other persons as shall hereafter be admitted, or become members of the Phoenix Fire Company in the city of Wilmington, according to the laws and constitution of the said company, hereafter to be made, shall be by virtue of these presents, one body politic and corporate in deed, fact, name and in law, and have continuance for twenty years by the name of the Phoenix Fire Company, in the city of Wilmington.
- Incorporation.**
- Continuance.**
- Name.**
- Powers.** SEC. 2. *And be it enacted,* That the said corporation by the name aforesaid, shall be capable to sue and be sued, plead and be impleaded, answer and be answered, in the courts of law and equity, or in any other place whatsoever; and to purchase, take and hold real estate and personal property, and to dispose of the same, and to receive and make all deeds, contracts, articles, and conveyances whatsoever: *Provided nevertheless,* that the said corporation shall not take, receive, have, hold, or possess at any time, any other real estate or property, house or houses, than what shall and may be necessary, for the purposes of the protection, sheltering, housing and taking care of the engine, hose, and other implements and property of the said company, connected with the business and objects of the said company; which said business and object are hereby declared to be, and the same are hereby expressly restricted and limited to the usual and ordinary business and objects of such fire companies: *And provided also,* that the personal property of the said company shall not, at any time, exceed the sum of fifteen hundred dollars.
- Real estate restricted.**
- Business and objects.**
- Personal property limited to \$1,500.**
- Common seal.** SEC. 3. *And be it enacted,* That it shall and may be lawful to and for the said Phoenix Fire Company in the city of Wilmington and their successors, to have and use a common seal, with such device or devices, as they shall think proper for sealing all and singular, deeds, grants, conveyances, contracts, bonds, articles of

agreement, assignments, powers, and all and singular other affairs touching or concerning said corporation.

SEC. 4. *And be it enacted*, That it shall and may be lawful for the said company and their successors to assemble and meet together, as often as occasion may require, at such convenient place or places, as they may from time to time appoint, due notice being given of the same; and shall have full power and authority, from time to time, to make, constitute, and establish such laws, statutes, orders and constitutions, as shall appear to them or a major part of them, to be good and useful, honest and necessary, according to the best of their judgment and discretion for the government, regulation and direction of the company, and for the appointing and regulating the election or nomination of such and so many officers as they shall think fit, and for limiting and appointing their trust and authority, and for the admitting of new members, and to do all things concerning the government, estate, goods, lands and revenues, as also all the business and affairs of the said company; all which laws, orders, statutes and constitutions, so to be made as aforesaid, shall be binding on every member, and be from time to time inviolably observed, according to the tenor and effect of them; provided they be not repugnant or contrary to the constitution and laws of this State or of the United States.

Time and place of meeting.
Power to make and establish laws, &c.
Admission of new members.

SEC. 5. *And be it enacted*, That the Legislature may, at any time, revoke or repeal this act, or any of its provisions.

Legislature has power to alter, &c.

Passed at Dover, Jan. 26, 1835.



CHAPTER CCCXIV.

AN ACT for the relief of the Trustees of the Academy at Newark.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall be lawful for the trustees of the Academy at Newark to bargain, sell and convey, in fee simple, all that lot or parcel of land in Newark in this State, on which the buildings heretofore for many years occupied as an academy stand, and which has been held and used for the benefit of said academy with the said building and all appurtenances, for the best price that can be obtained for the same, in such manner as they in their discretion shall deem best; the purchase money to be invested in the name and for the benefit of the trustees of the Academy of Newark.

Trustees empowered to sell the academy and land at Newark.

It shall also be lawful for the trustees of the Academy of Newark, to discontinue the said academy, to the end that the functions of said academy may be performed in an academical department of Newark College, and to appropriate and apply all the clear in-

Academy to be discontinued and money to be paid over to

trustees of
Newark col-
lege.

Condition.

come of the property and fund of the said trustees of the Academy of Newark, to the trustees of Newark College, so long as the trustees of said college shall maintain an academical department in said college: *Provided*, that the principal of such funds and property shall be preserved entire, and remain in the name of the trustees of the Academy of Newark; and that the said trustees of said academy, shall have power at will, to resume their functions, and reinstate and support the said academy; and it shall be their duty to resume their functions and reinstate and support said academy, whenever the trustees of said college shall cease to maintain an academical department in said college.

Meetings of
trustees.

The next meeting of the said trustees of the Academy of Newark, shall be on the Monday next before the fourth Wednesday of April next; and the days of the stated meetings of the board of trustees of Newark College, shall be days of stated meetings of the trustees of the Academy of Newark.

Passed at Dover, Jan. 27, 1835.



CHAPTER CCCXV. (Private Act.)

AN ACT for the relief of certain minors therein mentioned.

Passed at Dover, Jan. 27, 1835.



CHAPTER CCCXVI. (Private Act.)

AN ACT to vest in Mary Mitchelmore, widow of the Rev. John Mitchelmore, deceased, all the right and title of the State of Delaware, in and to all the real estate of which the said deceased died seized, possessed or entitled to, in the county of Sussex, in this State.

Passed at Dover, Jan. 28, 1835.



CHAPTER CCCXVII. (Private Act.)

AN ACT to authorise the sale of the School-house and lot on which it is situated, in School District, No. 6, in New Castle county.

Passed at Dover, Jan. 28, 1835.

CHAPTER CCCXVIII.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act fixing the time of holding the Courts of Law and Equity in this State.*" Dig. 122.
Vol. 8, chap.
221, p. 225.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, there shall be two terms in every year, in each of the counties of this State, of the Court of Chancery and the Orphans' Court, which shall commence and be held as follows, that is to say: the Court of Chancery and Orphans' Court shall commence and be held in New Castle county, on the third Monday in February, and first Monday in September; in Kent county, on the first Tuesday after the fourth Monday in March, and on the fourth Monday in September; in Sussex county, on the first Tuesday after the second Monday in March, and on the first Tuesday after the third Monday in September. Chancery and
Orphans'
Court in New
Castle.

Kent.

Sussex.

SEC. 2. *And be it further enacted,* That so much of any act of the General Assembly of this State, as appoints a different time for holding the aforesaid Courts of Chancery and Orphans' Court be, and the same is hereby repealed. Repeal of 8th
vol. Del. L.
chap. 221, p.
225.

Passed at Dover, Jun. 29, 1835.



CHAPTER CCCXIX.

A SUPPLEMENT to the act entitled "*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.'*" Vol. 6, Del.
L. 246.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*A supplement to the act entitled 'An act to incorporate a number of the Physicians of the Delaware State, and for other purposes therein mentioned,'*" and the provisions therein contained shall not be construed, deemed, held or taken to prohibit any person or persons hereafter, from practising medicine in this State, and for taking, accepting, or receiving any fee or reward therefor, which shall or may be voluntarily, freely and gratuitously tendered, or given to such person or persons, although such person or persons may not have any license or permission to practise medicine, as in said act mentioned and required: *Provided always nevertheless,* that nothing herein contained shall be construed, held or taken to entitle or give any right to any such person or persons so practising medicine, without having such license or permission to Dig. 431.

Persons not
licensed may
accept any
fee or reward.

But shall not
sue for fees
on account of
medical ser-
vices.

practise the same, to charge, demand claim, sue for or recover any fee, compensation, reward or pay whatsoever, for or on account of any such practice of medicine, or for or on account of any manner of services rendered, or medicines administered or prescribed in and about the same.

Passed at Dover, Jan. 29, 1835.



CHAPTER CCCXX.

AN ACT to provide for the instruction of the indigent blind of this State.

Governor au-
thorised to
draw on trust-
tee of school
fund.
Sum.

When paid.

No scholar to
be taught
longer than
five years.
Money
drawn limit-
ed to \$1,000.

Warrant to
specify name
and residence
of each pupil.

How distri-
buted.

Each county
to pay the
expense of its
own blind,
&c.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That to aid the funds of the Pennsylvania Institution for the instruction of the blind, so far as it may concern the instruction of the indigent blind of this State in said institution, the Governor of this State be, and he is hereby authorised and required to draw his warrant on the trustee of the fund for establishing schools in this State, in favor of the president of said institution, for such sum of money for every indigent pupil of this State, taught in said school, as shall be annually paid by the commonwealth of Pennsylvania to the said principal for each indigent pupil of the said commonwealth of Pennsylvania, taught in said institution; one-half of said sum to be paid at the expiration of six months from the first day of July, and the remainder at the end of the year from the said date; to be applied by said institution to and for the maintenance and instruction, in said institution, of such indigent blind pupil and pupils for whose benefit the said warrant shall be so drawn: *Provided*, that no scholar shall be taught at the expense of the State for a period longer than five years: *And provided also*, that the sum so drawn from the said fund for establishing schools in this State for such tuition, shall in no one year exceed the sum of one thousand dollars.

SEC. 2. *And be it enacted*, That every warrant drawn as aforesaid, by the Governor on the trustee of the fund for establishing schools in the State of Delaware, shall specify the name and place of residence, to wit: the county of each indigent pupil of this State, taught in the said school, and for whose benefit the said warrant shall be so drawn; and the said trustee of the fund for establishing schools shall distribute the amount of said warrant among the several counties of this State, in proportion to the number of indigent pupils from such counties respectively, who shall be taught in said school, and for whose benefit the said warrant shall be drawn; and shall charge the same upon the income of the school fund, as by law apportioned among the several counties, so that each county shall pay the expense of educating its own indigent blind. And at

the next succeeding annual apportionment of the said income among the several counties and districts, the said trustee shall first deduct from the share of each county the amount so charged to it for the instruction of its indigent blind, and apportion the balance among the several districts as by law is directed. •

SEC. 3. *And be it further enacted,* That the three associate judges of the State of Delaware and their successors, be and they are hereby appointed trustees on the part of the State, to whom all applications shall be made for the admission of the blind children of this State into the said institution, and they shall recommend such of the applicants as they shall deem proper, to the Governor of this State, who upon such recommendation, shall cause such pupils to be admitted into the said institution, upon the terms prescribed in the first section of this act: *Provided,* that not more than two indigent pupils from each county shall be admitted at the same time into the said institution.

The three associate judges appointed trustees—application must be made to them. Duty of the Governor upon their recommendation. Limitation.

SEC. 4. *And be it further enacted,* That during the continuance of the said annual grant, it shall be the duty of the said institution to present annually, or when required, to the said trustees, on or before the first day of January, a detailed report of the condition of said institution and of the number of the pupils from this State, therein stating the number of indigent pupils and their places of residence, accompanied by a statement of their receipts and expenditures during the preceding year; and the said trustees are hereby directed to make a report of the same to the Legislature of this State at their biennial session.

Institution required to report to trustees. And the trustees to the Legislature.

Passed at Dover, Jan. 29, 1835.

CHAPTER CCCXXI.

AN ACT to repeal an act entitled "*A supplement to the act entitled An act to restrain persons from suffering swine to go at large within certain limits.*"

Del. L. vol. 8, chap. 129, p. 127.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*A supplement to the act entitled An act to restrain persons from suffering swine to go at large within certain limits,*" passed at Dover the twenty-fifth day of January, eighteen hundred and thirty-two, be and the same is hereby repealed, made null and void.

Repealed.

Passed at Dover, Jan. 30, 1835.

CHAPTER CCCXXII.

Dig. 54. A SUPPLEMENT to the act entitled "*An act concerning the Auditor of Accounts.*"

Amended by striking out, &c.
How read and construed.
And printed.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act to which this is a supplement be and the same is hereby amended as follows, viz: by striking out the clause or words "until the second Tuesday of January next, after the happening of such vacancy" in the first section, and inserting in lieu thereof, the words "until the second Tuesday of January of the year in which the next biennial session of the Legislature shall take place, after the happening of such vacancy." The act beforementioned shall be read and construed as the same is herein amended; and in any edition of the laws hereafter to be published, the said act shall be printed as by this act amended.

Passed at Dover, Jan. 30, 1835.



CHAPTER CCCXXIII.

Del. L. vol. 8, chap. 217, p. 220.

AN ACT to repeal an act entitled "*An act to form two hundreds of what was heretofore Broadkilm hundred, in Sussex county, as to holding the general and special elections, the elections of Assessors and Inspectors, and the appointment of Constables.*"

Repealed.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*An act to form two hundreds of what was heretofore Broadkilm hundred, in Sussex county, as to holding the general and special elections, the elections of assessors and inspectors and the appointment of constables,*" passed on the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and thirty-three, be and the same is hereby repealed, and all and every act and acts of the General Assembly of this State as is by said act, in any manner altered or repealed, are hereby revived and declared to be in force, in the same manner as if the said act hereby repealed had not been passed.

Unpaid taxes by whom to be collected.

SEC. 2. *And be it enacted,* That all outstanding taxes, assessed and rated upon the taxables and property in the said hundreds respectively, shall be collected by the collectors heretofore appointed for that purpose; and the said collectors, their executors and administrators, and the sureties of any such collectors, shall have the same power, rights and privileges, and be under the same liabilities as if this act had not been passed.

SEC. 3. *And be it enacted*, That the assessors of the said hundreds respectively, now in office, shall continue in office and act as such, until their respective terms of office shall expire or become vacant; and the property in said hundreds respectively, shall be assessed during said term of office, in the same manner as if this act had not been passed. Assessors to continue in office, &c.

SEC. 4. *And be it enacted*, That the constables heretofore appointed for the said hundreds of Georgetown and Broadkiln respectively, shall continue in office and act as such until their respective terms of office shall expire or become vacant; after which there shall be two constables for Broadkiln hundred, one of which shall reside in Milton and the other in or near Georgetown. Two constables—one to reside in Milton and one in or near Georgetown.

Passed at Dover, Jan. 31, 1835.



CHAPTER CCCXXIV. (Private Act.)

AN ACT to revive an act entitled "*An act to enable Turpin, Jacob and Charles Wright, and John Gibbons of Sussex county, to locate certain vacant lands in North West Fork hundred, in said county, and to complete their title to said lands.*"

Passed at Dover, Jan. 31, 1835.



CHAPTER CCCXXV. (Private Act.)

AN ACT for the relief of Burton Waples of Sussex county.

Passed at Dover, Feb. 2, 1832.



CHAPTER CCCXXVI.

AN ACT to repeal the sixth section of the act entitled "*An act relating to fugitives from labor.*" Dig. 292.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the sixth section of the act entitled "*An act relating to fugitives from labor*" be, and the same is hereby repealed. Sixth section repealed.

Passed at Dover, Feb. 2, 1835.

CHAPTER CCCXXVII.

Dig. 330. A SUPPLEMENT to the act entitled "*An act providing for the recovery of small debts.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the said act to which this is a supplement shall be, and the same is hereby amended as follows, that is to say: by inserting in the first section of the said act between the word "merchandise" and the words "wherein the matter in demand" the following words or clause, viz: "or contract or agreement for personal labor, hire or service." The said act to which this is a supplement, shall be read and construed, deemed, held and taken as the same is herein and hereby above amended; and in any edition of the laws hereafter to be published, the said act shall be printed as by this act above amended.

First section amended by inserting, &c

Shall be so read and construed.

SEC. 2. *Be it further enacted and declared,* That no garnishee summoned on any execution attachment or other attachment, issued or to be issued according to any of the provisions of the said act to which this is a supplement, shall be liable or bound to answer or plead to the same, touching or in regard to any credits, monies or rights, arising from any contract or agreement for personal labor, hire, or service of the defendant, which shall come to or in the hands or possession of such garnishee at any time after or since he was or shall be so summoned as such garnishee; and that such attachment shall not relate to or affect any credits, monies or rights, arising from any contract or agreement for personal labor, hire, or service of the defendant, which shall or may come to or in the hands or possession of any such garnishee, at any time after he was or shall be so summoned as aforesaid.

Garnishee not bound to plead to attachment, touching monies, &c., arising from personal labor, &c., of defendant. Attachment shall not affect such monies.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXVIII.

AN ACT to incorporate the *Wilmington Gas Company, in the city of Wilmington.*

Preamble. *Whereas,* it has been represented to the General Assembly, that divers persons have subscribed and united for the purpose of forming a gas company, in the city of Wilmington in this State, and have advanced a capital, which is now employed and put in operation, and have chosen a president and directors for the management of the business of the said institution, and have taken upon themselves the name and style of the Wilmington Gas Company, and have formed rules and regulations for the conduct of the same.

And whereas, the president and directors of the said company, in behalf of themselves and the subscribers aforesaid, have by their petition, prayed the Legislature to pass an act to incorporate the said president, directors and company.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring,) That those* Incorporation.
who are at the time of passing of this act, and those who shall hereafter be and become holders of stock in the said Wilmington Gas Company be, now are, and hereafter shall be, one body politic and corporate, in deed and in law, to all intents and purposes by the name, style, and title of the Wilmington Gas Company, with Name.
full power to make and sell gas, to be made from rosin, coal, and other materials, and to furnish such quantities of gas as may be required in the city of Wilmington and its vicinity, for lighting stores, buildings, streets and bridges: Provided, that in any contract with the Wilmington Bridge Company, varying the number of lamps now required, there shall be an express stipulation, that the quantity of gass light shall be equal if not greater than that furnished by the present number of lamps. Purpose of company. Contract with Wilmington bridge company regulated.

SEC. 2. *And be it further enacted, That the corporation are hereby declared and made capable in law and equity to have, take, purchase, receive, possess and enjoy, any lands, tenements and hereditaments, goods, chattels, rights, credits, and effects of what nature, kind or quality soever, to the amount of forty thousand dollars, lawful money of the United States, and no more: and to sell, grant, dispose, alien, or demise the same, in such manner and form as they shall think proper.* May possess property to the amount of \$40,000.

SEC. 3. *And be it further enacted, That the said corporation be, and hereafter shall be able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, or any other place whatsoever; and to do and execute all and singular other matters and things which bodies politic or corporate lawfully may do.* Powers.

SEC. 4. *And be it further enacted, That the said president and directors and other officers of the said corporation, who now are chosen and appointed, and who shall hereafter be elected and appointed in pursuance of the powers herein granted, shall be and continue the president, directors and officers of the said corporation until others shall be elected and appointed, in virtue of the said powers in their places: Provided, that seven directors, one of whom shall be president of the corporation, be of the number of their officers.* Officers. Proviso.

SEC. 5. *And be it further enacted, That the president and directors of the said corporation, shall be capable of exercising such powers for the wise governing and ordering the said corporation and the affairs and business thereof, and of holding such occasional meetings for the purpose, as has been or shall be fixed, described* Their powers.

and determined by the rules, by-laws, regulations and ordinances of the said corporation.

Corporation may enact by-laws, regulations, &c. *SEC. 6. And be it further enacted,* That the said corporation shall and may hereafter make, ordain and establish such laws, regulations and ordinances, as to them shall seem necessary and convenient for the government of the said corporation: *Provided always nevertheless,* that nothing herein contained, shall be construed to authorise the said corporation to exercise any powers repugnant or contrary to the laws or constitution of this State.

Common seal. *SEC. 7. And be it further enacted,* That the said corporation shall have full power and authority to have and use a common seal, and to break and alter the same and establish another or others, with such devices as they shall think proper; and that all acts certified under that or any other seal of the said corporation relating to the affairs thereof, shall have full faith and credit in and before all and every the courts and jurisdictions within this State.

The conditions of subscription shall remain unimpaired. *SEC. 8. And be it further enacted,* That nothing herein contained shall be taken to defeat or impair the terms or conditions upon which the subscriptions to the said company or stock were made, but the same shall be and remain the fundamental rules of the said institution, and shall not be altered except in the manner therein provided and agreed: *Provided nevertheless,* that the capital stock of the said company shall not exceed the sum of thirty thousand dollars, and that the stock, from time to time subscribed, shall be paid in by the subscribers to the same.

Capital stock not to exceed \$30,000.

Any person wilfully injuring property, &c.

SEC. 9. Any person wilfully injuring any property of this corporation, shall forfeit treble the amount of the damage, to be recovered by said corporation in any court having cognizance thereof.

This act a public act.

SEC. 10. This act shall be deemed a public act for the purposes herein expressed.

Legislature may alter or revoke.

SEC. 11. The Legislature may at any time revoke or repeal this act or any of its provisions.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXIX.

Dig. 486. *A FURTHER ADDITIONAL SUPPLEMENT to the act entitled "An act for the establishment of free schools."*

Sum or balance to the *SEC. 1.* *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That any sum or balance remaining to the credit of a school district in either county in this State, at the time of passing this act, shall continue to re-

main to the credit of the said district, until the fourth of July, one thousand eight hundred and thirty-six, and drafts may be drawn thereon in the same manner, and subject to the same restrictions as prescribed in the fourth section of the act to which this is a further additional supplement; but any balance thereof which shall remain undrawn upon the said fourth day of July, one thousand eight hundred and thirty-six, shall be carried to the portion of the income of the school fund divisible among the school districts in the same county the next year, and shall increase the amount to be divided among said districts.

credit of a district at passing of this act to remain until July 4, 1836.
How drawn.

When forfeited.

SEC. 2. *And be it further enacted by the authority aforesaid, That* the time for school committees to settle their accounts before the auditor, shall be extended until the next attendance of the said officer in their counties respectively, according to law: and no forfeitures shall be incurred by any school district, for any past omission on the part of their school committee or school committees, unless a certificate shall be made by the auditor for a failure hereafter to settle the accounts of such district.

Time for committees settling their accounts, &c. No forfeitures for past omissions, unless, &c.

SEC. 3. *And be it enacted, That* Willard Hall be, and he is hereby authorised to procure to be published for distribution, an edition of the act for the establishment of free schools and the supplements thereto; the original act as amended, omitting the parts of the supplements directing amendments, and omitting the parts not deemed material for common use, with marginal notes and an index, and such forms and remarks as may be deemed useful; the edition to consist of eight hundred copies; two hundred and fifty for Kent county, and the residue equally for New Castle and Sussex, to be sent to the clerk of the peace in each county, who is to deliver one to each member of the school committee when called for, and such member shall deliver the same to his successor in office.

Willard Hall authorised to publish an edition of 800 copies of the act, &c.

250 for Kent and residue for N. Castle and Sussex.
How distributed.

And the said Willard Hall is authorised to defray the actual expenses herein arising, by an order drawn by him on the State Treasurer, in favor of the person to whom the money shall be due; and the State Treasurer is required to pay such order out of any money in the treasury not otherwise appropriated.

Expense how to be defrayed.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXX.

AN ACT concerning the new gaol in Sussex county, and other matters therein mentioned.

Whereas, it appears to this General Assembly, that the Levy Court of Sussex county have contracted for the construction of a brick building, designed for a new public gaol in said county, and

Preamble.

that the same will be completed in a short time, and that in the construction thereof, a proper regard has been had to the health of prisoners: Therefore,

When the sheriff is certified by L. Court he shall remove the prisoners from old to the new jail, which shall then become the public jail for Sussex county.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That so soon as the said brick building shall have been finished and ready for the reception of prisoners, which fact shall be certified to the sheriff of said county, by said Levy Court under the hand and seal of office of their clerk, that then and thenceforth, the said new brick building shall become, and be deemed and taken, and hereby is declared to be the public gaol of Sussex county aforesaid; and the said sheriff is hereby authorised and required, as soon thereafter as he conveniently can, safely to remove all the prisoners from the old gaol, in which they are now confined, to the said new gaol in said county, and there safely keep them pursuant to law under the same process and commitments, by virtue of which they were respectively and originally imprisoned, and the said old gaol shall thenceforth cease to be the public gaol of said county.

No action for an escape shall be maintained against the sheriff, by reason of this removal.

SEC. 2. *And be it further enacted by the authority aforesaid,* That the said sheriff shall not be liable, nor shall any action for an escape be prosecuted or maintained, or any recovery had or judgment entered against him, for or by reason of his removal of the persons in his custody, from the said old gaol to the new public gaol of the county of Sussex aforesaid.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXXI. (Private Act.)

AN ACT authorising Zadock Aydelott, administrator of George Truitt, deceased, to sell and convey certain lands therein mentioned.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXXII.

AN ACT to incorporate a company for the purpose of making a canal or canals, from the head-waters of Lewes creek, to connect the same with the waters of Rehoboth bay and Indian river, and to clear out and improve the sounds along the sea coast of the States of Virginia, Maryland and this State, and for other purposes.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* (two-thirds of

each branch concurring therein,) That it shall and may be lawful to open books for receiving and entering subscriptions to the amount of five hundred thousand dollars, in shares of twenty-five dollars each share, for the cutting said canal or canals, clearing out and improving the said sounds or making any rail-road along said route, to perfect the navigation from Cape Charles in Virginia, to Lewes creek in Delaware, under the management of Miers Burton, Ebe Walter, William Dunning, William D. Waples, Edward Dingle, Sen'r., Lewis West and Henry F. Rodney, of this State, and under the management of such other persons as are, or hereafter shall be appointed by the respective Legislatures of the States of Maryland and Virginia, or either of said Legislatures; to act jointly with the above named commissioners, or any two or more of them at the town of Berlin, in Maryland, Drummond-town, Virginia, Lewestown and Millsborough, Delaware, and at such places as the said commissioners or managers may appoint from the first day of June next, and shall continue open for the purpose of receiving subscriptions to the said capital stock, till the first day of January next, they giving at least one month's notice in one of the newspapers of each of the said States, of the time and place of opening said books: *Provided*, that if the same time of meeting and for receiving subscriptions shall not be appointed by all the said States, that the subscriptions made at the times and places by the States respectively, shall then be received, and such meeting may and shall continue by adjournment till the business is finished; and the acting managers at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept, containing the state of the said subscriptions; whereupon, the said managers shall have power to adopt and regulate the time and mode of the payment of instalments upon the subscriptions, and to receive further subscription if any be required, in such manner as they may deem expedient; and in case more than five hundred thousand dollars shall be subscribed, then the subscriptions shall be reduced to that sum by the managers, by beginning at and striking off a share from the largest subscription or subscriptions, and continuing to strike off till the sum is reduced to the capital stock: *Provided*, that if the sum of all the subscriptions shall not equal one hundred thousand dollars, all subscriptions made by virtue of this act shall be void.

Subscription books to be opened.

Managers.

Places of subscribing.

Books to be open from June 1, 1835, until, &c.

Notice to be given.

Proviso.

Managers empowered to regulate the payment of the instalments, &c. Subscriptions reduced—when.

Void—when.

SEC. 2. *Be it further enacted*, That in case one-half of the capital aforesaid, or the sum of one hundred thousand dollars shall be subscribed in manner aforesaid, the subscribers, their executors, administrators and assigns, from the time of their first said meeting shall be, and they are hereby declared to be a corporation by the name of "The Rehoboth and Cape Charles Canal and Transportation Company" and shall have perpetual succession, and may sue and be sued as such; and shall have all the powers and rights incident to a corporation. And such of the subscribers as shall be present at the first meeting, are hereby authorised and required to elect a president and seven directors, for making and completing

Company incorporated.

Name.

May elect a president and directors.

Votes how to
be given.

said canal, and managing the business of the said company for and during such times and not exceeding three years, as a majority of said subscribers shall think proper. Every subscriber shall be allowed one vote for every share not exceeding five shares, and one vote for every three shares above ten, held by him or her in said company. Any stockholder, by writing executed under hand and seal, in the presence of the subscribing witnesses, may depute any other member or stockholder, to vote and act as his or her proxy at any general meeting.

Powers of the
president and
directors.

SEC. 3. *Be it further enacted*, That the said president and directors when so elected, and their successors or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of the said company, to cut such canals, erect such locks and perform all such other works as they shall judge necessary for opening, improving and extending the navigation between Lewes' creek and Rehoboth bay, Indian river, and along the sounds upon the sea coast across Sinnipuxent neck, in Maryland, to the Chesapeake bay, at or near Cape Charles or the mouth of Pocomoke river, and carrying on the same from place to place, and from time to time, and upon such terms, and in such manner as they shall deem expedient; and to repair, keep in order, and pay for the same out of the money arising from the subscriptions received, and the tolls hereinafter mentioned; and to defray all incidental expenses, and also to appoint a treasurer, secretary and all such other officers, toll-gatherers, agents and servants as they shall deem necessary to carry this act into effect; and the same or any of them to remove or dismiss; and to fix their salaries, wages and allowances; to fix the time and place, and give notice of the election of the president and directors and other meetings of the stockholders, and the same from time to time to change; to appoint judges of all elections; to fill up all vacancies which may occur in their own body; and to make and establish all by-laws which they may deem necessary for the transaction of all other business and concerns of the said company; and such by-laws from time to time to alter and repeal: *Provided*, that such by-laws shall not be contrary to the laws or constitution of this State or of the United States.

Officers.

Make by-
laws, &c.

Provido.

Treasurer to
give bond.

SEC. 4. *And be it further enacted*, That the treasurer shall give bond in such penalty, and with such security as shall be directed by the by-laws, for the true and faithful discharge of the trust reposed in him, and shall receive such compensation for his services as the by-laws shall prescribe. No officer in said company shall have any vote in the settlement or passing his account.

President and
directors may
order. &c.

Notice to be
given.

SEC. 5. *And be it further enacted*, That the said president and directors or a majority of them, shall have full power and authority from time to time, as money shall be wanted, to make and sign orders for that purpose; and direct at what time and in what proportion the stockholders shall pay the sums subscribed, of which reasonable notice shall be given in such newspapers as the said presi-

dent and directors or a majority of them shall order; which said sums shall be paid into the hands of the treasurer to be disbursed by him, as the president and directors or a majority of them shall direct. If any stockholder shall neglect or refuse to pay any proportion or instalment within sixty days after the time of payment so ordered and advertised as aforesaid, the share or shares of such stockholders and all monies thereon paid, shall be forfeited to the company, and shall be sold by them to any person or persons willing to purchase the same for such price as can be obtained therefor; and such purchaser or purchasers shall be subject to the same rules, regulations and by-laws, in all respects as if such share or shares had been assigned by the original proprietors. But if the said president and directors or a majority of them shall deem it more beneficial to the interest of the company, they shall have full power and authority instead of forfeiting such share or shares, to recover from all or any defaulting stockholders, by due course of law, such instalment or instalments, which may remain unpaid after the expiration of thirty days from the time of payment so ordered and advertised as aforesaid, together with the full costs of suit.

Treasurer to receive and pay the same.

Penalty for neglecting to pay subscription.

SEC. 6. *And be it further enacted*, That upon the expiration of the term for which the said president and directors shall be elected pursuant to the second section of this act, the stockholders shall meet at such time and place as shall be fixed upon pursuant to the third section of this act, and either continue the said president and directors or any of them, or elect others in their stead. The president and directors elected from time to time pursuant to the provisions of the third section aforesaid, shall continue in office until others shall be duly elected, at such time, place, and in such manner as shall be prescribed by law. And every president and director before he acts as such, shall take an oath or affirmation for the faithful execution of his office.

Continuance of officers.

Oath of office.

SEC. 7. *And be it further enacted*, That the presence of the stockholders either in person or by proxy, who have a majority of the whole number of shares subscribed for, shall be necessary to constitute a general meeting. The president and directors shall annually at such general meeting make report, and render distinct and just accounts of all their proceedings, and shall make such dividend of the nett profits arising from the tolls hereby granted, as they shall deem proper, to and among all the stockholders of the said company, in proportion to their several shares.

General meeting.

President and directors shall report, &c. Dividends.

SEC. 8. *And be it enacted by the authority aforesaid*, That for and in consideration of the expenses which the said stockholders will be at in cutting the said canals and making and perfecting the other means of navigation, and for keeping the same in repair, the said canals and other works, with all the profits under the limitations aforesaid, shall be and hereby are vested in the said corporation forever, under the limitations aforesaid.

Profits vested in the corporation.

SEC. 9. *And be it further enacted,* That it shall and may be lawful for the said president and directors, after the said canals shall be made navigable, or such other works made available for transporting produce, to demand and receive tolls at such place or places on the said canal or canals, or other places, as they may direct, not exceeding the following rates; to be so apportioned and collected at one or more places along or upon such route as the president and directors may direct, that is to say:

	<i>Dolls. Cts.</i>
Every pipe of wine or brandy,	1 50
Every hogshead of wine, rum, or other spirits,	1 00
Every hogshead of tobacco,	1 50
Every hogshead of beer, rice or molasses,	1 00
Every barrel,	30
All other casks or kegs in proportion, according to the quantity of their contents,	20
Every bushel of wheat, peas, beans or flaxseed,	5
Every bushel of Indian corn, other grain or salt,	4
Every bushel of oysters,	4
Every barrel of pork, beef or fish,	50
Every barrel of flour,	30
Every ton of hemp, flax, potash, bar or other iron,	3 00
Every ton of pig iron or castings,	1 50
Every ton of copper, lead or other ore, other than iron ore,	1 50
Every ton of stone or iron ore,	75
Every chaldron of coals,	50
Every ton of anthracite coal,	1 50
Every hundred of pipe or hogshead staves or heading,	15
Every hundred barrel staves or heading,	10
Every thousand shingles, two feet long or more,	1 25
Every thousand shingles less than two feet long,	75
Every hundred cubic feet of other timber,	1 00
Every cord of wood,	1 50
Every gross hundred weight of all commodities or packages,	15
Every square foot of casks of merchandise.	5

And for all other commodities in the same proportion, agreeably to the articles above enumerated.

Every boat or vessel not having commodities on board which will pay the sum of six dollars, shall pay so much as with the commodities on board, will yield six dollars. And every empty boat or vessel shall pay six dollars, except an empty boat or vessel returning, whose load has already paid tolls according to the aforesaid rates; in which case, she shall pass toll free: *Provided*, that such boat or vessel shall return within thirty days after paying said tolls.

SEC. 10. *And be it further enacted,* That in case of neglect or refusal to pay the toll at the time of offering to pass through the

said canal, and previous to the vessel passing through the same, the collector or collectors of the said tolls, may lawfully refuse passage to such vessel; and if any vessel shall pass without paying said toll, such collector or collectors may seize such vessel wherever found, and sell the same at auction for ready money, towards paying said tolls and all expenses of seizures and sale; and the balance if any, shall be paid to the owner, and the person having the direction of such vessel, shall be liable for such tolls, if the same be not paid by the sale of such vessel as aforesaid.

Penalty on persons refusing to pay toll.

SEC. 11. *And be it further enacted*, That in case any master, shipper or agent, shall falsely or fraudulently present to any collector of tolls, or to any other agent of said company, a false manifest or account of cargo of any vessel or boat passing or about to pass through the said canal, or give a false statement of the toll thereon, or otherwise attempt to defraud in said tolls, such master, shipper or agent shall, after paying to the said company the toll due and costs of ascertaining the same, forfeit and pay double the amount of tolls so charged on which such fraud shall be attempted, to be recovered by action of debt with costs of suit in any court of record in this State, or before any justice of the peace within Sussex county, having jurisdiction thereof, in the same manner as debts under fifty dollars are now recoverable by law, one moiety of which forfeiture shall be for the use of the party suing for the same, and the other moiety shall be for the use of the State.

Penalty for fraud against the company.

How recovered.

SEC. 12. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the said company, at any time hereafter, whenever it may be deemed necessary and expedient by a majority of the said company, at an annual or special meeting, to survey, lay out, locate, construct and complete a railroad or other artificial road, from any point along or upon said route or line of canals in conjunction therewith, for the transportation of commodities along or from and to certain points thereof, so as to promote the public convenience or the interests of said company.

Company may lay out and construct a rail-road.

SEC. 13. *And be it further enacted*, That the said canal or canals, rail-road, or other artificial road or roads, when completed, shall be taken to be navigable and portable as a public highway for the transportation of all goods, commodities or produce, on the payment of tolls authorised by this act.

Canal and rail-road to be a public highway.

SEC. 14. *And be it further enacted*, That it shall and may be lawful for the said canal commissioners or company, by their engineers, artists, superintendents, contractors and laborers, with their instruments and implements, to enter upon from time to time any lands in the county of Sussex, through or near which it may intended to cut the said canal or canals, or lay out and run such rail-road, or other roads, and explore and survey such lands, for the purpose of determining the best route and location of the said canal or canals or roads, and for the erection of all works proper for such navigation or the transportation of such commodities.

Powers of the company in making the canal and road.

Directors empowered to purchase land, &c.	SEC. 15. <i>And be it further enacted,</i> That it shall and may be lawful for the president and directors or a majority of them, to contract and agree with the owner or owners of any lands or tenements, for the purchase of so much thereof as may be necessary for digging, constructing and perfecting so much of the said canals or roads aforesaid, as may pass through this State, if such contract or agreement can be made with such owner or owners; but in case of disagreement, or in case the owner or owners of any such lands and tenements be out of this State, or under the disability of infancy, coverture or incompetency of mind, or be otherwise incapacitated or unable to make such contract, or to convey lands, then and in each and every such case, it shall and may be lawful to and for the said president and directors or a majority of them, to apply to the Superior Court of this State in Sussex county in term time, or to the associate judge residing in said county in vacation, first giving at least ten days' notice thereof to such owner or owners, if within the State; and the said court or associate judge is hereby authorised and required to nominate and appoint five fit and impartial freeholders of said county, to examine whether such owner or owners will suffer or sustain any and what damages by reason of the taking of any such lands and tenements for the use of said canal or canals, rail-road or other improvement for the use of said company. And it shall be the duty of the president of said company, or the secretary thereof, to give at least ten days' notice in writing to such owner or owners, of the time and place of meeting of the said freeholders; and such notice or any other notice required by this act to such owner or owners, may be served by the delivery of a copy thereof to him, her or them, or leaving a copy at their respective dwelling-houses, if living within this State; or if living out of the State, by affixing a copy of such notice in some conspicuous place on the premises. And each of the said freeholders, before he proceeds to perform the duties required of him by this act, shall take an oath or affirmation, that he will faithfully and impartially, according to the true intent and meaning of this act, and to the best of his skill and judgment, estimate and assess the damages (if any) which such owner or owners will suffer or sustain by reason of the taking of any such lands or tenements for the use of said company; which oath or affirmation the said freeholders shall severally have authority to administer to each other. And the said freeholders shall proceed to view and examine the premises; and on assessing damages shall take into consideration the advantages to be derived from the said canal passing through the said lands, or the said roads passing over them; and having estimated and ascertained the damages (if any) shall make a report under their hands and seals, or a majority of them, describing the lands by metes and bounds, or other particular description, and stating the amount of damages (if any there be) which such owner or owners will sustain by reason of taking such lands or tenements for the use of the said canals or navigation or rail-road, and vesting the same in the said company. Which said report shall forthwith be returned to the office of the prothonotary of the said county,
In case of disagreement, &c.	
After notice, application to be made to the Superior Court in Sussex, or associate judge in vacation.	
Duty of the court or of the associate judge.	
And of the company.	
Freeholders to be sworn or affirmed.	
Oath, how administered. Duties of the freeholders.	
Report, where to be	

and judgment of confirmation shall be entered by the said court, ^{returned, and confirmed, &c.} unless good and sufficient cause be shown to the contrary; in which case, the said court, in their discretion, may refer the matter back to the same freeholders, or appoint other five freeholders to proceed in manner aforesaid, and assess the damages if any. And when judgment of confirmation upon any report made as aforesaid shall be entered by the said court, then the said "Rehoboth and Cape Charles Canal and Transportation Company" paying to such owner or owners aforesaid, the damages assessed in such report aforesaid, or bringing the same into court for the use of such owner or owners, and paying the costs of the said proceedings, shall take, have and hold to them and their successors and assigns, all and every the lands described in said report, as fully and effectually as if the same had been well and sufficiently granted to them, by the several and respective owners thereof, by any legal and perfect mode of conveyance and assurance whatsoever, and notwithstanding any of the disabilities aforesaid. Each freeholder appointed as aforesaid, shall receive for every day's attendance in the performance of the duties hereby required of him, (if regular return be made) the sum of one dollar, with mileage at the rate of three cents per mile, going ^{Fee of free-holders and prothonotary.} and returning; but mileage shall not be allowed for more than three days' attendance. The prothonotary shall receive such fees as are given to him by law for like services.

SEC. 16. *And be it further enacted,* That the president and directors, or a majority of them, are hereby authorised to agree with the owners of any lands or tenements, for the purchase of any lands or tenements at or near convenient places for the receipt of tolls, aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement or any of the disabilities aforesaid, or the owner or owners being out of the State, then such land may be valued, condemned and paid for, in the same manner and by the same mode of proceeding, as directed in the foregoing section, and the said company shall, upon payment of the valuation money of the said land, be seized thereof in fee simple, as fully and effectually as mentioned in said section. ^{Lands may be purchased for the erection of buildings. If contract cannot be made, proceedings may be had as in section 15.}

SEC. 17. *And be it enacted by the authority aforesaid,* That it shall and may be lawful, to and for the said "Rehoboth and Cape Charles Canal and Transportation Company" to purchase or procure steamboats, or canal boats, for the conveyance of passengers and merchandise, and use the same in connexion with said canal or canals, or with said artificial road or roads, or with both. And for this purpose, it shall be lawful to and for the president, directors and company in the manner hereinbefore authorised and empowered by this act, to establish such rates of passage and transportation, in and by said steamboats or other boats, as may be deemed reasonable by the said company: *Provided,* that the passengers of all other boats or steamboats and their merchandise in other steamboats belonging to any other company, shall be conveyed upon the payment of the same rates as the most favorable ^{Company may procure and use steamboats in connexion with said canal or road. And for that purpose may establish rates of passage, &c. Proviso as to charges.}

terms of the said "Rehoboth and Cape Charles Canal and Transportation Company."

Shares of capital stock assignable. SEC. 18. *And be it further enacted,* That the shares of the capital stock of said company shall be personal property, and shall be assignable in such manner as shall be regulated by the by-laws and subject thereto.

This corporation not to be dissolved by the stockholders failing in their duties. SEC. 19. *And be it further enacted,* That the said corporation created by this act, shall not be dissolved though a failure of the stockholders to hold any meeting, as prescribed by this act, or to elect a president and directors as directed by this act or by the by-laws; or through a failure of the president and directors or a majority of them to do any act or thing on any particular day or time, or to fill vacancies in their own board.

Bridges to be kept across the canal at all public roads. SEC. 20. *And be it further enacted,* That in case the said canal shall cross any public road, it shall be the duty of the said company, at the proper expense of the same, to make and keep good and sufficient bridges across the said canal, so as to prevent any inconvenience in the use of such roads, by reason of the said canal or canals; and the Legislature of this State, at all times hereafter, shall have power to enact such laws, for the erecting and maintaining such bridges across such canal, as may be required for public convenience, and to subject said company to forfeitures, pains and penalties, for not complying with such laws.

Legislature empowered to inspect the books, &c. SEC. 21. *And be it further enacted,* That whenever, and as often as the General Assembly of this State shall require it, the books, papers, and transactions of said company, shall be open to the examination of the Auditor of Accounts, or such other person or persons as the General Assembly may appoint. And if any person or persons shall destroy, damage, or in any manner injure or molest the said canal or canals, or roads, locks, works, or any of them, or any of the property of said company, or shall aid, abet or counsel the doing of the same, all and every such person or persons, so offending, shall be liable to indictment in the Court of General Sessions of the Peace and Gaol Delivery in Sussex county; and on conviction upon such indictment, shall be fined in any sum not exceeding five thousand dollars, at the discretion of the court; and such proceedings shall be had as in all other cases of indictable offences; or such person or persons shall be liable to the said company in a civil action for the injury sustained; and the form of such actions shall be "trespass vi et armis," in which treble damages and full costs of suit shall be recovered; but in no case shall both the same remedies be had by the said company for one and the same offence and damage.

Destroying, injuring the canal, &c.

Penalty.

Proviso.

Passed at Dover, Feb. 2, 1835.

CHAPTER CCCXXXIII.

A SUPPLEMENT to an act entitled "*An act to prevent the use of fire arms by free negroes and free mulattoes, and for other purposes.*"

Del. L. 8th
vol. chap.
176, p. 208.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the proviso in the first section of the act, to which this is a supplement, be amended by adding after the word "piece" in the seventeenth line thereof the following: "which shall continue in force for the term of one year from the granting of such license, and be renewable in like manner; and the justice or justices of the peace, so granting such licenses, shall keep a register of the same."

Proviso in 1st
section
amended by
inserting,
&c.

SEC. 2. *And be it enacted,* That any license or permit heretofore issued by a justice of the peace of this State, by the mayor or alderman of the city of Wilmington, to any free negro or mulatto, authorising such free negro or free mulatto to have, use, and keep in his possession a gun or fowling-piece, shall and the same is hereby declared to be void and of no effect at the end of one year from the time of granting the same; any law, custom or usage, to the contrary notwithstanding.

Licences is-
sued to be
void at the
end of a year.

SEC. 3. *And be it enacted,* That in any edition of the laws of this State, hereafter to be published, the act aforesaid shall be printed accordingly.

How this act
to be printed.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXXIV.

AN ACT for the preservation of certain records of the Orphans' Court of Sussex county.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall be the duty of the clerk of the Orphans' Court of Sussex county, as soon as it can conveniently be done, to make or cause to be made, a minute or abstract of all petitions and orders for the sale of lands, assignment of dower, division, redvision, valuation, re-valuation, and acceptances of land, and of all assignments and acceptances, and all recognizances which were entered into, presented to, or made by said Orphans' Court from the second day of August, one thousand seven hundred and eighty-four, up to the twenty-third of November, one thousand seven hundred and ninety-three, which remain on file in said Orphans' Court office, and which can

The clerk is
to make an
abstract of
petitions, &c.
from August
2, 1784, up
to November
23, 1793.

Exceptions.
Also to trans-
cribe them.

be transcribed or copied, and which are not recorded in record book D, or record book F. And it shall be the duty of the said clerk to transcribe or copy, or cause to be transcribed or copied all reports on sale of lands, assignment of dower, division, redi-
vision, valuation and revaluation, which were made to said court be-
tween the period above mentioned, and which are not recorded in
either of said record books.

The costs of
record book
and fees of
clerk to be
allowed by
Levy Court.

SEC. 2. *And be it enacted*, That the clerk of the said Orphans' Court shall provide a good, substantial, and well bound book for the purposes aforesaid, the costs of which shall be allowed by the Levy Court of Sussex county; and the said clerk shall be allowed by said Levy Court, for his services in making the said abstract or minute and copy, at the rate of one cent for every line of twelve words by him written in making the same.

Commis-
sioners.

Duty.

Full faith to
be attached
to docket.

SEC. 3. *And be it further enacted*, That after the said clerk shall have performed the services required of him by the first section of this act, it shall be the duty of two commissioners, to be appointed by the associate judge of the Superior Court, residing in Sussex county, to compare and correct the same by and with the original papers, and after so comparing and correcting the same, to certify thereon that the said docket is a true copy thereof; and the copy made, examined, and certified as aforesaid, shall have and receive, in all respects, the same faith and credit as the originals now may or can have and receive.

Comm'rs. to
be sworn or
affirmed.

Compensa-
tion and how
allowed.

Filling of
vacancies.

SEC. 4. *And be it further enacted*, That the said commissioners shall, before entering upon the performance of the duties assigned to them by this act, be sworn or affirmed before the judge of the Superior Court, residing in Sussex county, faithfully to perform the said duties, and shall file a certificate thereof in said court. That each of the said commissioners shall have and receive for each and every day's attendance in performing the duties enjoined on them by this act, the sum of two dollars, to be allowed by the Levy Court of Sussex county aforesaid, at their meeting in the month of March thereafter; and that in case any vacancy shall happen by the death or refusal to serve of either of the said commissioners, it shall be lawful for the said associate judge of the Superior Court, to appoint some other person or persons in his or their places or stead.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXXV.

Dol. L. vol.
8, chap. 245,
p. 274.

A SUPPLEMENT to the act entitled "*An act more effectually to prevent swine from running at large in the village of Middletown and its vicinity.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives*

of the State of Delaware in General Assembly met, That from and after the first day of March, one thousand eight hundred and thirty-five, the act passed at the session of the General Assembly, one thousand eight hundred and thirty-three, entitled "An act more effectually to prevent swine from running at large in the village of Middletown and its vicinity," be and the same is hereby extended to and within the following limits, viz: Beginning at the corner of land of the heirs of James A. Bayard, deceased, and of John M. Smith, on the Choptank road, and running by and with said line until it strikes the Murphey mill-pond; thence by and with said mill-pond, until it intersects the Delaware and Maryland line; thence by and with said line until it intersects the road leading from Warwick to Middletown; thence up said road till it intersects the line dividing St. George's and Appoquinimink hundreds; thence running by and with said dividing line until it intersects the lands of John Eddows; thence by and with the line dividing the lands of said John Eddows and Isaac Gibbs, until it strikes the road leading from St. Ann's Church to said Issac Gibbs'; thence by and with said road to St. Ann's Church, until it intersects the road leading from Middletown to Blackbird; and from thence to the stone bridge on the north of said church.

Limits extended with-
in which swine shall
not be suffered to go at
large.
Limits de-
scribed.

Passed at Dover, Feb. 2, 1835.



CHAPTER CCCXXXVI.

AN ACT to incorporate the Lewes and Millsboro' Rail-road Company.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of the members of each House concurring therein,)* That a company shall be established for making a rail-road from Lewestown, at navigable water, or from the Breakwater harbor to some point on Indian river, as the company may deem most expedient; and shall also have full power and authority by this act, to continue the said rail-road, at the same or any subsequent time, to the south or west line of this State. The capital stock of the said company shall not exceed one hundred thousand dollars, divided into five thousand shares of twenty dollars each.

Company es-
tablished.

Capital.

SEC. 2. *And be it further enacted,* That Sheppard P. Houston, Arthur Milby, William D. Waples, Robert Morris, of Lacy, Simon K. Wilson, John West and Benjamin Burton, shall be commissioners to receive subscriptions to the said capital stock; and any two of them may open books for this purpose, at such time and place as they may appoint, giving ten days' notice thereof, in one or more newspapers of this State; the books shall be kept open until

Commission-
ers appoint-
ed.

Books of sub-
scription to
be opened.

twenty thousand dollars shall be subscribed, or as much longer as the interests of the said company may require, and may be opened from time to time, and at such places as the board of directors may wish; and if more than the capital stock be subscribed, the commissioners shall apportion the same, by deducting the excess from the largest subscriptions.

SEC. 3. *And be it enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns, shall be and they are hereby created a corporation, by the name of the "Lewes and Millsboro' Rail-road Company," and by that name shall have power and capacity to sue and be sued in courts of law or equity; to purchase, take, enjoy, sell, alien lands, tenements and hereditaments, goods, chattels, rights, credits and effects, connected with or conducive to the purposes of said company; to have a common seal; to make by-laws, not repugnant to the constitution or laws of this State or of the United States, and to enjoy the franchises incident to a corporation: but the said company shall have no banking powers.

The business of the corporation shall be managed by five directors, to be elected by the stockholders, at their first meeting, to be held on ten days' notice given (in one or more of the newspapers of this State; and to be posted up in three places in Sussex county, to wit: Millsboro', Lewestown and Georgetown; and also by circulars directed to each stockholder, specifying the time and place, and for what purpose the meeting is called) by the said commissioners or any two of them; and the directors shall have power to say, whether this or any subsequent meeting shall be the first annual meeting; the commissioners shall have power to call the above meeting for the election of directors, at any time after twenty thousand dollars shall have been subscribed; the directors shall continue in office three years, or until successors be elected, which shall take place every third year after the first annual meeting; but an intermediate vacancy in the office of director, may be filled by a majority of the board until the next annual meeting; at which meeting a director shall be elected to serve the unexpired time of the former director. Directors shall be stockholders, and elected by ballot; they may choose one of their number president, and if he be absent, may appoint a president pro tempore. Any three may form a board. The directors shall have power to locate and construct a rail-road from the navigable water of Lewes creek, or from the Breakwater harbor, to any point on Indian river, as a majority of them may determine upon; and also shall have power to continue the same, as mentioned in the first section of this act; for this purpose, the said directors may employ all such engineers, agents, contractors and workmen, with their implements, carts, wagons, horses, or beasts of draught or burden, as may be necessary for the prosecution of the work; and to contract for, purchase and hold, all such land as they may deem necessary for the purposes of said rail-road; and in case such land as may be necessary for the location and use of said rail-road cannot be obtained by

purchase, the company may apply to the Superior Court, or to any judge thereof in vacation, by petition, giving the other party five days' notice of such application, if within the State; and the said court or judge shall appoint five judicious and impartial men to view the premises, which the said company may wish condemned for the use of the said rail-road, and assess the damages (if any) that the owner thereof will sustain by the condemnation of the same, for the use of the said company; the referees appointed as aforesaid, shall be sworn or affirmed faithfully and impartially to perform the duty aforesaid; they shall notify the owner of the property, if he be within the State, and also the president of said company, of the time they will meet for the discharge of this duty; they shall make report under their hands in writing, or under the hands of the majority to the next Superior Court in Sussex county, after their appointment; and the said court may either confirm said report, refer the matter back to the same persons, or appoint five other judicious and impartial men to perform the duty aforesaid, in manner aforesaid. When judgment of confirmation is rendered by the said court, on any report made as aforesaid, and on the payment by the said company of the amount of damages assessed to the owner of the said property, or on the payment of the same into court for his use, the title to the lands and premises mentioned and described in the said report, shall be absolutely vested in the rail-road company, their successors and assigns forever. The fees to the referees and prothonotary on any such proceedings, shall be determined by the said court and paid by the said company.

*Or condemn-
ed by ro-
ferees.*

*Proceedings
in such case.*

Fees.

The directors shall further have power to do all acts requisite to effect and carry on the purpose for which the company is established, and to this end to use the capital stock and funds of said company, to bind by their contracts under the seal of the corporation and hand of the president, all the property, estate, common stock, and joint fund of the corporation, but not the persons and separate property of themselves or any of the stockholders; they may make, amend and alter, by-laws for the government of the corporation, and the regulation of its business and concerns, not inconsistent with the constitution and laws of this State or of the United States; prescribe the officers of the corporation, other than those of president and directors, appoint the officers and take bonds from the same.

*General pow-
ers of direc-
tors.*

If an annual meeting should not be held at the time appointed by the directors, or there should be no election of directors at the time, the corporation shall not be dissolved for this cause. Occasional meetings may be called at any time by the directors.

*Meetings of
stockholders.*

In all meetings of the stockholders, regularly held, those assembled may proceed to business. The election of directors shall be determined by a plurality of votes; on all other questions a majority of votes shall be necessary. Each stockholder shall be entitled to one vote for each share of stock he or she holds, and absent stockholders may vote by proxy.

*Voting of
stockholders.*

**Stock assign-
able.** The capital stock shall be personal property, and shall be assign-
able, subject to the regulations of the by-laws.

Dividends. The time and manner of making dividends of the profits of the
corporation shall be fixed by the by-laws.

**Time and
manner of
paying sub-
scriptions.** SEC. 4. *And be it enacted*, That the subscribers to the capital
stock of this company shall, respectively, pay to the commissioners
an instalment of five dollars, on each share of stock so subscribed
for, on the first day of meeting of the stockholders to be called by
the commissioners as aforesaid: the commissioners or any two of
them, are hereby authorised to receive the said sum of five dollars
on each share of stock, on the day of election, and are required to
pay over immediately after the election, to the treasurer then ap-
pointed, the several sums of five dollars they may have received
by virtue of this act; no stockholder will be entitled to vote at the
first meeting, under any section of this act, until he shall produce
the certificate of the commissioners or two of them, that he has
paid the first instalment on a certain number of shares of stock;
the directors may require the payment of the balance of said sub-
scription in instalments of five dollars each, at such times as they
may deem expedient; giving thirty days' notice thereof, in two of
the newspapers of this State, and by circulars addressed to each
stockholder; and a failure of any stockholder to pay the sum re-
quired to be paid at the first meeting, or by such notice, he or she
shall forfeit ten per cent., on such sum, to be added thereto, and
paid by the said stockholders: and in case of second failure to pay
upon notice given as aforesaid, the said directors may proceed to for-
feit the sum or sums already paid by such defaulting stockholder, on
the stock so subscribed for by him; or may sue for and recover
the sums subscribed for and remaining unpaid, with the forfeiture,
according to the terms of the subscription. Forfeited shares may
be disposed of for the benefit of the corporation.

**Penalty for
neglect.** SEC. 5. *Be it enacted*, That the treasurer shall give bond in such
penalty and with such security, as shall be directed by the by-laws
for the true and faithful discharge of the trust reposed in him: and
shall receive such compensation for his services as the by-laws shall
prescribe. The said treasurer shall be appointed and shall give the
required bond on the day of the first meeting of the stockholders.
**Treasurer to
give bond.** No officer in the said company shall have a vote in the settlement
or passing of his own account.
When.

**President
empowered
to sign or-
ders.** SEC. 6. *Be it enacted*, That the said president and directors, or
a majority of them, shall have full power and authority to make
and sign orders upon the treasurer, for such sums of money as they
may deem necessary, at any and at all times.

**Penalty for
damaging or
destroying
the property
of the com-
pany.** SEC. 7. *Be it enacted*, That if any person or persons shall de-
stroy, damage, or in any way injure the said rail-road, or works,
or any of them, or any of the property of the said company, or
shall aid, abet, or counsel the doing of the same, all and every such
person or persons so offending, shall be liable to indictment in the

Court of General Sessions of the Peace and Gaol Delivery, within the county of Sussex, and on conviction upon said indictment, shall be fined in any sum not exceeding five thousand dollars, at the discretion of the court, and shall be sentenced to pay the fine and all the costs; and such proceedings shall be had as in all other cases of indictable offences; or such person or persons shall be liable to the said company in a civil action for the injury sustained; and the form of the action shall be "trespass vi et armis," in which treble damages and full costs of suit shall be recovered; but in no case shall both the said remedies be had by the said company, for one and the same offence and damage.

SEC. 8. *Be it enacted*, That it shall and may be lawful for the president and directors, or a majority of them, after the said railroad shall be put in use, to demand and receive toll at the following rate, from Indian river to Lewestown or the Breakwater harbor, or in proportion for any greater or less distance, making reasonable allowance for delay on the road, that is to say:—

	Dolls.	Cts.
Every pipe of wine or French brandy,	1	00
Every hogshhead of wine or other spirits,	1	00
Every hogshhead of tobacco,	1	00
Every hogshhead of beer, rice or molasses,	1	00
Every barrel,		25
Every bushel of wheat, peas, beans or flaxseed,		3
Every bushel of Indian corn, or other grain or salt,		3
Every barrel of pork, beef or fish,		25
Every barrel of flour,		25
Every ton of hemp, flax, potash, bar or manufactured iron,	1	25
Every ton of pig iron or castings,	1	25
Every ton of copper, lead or other ore, except iron ore,	1	25
Every ton of stone or iron ore,	1	00
Every chaldron of coal,	1	50
Every ton of anthracite coal,	1	25
Every thousand pipe or hogshhead staves or heading,	2	25
Every thousand barrel staves or heading,	1	25
Every thousand shingles, two feet or more long,	1	25
Every thousand shingles less than two feet long,		75
Every thousand feet of boards, plank, or scantling reduced,	1	25
Every cord of hickory wood,	1	00
Every cord of pine wood,		75
Every cord of oak wood,		75
Every passenger,	1	00
Every gross hundred weight of other commodities or packages,		15

And for all other commodities in the same proportion, agreeably to the articles above enumerated.

Passed at Dover, Feb. 2, 1835.

CHAPTER CCCXXXVII.

Dig. 419. AN ACT to amend the act entitled "*An act concerning the Orphans' Court.*"

Ninth section amended by striking out, &c.
 SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*An act concerning the Orphans' Court*" shall be, and the same hereby is amended as follows, that is to say: by striking out the words "*once a year*" in the seventh line of the ninth section of the said act, and inserting in lieu thereof the words "*once every two years.*"

How read and construed.
 The said act shall be read and construed, deemed, held and taken, according to the said amendment; and in any edition of the laws hereafter to be published, the said act shall be printed as above amended.

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXXXVIII.

AN ACT to authorise Clement Nowell and John A. Banning to erect a gate across a public road.

Gate may be erected across a certain public road.
 SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for Clement Nowell and John A. Banning or either of them, to erect and place a gate across the public road in Little Creek neck, in Kent county, leading to Marsh-town, upon the division line between the lands of said Clement Nowell and John A. Banning, at any place on said line which they or either of them may select.

Forfeiture for wilfully injuring or leaving it open.
 How recovered.
 Proviso.
 SEC. 2. *And be it further enacted,* That if any person or persons shall destroy or injure the said gate, or pass through and leave the same open, he, she or they so offending, shall for every such offence, forfeit and pay a sum of money not exceeding ten dollars, which may be sued for and recovered as debts of like amount are recoverable by the laws of this State, by any person or persons who shall sue for the same: *Provided nevertheless,* that it shall be the duty of the said Clement Nowell and John A. Banning, and of each of them, their, and each of their heirs, devisees and assigns of the said lands of the said Clement Nowell and John A. Banning, to keep the said gate in good and sufficient repair, and in such manner as shall be most convenient for the citizens or persons passing and re-passing through the same to open and shut the same.

Passed at Dover, Feb. 3, 1835.

CHAPTER CCCXXXIX.

AN ACT entitled "*An additional supplement to the act entitled An act to restrain persons from suffering swine to go at large within certain limits.*" Dig. 513.

Whereas, it hath been represented to this General Assembly, that the act entitled "*An act to restrain persons from suffering swine to go at large within certain limits,*" has by experience been found disadvantageous to many citizens residing within the limits "fifthly" described in the said act to which this is an additional supplement, in Kent county, and very burdensome to persons residing without said limits: Wherefore,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the first day of May, and before the first day of September, in this and every year hereafter, it shall and may be lawful to and for any person or persons residing within the limits "fifthly" described in the said act to which this is an additional supplement, in Kent county, in said act, to suffer and permit any hogs or swine, by him, her or them owned, which may or shall exceed thirty pounds, (live weight) to go at large within said "fifthly" described limits, and that nothing contained in said act to which this is an additional supplement, shall hereafter be taken or construed to effect the hogs or swine of any person residing without the said limits: *Provided,* the same be not kept by some person or fed within said limits. Between 1st May and 1st September, it is lawful for swine to run, &c., within certain limits.

SEC. 2. *Be it enacted by the authority aforesaid,* That so much of the act to which this is an additional supplement, as relates to the limits "fifthly" described in Kent county, as is hereby altered, amended or supplied, be and the same is hereby repealed. Repeal of part of 3d section.

Passed at Dover, Feb. 3, 1835.

CHAPTER CCCXL.

A SUPPLEMENT to the act entitled "*An additional supplement to the act entitled An act to enable the president, directors and company of the Commercial Bank of Delaware to close the concerns of that bank.*" Del. L. vol. 8, chap. 150, p. 185.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring,) That the act entitled "An additional supplement to the act entitled An act to enable the pre-

Corporation
extended un-
til March 1st
1839.

Only for set-
tling and
closing its
concerns.

sident, directors and company of the Commercial Bank of Delaware to close the concerns of that bank," passed the fourth day of February, in the year of our Lord one thousand eight hundred and thirty-two, be and the same is hereby continued and extended until the first day of March, which will be in the year of our Lord, one thousand eight hundred and thirty-nine, and no longer, and that the powers, privileges and immunities, heretofore granted to the said corporation by law, are hereby continued and extended to them, until the day and year last mentioned, to be used only for the settling and closing the concerns of said corporation, and not otherwise.

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXLI. (Private Act.)

AN ACT *authorising Isaac G. Colesberry, guardian of Elizabeth Reynolds, a minor, to sell and convey the interest of the said minor in certain real estate in New Castle county.*

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXLII.

Dig. 618.

AN ADDITIONAL SUPPLEMENT *to the act entitled "An act directing the manner of choosing commissioners to regulate and repair the streets of Milford, and for other purposes."*

Limits and
bounds in 6th
section.

SEC. 1. *Be it enacted and declared by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the limits and bounds specified and mentioned in the sixth section of the said act to which this is an additional supplement, as being the same as are mentioned and defined in the "seventh" limits of the act entitled "An act to restrain swine from running at large within certain bounds," shall be deemed and taken to be, and the same are the limits and bounds mentioned and defined in the "seventh" limits in Kent county, in said last mentioned act specified.*

8th vol. Del.
L. c. 28, p.
54. First
section an-
nounced by re-
pealing, &c.

SEC. 2. *And be it further enacted, That so much of the said act to which this is an additional supplement, and so much of the supplement to the said act, passed at Dover, the twenty-eighth day of January, in the year of our Lord, one thousand eight hundred and thirty, as authorises or provides for the election or appointment of a constable in and for the said town of Milford, shall be and the same hereby is repealed; and that the constable of Kent county, residing*

in and for Milford hundred for the time being, shall act and serve in the stead and lieu of such special constable, so heretofore elected and appointed as aforesaid, in and for the said town of Milford; and that the said constable of Kent county, residing in and for Milford hundred as aforesaid for the time being, shall be and he is hereby subjected to and charged with the performance of all and every the same acts and duties, and under the same rules, regulations, penalties and liabilities, and shall have and be entitled to, all and every the powers, rights and privileges, as are enjoined and imposed upon, granted to, or vested in the said special constable or constables so elected and appointed as aforesaid, by and under the said act to which this is an additional supplement.

Duties of
constable of
Milford hun-
dred.

SEC. 3. *And be it further enacted*, That the said constable of Kent county, so residing in and for Milford hundred, shall have the power in writing under his hand, to authorise and depute a deputy to reside in the said town, and to act in his stead in regard to all matters touching the performance of his duties under the said act to which this is an additional supplement; and such deputy shall have the same powers and be subject to the same liabilities and duties under the said act, as the said constable who shall so depute him as aforesaid; and said constable shall be responsible and liable for the acts of his deputy.

Duties.

SEC. 4. *And be it further enacted*, That in case of a vacancy in the office of the treasurer, under the said act to which this is an additional supplement, by the death, resignation or removal of such treasurer, the commissioners for the time being under said act, shall have the power to fill such vacancy by an appointment to continue until a successor be duly elected.

Commission-
ers empower-
ed to appoint
a treasurer.

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXLIII.

AN ACT supplementary to the act entitled "*An act for the preservation of certain shell fisheries within this State.*"

Dig. 274.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That hereafter, no person or persons whatsoever, shall be permitted to take or gather oysters within the waters of any of the creeks or ponds in this State, at any time between the fifteenth day of May, and the fifteenth day of August, in this or in any year hereafter.

Oysters not
to be gather-
ed between
May 15th
and August
15th.

SEC. 2. *And be it enacted*, That all persons who take or gather oysters in either of the creeks or ponds in this State, at any time after the passing of this act, shall cull the same, at the rock or bed from whence they are taken or gathered, and shall deposit the

To be culled
where gath-
ered.

Corporation
extended un-
til March 1st
1839.

Only for set-
tling and
closing its
concerns.

sident, directors and company of the Commercial Bank of Delaware to close the concerns of that bank," passed the fourth day of February, in the year of our Lord one thousand eight hundred and thirty-two, be and the same is hereby continued and extended until the first day of March, which will be in the year of our Lord, one thousand eight hundred and thirty-nine, and no longer, and that the powers, privileges and immunities, heretofore granted to the said corporation by law, are hereby continued and extended to them, until the day and year last mentioned, to be used only for the settling and closing the concerns of said corporation, and not otherwise.

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXLI. (Private Act.)

AN ACT authorising Isaac G. Colesberry, guardian of Elizabeth Reynolds, a minor, to sell and convey the interest of the said minor in certain real estate in New Castle county.

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXLII.

Dig. 618.

AN ADDITIONAL SUPPLEMENT to the act entitled "An act directing the manner of choosing commissioners to regulate and repair the streets of Milford, and for other purposes."

Limits and
bounds in 6th
section.

SEC. 1. Be it enacted and declared by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the limits and bounds specified and mentioned in the sixth section of the said act to which this is an additional supplement, as being the same as are mentioned and defined in the "seventh" limits of the act entitled "An act to restrain swine from running at large within certain bounds," shall be deemed and taken to be, and the same are the limits and bounds mentioned and defined in the "seventh" limits in Kent county, in said last mentioned act specified.

8th vol. Del.
L. c. 28, p.
54. First
section amended by re-
pealing, &c.

SEC. 2. And be it further enacted, That so much of the said act to which this is an additional supplement, and so much of the supplement to the said act, passed at Dover, the twenty-eighth day of January, in the year of our Lord, one thousand eight hundred and thirty, as authorises or provides for the election or appointment of a constable in and for the said town of Milford, shall be and the same hereby is repealed; and that the constable of Kent county, residing

in and for Milford hundred for the time being, shall act and serve in the stead and lieu of such special constable, so heretofore elected and appointed as aforesaid, in and for the said town of Milford; and that the said constable of Kent county, residing in and for Milford hundred as aforesaid for the time being, shall be and he is hereby subjected to and charged with the performance of all and every the same acts and duties, and under the same rules, regulations, penalties and liabilities, and shall have and be entitled to, all and every the powers, rights and privileges, as are enjoined and imposed upon, granted to, or vested in the said special constable or constables so elected and appointed as aforesaid, by and under the said act to which this is an additional supplement.

Duties of
constable of
Milford hundred.

SEC. 3. *And be it further enacted*, That the said constable of Kent county, so residing in and for Milford hundred, shall have the power in writing under his hand, to authorise and depute a deputy to reside in the said town, and to act in his stead in regard to all matters touching the performance of his duties under the said act to which this is an additional supplement; and such deputy shall have the same powers and be subject to the same liabilities and duties under the said act, as the said constable who shall so depute him as aforesaid; and said constable shall be responsible and liable for the acts of his deputy.

Duties.

SEC. 4. *And be it further enacted*, That in case of a vacancy in the office of the treasurer, under the said act to which this is an additional supplement, by the death, resignation or removal of such treasurer, the commissioners for the time being under said act, shall have the power to fill such vacancy by an appointment to continue until a successor be duly elected.

Commission-
ers empowered
to appoint
a treasurer.

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXLIII.

AN ACT supplementary to the act entitled "*An act for the preservation of certain shell fisheries within this State.*" Dig. 274,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That hereafter, no person or persons whatsoever, shall be permitted to take or gather oysters within the waters of any of the creeks or ponds in this State, at any time between the fifteenth day of May, and the fifteenth day of August, in this or in any year hereafter.

Oysters not
to be gathered
between
May 15th
and August
15th.

SEC. 2. *And be it enacted*, That all persons who take or gather oysters in either of the creeks or ponds in this State, at any time after the passing of this act, shall cull the same, at the rock or bed from whence they are taken or gathered, and shall deposit the

To be culled
where gathered.

LAWS OF THE

young and refuse oysters, which are not fit for immediate consumption, upon said rock or bed, in order that they may grow to maturity.

Dredges prohibited. SEC. 3. *And be it enacted*, That it shall not hereafter be lawful for any person or persons whatsoever, to collect or gather oysters within either of the creeks or ponds in this State by using a dredge for the purpose.

Penalty for offending. SEC. 4. *And be it enacted*, That if any person or persons shall hereafter offend against any of the provisions of this act, every such person or persons so offending, shall, for every such offence, forfeit and pay a sum of money not less than five, and not more than fifty dollars; to be recovered with costs of suit, by any person or persons who will sue for the same, before any justice of the peace in and for either of the counties in this State; one-half of which fine shall be paid to the person suing for the same, and the other half be for the use of the State.

How recovered.

Passed at Dover, Feb. 4, 1835.



CHAPTER CCCXLIV. (Private Act.)

AN ACT to enable John D. Ewing and Eliza G. Ewing, to sell and convey a certain piece of land therein mentioned.

Passed at Dover, Feb. 4, 1835.



CHAPTER CCCXLV.

Del. L. vol. 8, chap. 258, p. 286. A SUPPLEMENT to the act entitled "*An act to incorporate a company for the purpose of cutting and making a canal between the waters of the Nanticoke river and Broadkirk creek, in the county of Sussex, and for other purposes.*"

Preamble. *Whereas*, it has been represented to this General Assembly, that no part of the capital stock of the said company hath been subscribed for, and that the power of the revocation contained in the twenty-ninth section of the act, to which this is a supplement, has had, as it is believed, an injurious effect in restraining said subscriptions: Wherefore,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch concurring,)* That the time for opening the books for re-

ceiving and entering subscriptions to the capital stock of said company be, and the same is hereby extended as follows, that is to say: the said books shall be opened on the first Tuesday of June next, and shall continue open for the purpose specified in the said act to which this is a supplement, until the first Tuesday of September then next following, at such place as the managers named in said act, or the survivors of them, or a majority of the survivors of them may appoint, under the same regulations and provisions, and enjoying the same privileges and advantages as are prescribed and granted in the first and second sections of the act aforesaid: *Provided*, that unless one hundred and fifty thousand dollars of the said capital stock shall have been subscribed, on or before the first day of January, in the year one thousand eight hundred and thirty-eight, all subscriptions made previous to that date, and in consequence of the said act, shall be void.

Time for receiving subscriptions extended.

Proviso.

SEC. 2. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said company to construct a railroad, or a Mac Adamized road or other artificial road, instead of a canal, or either, or any two or all of them, as shall be deemed advisable by the said company, under the same regulations, limitations and restrictions, in regard to the route, and with the same powers and privileges generally, as are contained and granted in the said act to which this is a supplement.

Company authorized to construct a rail-road.

SEC. 3. *And be it further enacted by the authority aforesaid*, That the twenty-ninth section of the act to which this is a supplement, be and the same hereby is repealed, made null and void. And every other provision of the act inconsistent with this supplement be, and the same is also hereby repealed, made null and void.

Repeal.

Passed at Dover, Feb. 3, 1835.



CHAPTER CCCXLVI. (Private Act.)

A SUPPLEMENT to the act entitled "*An act to authorise the owners and possessors of the marsh and low grounds, commonly called and known by the name of the Cow Marsh, situate in the forest of Murderkill hundred, in Kent county and State of Delaware, to cut a ditch or ditches, drain or drains through the same, and to keep said ditches and drains open and in good repair.*"

Passed at Dover, Feb. 4, 1835.

CHAPTER CCCXLVII.

Del. L. 8th
vol. chap.
219, p. 254.

AN ACT to repeal the act entitled "*An additional supplement to 'An act to restrain persons from suffering swine to go at large within certain limits.'*"

Repeal.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "*An additional supplement to 'An act to restrain persons from suffering swine to go at large within certain limits,'*" passed at Dover on the twenty-ninth day of January, eighteen hundred and thirty-three, be and the same is hereby repealed, made null and void; and that all and every the provisions of any act or acts of the General Assembly of this State, as are by said act altered or repealed, be and the same are hereby revived and declared to be in full force, in the same manner as if the said act had never been passed.

Passed at Dover, Feb. 5, 1835.



CHAPTER CCCXLVIII. (Private Act.)

A SUPPLEMENT to an act entitled "*An act to authorise the owners and possessors of the marsh and low grounds commonly called and known by the name of the Bridge Branch, situate in North-west Fork hundred, Sussex county, to cut a ditch or drain through the same.*"

Passed at Dover, Feb. 5, 1835.



CHAPTER CCCXLIX.

Del. L. vol. 7,
chap. 129, p.
257.

AN ACT to revive and renew the act entitled "*An act to incorporate the Brandywine and Christiana Manufacturing Company,*" and to extend the provisions of the same to the corporation in and by this act created.

Preamble.

Whereas, it has been represented to this General Assembly, by the petition of John B. Newman, John Hemphill, Nathan Bunker and Jacob B. Clement, that the said act entitled "*An act to incorporate the Brandywine and Christiana Manufacturing Company*" and as well the act supplementary thereto, passed at Dover, the twenty-eighth day of January, in the year of our Lord one thousand eight hundred and thirty, have expired and become null and void, by reason of the failure of the persons in said acts mentioned, to

declare in proper time, their acceptance of the said acts; and the whole of the said estate in the said acts, specified as being late the property of Joshua and Thomas Gilpin, situate on both sides of Brandywine creek, in New Castle county, being now owned by the aforesaid John B. Newman, John Hemphill, Nathan Bunker and Jacob B. Clement, the said Thomas Fisher in said acts named, having sold out to them all his interest in said estate: Therefore,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each branch of the Legislature concurring therein,)* That the said John B. Newman, John Hemphill, Nathan Bunker and Jacob B. Clement, now associated, and such others as may hereafter be associated with them, for the purpose of carrying on the manufacture of cotton, woollen, paper, flax, iron, or any other material which they may from time to time adopt or substitute at their estate, late that of Joshua and Thomas Gilpin, on both sides of the Brandywine creek, in the county of New Castle, shall be and are hereby ordained and declared to be a body politic and corporate by the name of "The Brandywine and Christiana Manufacturing Company," and by that name they and their successors and assigns, shall and may have continued succession for twenty years, and no longer; and be capable to sue and be sued in courts of law and equity, to purchase, take, enjoy, sell and alien lands, tenements, hereditaments, goods, chattels and effects, of every nature, which may be connected with or conducive to, the purpose for which said company is established; to have a common seal; to ordain by-laws for their own government, not repugnant to the constitution or laws of the United States or of this State, and to enjoy the franchises incident to a corporation: *Provided always,* that the said corporation shall not have, nor exercise any banking powers whatever, and that their said capital stock shall not exceed five hundred thousand dollars.

Company in
incorporated.

Name.

Continuance.

Powers.

Banking
power prohi-
bited.
Capital limit-
ed to \$500,-
000.

SEC. 2. *And be it further enacted,* That the business and concerns of the said corporation shall be managed by four directors, who shall be stockholders, and shall be elected at each annual meeting of the stockholders, which shall be on the second Tuesday of February in every year; and shall continue in office until the next succeeding annual meeting, and until successors to them be duly chosen. The directors shall be elected by ballot by the stockholders in person or by proxy, who shall have a vote for every share of stock, and a majority of votes given in shall be necessary to a choice; and such ballot shall be made from time to time, until the requisite number of directors shall have such a majority. If any director cease to be a stockholder, and if any vacancy or vacancies shall occur either by death, resignation, refusal to serve, or from any other cause, the remaining directors or director, shall choose one or more directors to serve until the next election in course, or until successors shall be duly chosen; but if vacancies shall at any time exist in all the offices of directors, or if such directors shall not be chosen at

Directors.

Form and
manner of
their election.

Vacancies,
how filled.

the time appointed herein, this corporation shall not thereby cease; but in the former case, such persons shall manage the business and concerns of the said corporation, as may be provided by its by-laws; and, in the latter case, the directors shall continue in office until successors shall be actually chosen, and enter upon the duties of their office. The directors shall choose from among their number a president, who shall have such powers and duties, as shall be provided by the by-laws. The directors, until the first annual meeting after this act shall go into operation, and until others shall be appointed and shall act, shall be John B. Newman, John Hemphill, Nathan Bunker and Jacob B. Clement.

President.

Present directors.

SEC. 3. *And be it further enacted,* That all by-laws shall be made by the stockholders at their annual or other meetings, called by virtue of the by-laws made at an annual meeting, except those made before the first annual meeting, after this act shall go into operation; for which purpose the stockholders may be convened as the directors may prescribe; at all which meetings all questions shall be decided by a majority of votes given in person and by proxy, each share having one vote.

By-laws.

SEC. 4. *And be it further enacted,* That the directors shall at all times, keep or cause to be kept proper books of accounts, in which shall be regularly entered, all transactions of the said corporation; which books shall be subject all times, to the inspection of the stockholders; and the directors shall once in every year, take an account of the stock, property and effects, belonging to the said corporation, and of all debts owing by or to the said corporation, and make a record thereof in a book to be kept for that purpose, and exhibit the same to the stockholders at their annual meeting; and no director shall have any emolument except such as shall be allowed by the stockholders at their annual meeting, or be prescribed by the by-laws.

Books to be kept open to inspection of stockholders.

SEC. 5. *And be it further enacted,* That the shares of the capital stock shall be five hundred dollars each, and be personal property; and shall be created, certified, held, arranged and assignable, according to the provisions of the by-laws.

Share of stock.

SEC. 6. *And be it further enacted,* That this act shall be deemed and taken as a public act: *Provided always,* that unless the said John B. Newman, John Hemphill, Nathan Bunker and Jacob B. Clement, of the city of Philadelphia, or the survivors of them, or in case of the death of either of them, the executors or administrators of the deceased, shall on or before the expiration of twenty-four calendar months after the passage thereof, declare their acceptance of the terms and provisions of this act in writing, to be signed severally by them, and filed in the office of the Secretary of this State, then this act and every matter and thing, and clause therein contained, shall be null and void, as if the same had not been passed.

This act to be a public act.

And must be accepted in writing within twenty-four calendar months.

Passed at Dover, Feb. 5, 1835.

CHAPTER CCCL.

AN ACT *allowing an additional Constable to White Clay Creek hundred, in the county of New Castle.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in addition to the constables now directed to be appointed for New Castle county, there shall hereafter be one other constable in and for White Clay Creek hundred, whose residence shall be in the village of Newark.

Additional constable to reside in Newark.

Passed at Dover, Feb. 6, 1835.



CHAPTER CCCLI. (Private Act.)

AN ACT *for the relief of the owners and possessors of the marsh and low grounds on, contiguous and adjacent to Ingram's branch, situate in Mispillion hundred in Kent county.*

Passed at Dover, Feb. 6, 1835.



CHAPTER CCCLII. (Private Act)

AN ACT *authorising the sale of certain real estate, late of John Evans, of White Clay Creek hundred, New Castle County, deceased.*

Passed at Dover, Feb. 7, 1835.



CHAPTER CCCLIII.

AN ACT *to amend the act entitled "An act to incorporate a company to erect a drawbridge over the river Nanticoke, at Seaford, and for other purposes therein mentioned."*

Del. L. vol. 8, chap. 137, p. 165.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "An act to incorporate a company to erect a drawbridge over the river Nanticoke, at Seaford, and for other purposes therein mentioned," be and the same is hereby altered, amended and supplied, by striking out the word "forty" in the seventh line of the eighth section, and inserting in place thereof, the word "thirty."*

Section 8th amended, by striking out and inserting, &c.

Commissioners named in sec. 1, empowered to act. **SEC. 2.** *And be it enacted,* That the commissioners named in the first section of the act which this is intended to amend, or a majority of them, or the survivors of them, or a majority of such survivors be and they are hereby authorised and empowered to do and perform all the acts which the said act requires to be done or performed by the said commissioners or a majority of them, and all and every the duty or duties which said act required to be done or performed by the said commissioners or a majority of them, in the year of our Lord, one thousand eight hundred and thirty-two, shall be good and available, if done or performed by said commissioners or a majority of them, or the survivors of them or a majority of such survivors, at any time during the present year.

To be thus read and construed. **SEC. 3.** *And be it enacted,* That the act before mentioned, shall be read and construed, deemed, held and taken, according to the foregoing amendment.

Section 14th repealed. **SEC. 4.** *And be it further enacted,* That the fourteenth section of the above recited act, be and the same is hereby repealed.

Act revived and in full force. **SEC. 5.** *And be it enacted,* That the act aforesaid, as hereby amended, be and the same is hereby revived and declared to be in full force from and after the passing of this act.

Passed at Dover, Feb. 9, 1835.



CHAPTER CCCLIV. (Private Act.)

AN ACT to confirm and give effect in the State of Delaware, to an act of the General Assembly of Maryland, entitled "An act to incorporate the Tidy's Island Company."

Passed at Dover, Feb. 9, 1835.



CHAPTER CCCLV.

AN ACT regulating the general and special elections of Red Lion hundred.

Elections to be held in the house now occupied by Thos. Read, in St. George's. **SEC. 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the general and special elections hereafter to be held in Red Lion hundred, in New Castle county, shall be held at the house now occupied by Thomas Read, in the village of St. George's in said hundred, any law, usage or custom to the contrary notwithstanding.

Passed at Dover, Feb. 10, 1835.

CHAPTER CCCLVI.

AN ACT supplementary to the act entitled "*An act to restrain persons from suffering swine to go at large within certain limits.*" Dig. 513.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the first day of March next, the act to which this is supplementary, shall extend to and be in force within the following limits in Little creek hundred, Kent connty, that is to say: Beginning at the bridge over the southerly prong of the main southwest branch of Duck creek, on the road leading from Leipsic to Naudain's land-
 ing, and running from thence along the said prong, with the several courses to a corner of lands of Henry Taylor and John Denny, thence about a westerly course, through the cripple, and along the line of the said Henry Taylor and John Denny, into the middle of the road leading to Dover; thence along said road a northerly and then an easterly course, crossing the road leading from Leipsic to Muddy Branch bridge, and through the most southerly end of Jacob Stout's Leipsic farm, until the said easterly course shall intersect the said Jacob Stout's wood's fence; then therewith the several courses along his fence, dividing the woodland from the arable, until it touches a corner for Joseph Hoffecker's lot and the said Jacob Stout's farm; so as to include all the arable land of the said Jacob Stout's Leipsic farm; thence up the creek and binding therewith the several courses to a corner for Mezzy Fox's lot, thence up the creek and binding therewith the several courses to a corner for John Denny's lot near the marsh; then along the marsh about a westerly course to another corner for the said John Denny's lot near the marsh; then therewith along the marsh, a southerly and then a westerly course to the place of beginning.

Act in force within certain limits herein described in Kent county.

Passed at Dover, Feb. 10, 1835.



CHAPTER CCCLVII. (Private Act.)

AN ACT vesting in, and granting to Edward Miller, sometimes called Remington, all the right, title, interest and claim of the State of Delaware, in and to certain personal property, which a certain Caleb Miller, otherwise Remington, died possesssd of or entitled to, therein mentioned.

Passed at Dover, Feb. 10, 1835.

CHAPTER CCCLVIII. (Private Act.)

AN ACT *for the relief of the sureties of Samuel Harker.*

Passed at Dover, Feb. 10, 1835.



CHAPTER CCCLIX. (Private Act.)

AN ACT *for the relief of Jacob Lancaster and Mary Ann his wife, Thomas J. Kendal and Mary Ann his wife, Emeline Wright, Catharine J. Wright and James R. Wright, of New Castle county.*

Passed at Dover, Feb. 11, 1835.



CHAPTER CCCLX. (Private Act.)

AN ACT *to enable the owners and possessors of the marsh and low grounds, situate on and contiguous and adjacent to Brights' and Haines' glades, in Mispillion hundred in Kent county, to ditch, drain and reclaim the same.*

Passed at Dover, Feb. 11, 1835.



CHAPTER CCCLXI. (Private Act.)

AN ACT *authorising the manager of the Delaware Furnace to remove iron ore from a public road over Green's branch, in Sussex county.*

Passed at Dover, Feb. 11, 1835.



CHAPTER CCCLXII.

AN ACT *authorising a lottery for the benefit of Delaware College, and for other purposes therein mentioned.*

SEC. 1. *Be it enacted by the Senate and House of Representatives*

of the State of Delaware in General Assembly met, That it shall and may be lawful for the persons hereinafter appointed managers, to institute, carry on and draw a lottery in one or more classes, for raising a sum of money not exceeding one hundred thousand dollars, clear of all expenses; and the said sum when so raised, shall be applied in the following manner, to wit: fifty thousand dollars thereof for the use and benefit of "Delaware College," and twenty-five thousand dollars thereof for the use of the "fund for establishing schools in the State of Delaware," to be invested by the trustee of said fund, in the stock of the "Rehoboth and Cape Charles Canal and Transportation Company," whenever books shall be opened under the provisions of its charter, and twenty-five thousand dollars thereof to be paid into the treasury of the State for the use of the State.

Lottery authorised.

Sum to be raised \$100,000.
Application of money raised.

SEC. 2. *And be it further enacted*, That James R. Black, James Rogers, Andrew Gray, George Platt and Henry Whitely, be and they are hereby appointed managers of the lottery; and that the said managers or a majority of them, before entering upon the duties required by this act, shall give separate bonds to the State of Delaware, each in the sum of ten thousand dollars, conditioned for the faithful discharge of the trust reposed in them by the several provisions of this act, and those only of the persons above named, shall be managers of the said lottery, who shall give bond as above required, which bonds shall be forthwith deposited with the State Treasurer. Each of the said managers shall also, before entering upon his said office, take and subscribe an oath or affirmation faithfully to perform the duties required of him by this act. They shall appoint three commissioners to attend the drawing of the said lottery, and of every class thereof on every day of drawing the said lottery; and every class thereof shall be drawn in the city of Wilmington; and when the drawing of any class is completed, the said commissioners shall cause an accurate list of the numbers drawn, to be published in one of the newspapers published in the city of Wilmington, one newspaper in the city of Philadelphia, and one in the city of Baltimore. The Governor shall have power to fill any vacancy occurring in the said board of managers by death, refusal to serve, or otherwise, and the person so appointed shall give bond, and be sworn or affirmed as aforesaid.

Managers.

Bond.

None to act but such as give bond.

Take an oath or affirmation.

Commissioners.

Their duties.

Vacancy.

SEC. 3. *And be it enacted*, That the said managers shall proceed to the drawing and completion of said lottery, either by classes or otherwise, as soon as the same can conveniently be done; and the holders of tickets, against whose numbers prizes are drawn, shall be paid by the said managers on demand, at any time within twelve months after any class is finished drawing, in which such prize may be drawn; subject, however, to a deduction of fifteen per centum; and if any prize which may be drawn, be not demanded within that time, then the same shall remain in the hands of the said managers, to be applied to the purposes aforesaid.

Drawing of lottery.

Prizes,

Forfeited if not demanded within a year.

SEC. 4. *And be it enacted*, That if the said managers shall deem it

Managers
may sell the
scheme or
employ
agents to sell
tickets.

Provided
they give
bond.

Which shall
exonerate the
managers.

expedient for effecting the objects of this act to sell or dispose of the scheme of the said lottery, or of any class or classes thereof, to any person or persons residing out of this State, or to employ an agent or agents in this State or elsewhere, to sell or dispose of the whole or any number of tickets of any class or classes of said lottery, it shall and may be lawful for the said managers so to do: *Provided*, the said managers shall take from the person or persons, to whom they may sell or dispose of the scheme of the said lottery, or of any class or classes thereof, or from their said agent or agents so to be employed by them as aforesaid, a bond to the State of Delaware, in such penal sum and with such surety as the Governor of the State shall approve, conditioned for the faithful discharge of the trust that may be thus reposed in such person or persons, agent or agents; which bond shall be forthwith deposited with the State Treasurer; and in case bond and security be so taken and approved, the said managers shall be exonerated from all liability on account of the person or persons to whom they may so sell or dispose of said scheme, class or classes of said lottery, or on account of such agent or agents by them employed as aforesaid.

If not drawn
within five
years, money
received for
tickets to be
returned.

Responsibili-
ty of mana-
gers, &c.

SEC. 5. *And be it enacted*, That if the said lottery or any class thereof, shall not be drawn within five years from the publication of the scheme of such lottery or class, the said managers respectively, shall on demand, return and pay over to any person or persons, who shall have purchased, or may hold any ticket or tickets, the respective sum or sums which shall have been paid for such ticket or tickets to such manager, or to any agent by him appointed for the sale of tickets; each manager being responsible for all monies received by him, or his agent or agents, on the sale of tickets, and no further; and the said managers shall each have power to appoint any agent or agents for the sale of tickets in said lottery.

Manner of
the applica-
tion of the
funds raised.

SEC. 6. *And be it enacted*, That all money raised by virtue of this act, shall be applied to the objects and uses aforesaid, in the following proportions, to wit: one-half thereof to the Delaware College; one-fourth thereof to the said school fund, and one-fourth thereof to the State of Delaware, for the use of the State; and the said money shall be paid over by the said managers, to wit: one-half to the trustees of the Delaware College, to be invested by the said trustees as a fund for the enlargement, endowment, and support of said college; and the one-fourth to "the trustee of the fund for establishing schools in the State of Delaware," to be invested for the use and benefit of said school fund in the stock of "The Rehoboth and Cape Charles Canal and Transportation Company," to be subscribed for by the trustee of the school fund, in such manner as is provided for by the charter of said company, and paid accordingly: *Provided*, the said company commence operations within five years from the first of June next; but such subscription aforesaid is not to be made or subscribed, unless the said company shall commence and go into operation within four years from the first day of June next; and whenever the said company shall com-

SEC. 7. *And be it further enacted*, That this act shall continue and be in force for ten years from its passage and no longer. Continuance.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William K. Lockwood, Caleb H. Sipple and Samuel M. Harrington, be and they are hereby appointed commissioners to alter and enlarge the building now occupied by the Legislature of this State, by erecting an addition to the back part of the said building, of the width of the present court-room, and of the length of forty feet; and to take down and remove so much of the back part of the said building as may be necessary to open a communication between it and the addition so to be erected. The said addition shall be of brick, two stories high, with a square roof at right angles with and joined to the roof of the court-house; the lower floor shall be divided into two unequal parts, by a passage running across it at such distance from the back wall of the court-house as may be necessary for giving proper light to the court-room; the other side of the passage shall be divided into two unequal rooms, the larger one for a library-room, and the smaller one for a Secretary's office; the whole of the second floor shall be for a Representatives' chamber, with such lobbies and galleries as may be necessary; and the said commissioners, or any two of them, are hereby authorised to carry out the aforesaid general plan, and to alter or improve upon its details, as a majority of them may think proper, having due regard to said plan and the objects proposed to be effected by it. And the said commissioners, or a majority of them, are authorised to employ workmen, make contracts, procure materials, and to do all other things which may be necessary to effect the said objects.

SEC. 2. *And be it enacted*, That the Representatives' chamber, when finished, shall be fitted up by the said commissioners in a suitable manner, with such fixtures and furniture as may be necessary for the proper accommodation both of members and spectators; and for this purpose, the sum of three hundred and fifty dollars is hereby appropriated.

SEC. 3. *And be it enacted,* That the said Representatives' chamber

Legislature
to use and
control cer-
tain rooms.

and the chamber now occupied by the House of Representatives, together with the two other upper rooms in the south end, and also the said rooms on the lower floor, designed for a Library room and Secretary's office, shall be at all times hereafter for the sole and exclusive use of the Legislature of the State of Delaware, and under its control; except, that the said library room shall always be open to the courts of law and equity in this State, under proper regulations. The addition which shall be made to the court-room shall belong to the county of Kent, and be under the control of the Levy Court. It shall be finished, but not furnished at the expense of the State.

Exception.

Special pow-
er of commis-
sioners.

SEC. 4. *And be it enacted*, That the said commissioners, or a majority of them, shall have power and authority to enter upon, occupy and use, for the purposes aforesaid, any land belonging to the county of Kent, which may be necessary for such purposes; and shall have power to remove the hay-scales, now in the rear of the Court-house, to such place as the commissioners of the town of Dover shall designate.

Appropriation of \$4,000.

SEC. 5. *And be it enacted*, That the sum of four thousand dollars be, and the same is hereby appropriated for the purposes aforesaid: to be drawn on the orders of the said commissioners, or a majority of them, at such times and in such sums, as the progress of the work shall require.

This act to
go into opera-
tion upon
certain con-
ditions.

SEC. 6. *And be it enacted*, That this act shall not go into operation or have any effect, until the Levy Court and Court of Appeal of Kent county, shall by a resolution of said court, accept and confirm this act; and shall by such resolution dedicate to the State the said Representatives' chamber, Library room and Secretary's office so to be erected, and also the chamber now occupied by the House of Representatives, and the two other upper rooms in the south end, and shall set the same apart, for the sole and exclusive use of the Legislature, except as before excepted: and shall cause the said resolution to be entered on their minutes, and a copy thereof, under the hand of the president and seal of the said court, attested by the clerk thereof, to be recorded in the office for recording of deeds, in and for Kent county.

Passed at Dover, Feb. 12, 1835.



CHAPTER CCCLXIV.

Dig. 46. AN ACT to amend the act entitled "*An act directing the manner of suing out attachments within this government.*"

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the act en-

titled "An directing the manner of suing out attachments within this government," be and the same is hereby altered, amended and supplied, by inserting in the first section thereof, after the words "which oath or affirmation may be administered by the officer that grants the writ," and immediately before the words "or by any judge of the court out of which it may issue," the words "or a deputy by him appointed;" and in any edition of the laws hereafter to be published, the said act shall be printed as herein amended.

First section amended by inserting, &c.
Shall be so printed.

SEC. 2. *And be it further enacted,* That the seventh section of the act to which this is a supplement, be and the same is hereby altered, amended and supplied, by inserting between the words "claiming any benefit by or under such writ of attachment" and the words "shall upon oath or affirmation declare," the words "or any credible person in behalf of such plaintiff or creditor;" and in the same section and immediately after the words "it shall and may be lawful for the plaintiff or creditor" and before the words "to take a writ against the said garnishee or garnishees," the words "or any person lawfully authorised by the plaintiff or creditor."

Seventh section also amended.

SEC. 3. *And be it further enacted,* That the eighteenth section of the act to which this is a supplement, be and the same is hereby altered, amended and supplied, by inserting between the words "in any court of record" and the words "to take out an attachment thereon," the words "or any person by him or them lawfully authorised."

Eighteenth section amended by inserting, &c.

Passed at Dover, Feb. 12, 1835.



CHAPTER CCCLXV.

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

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the monies now in or hereafter to be paid into the treasury of this State, shall be applied in the following manner, that is to say: so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Superior Court, Attorney General, Secretary of State and Auditor of Accounts, up to the first Tuesday of January, eighteen hundred and thirty-seven; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance to the members of the Legislature, their clerks, and other expenses, and for printing the laws, and the journals of the Senate and House of Representatives; and the residue thereof to the payment of any sums of money due to the citizens of the State, for which provision shall be made by law.

Appropriation for Salaries, &c.
For printing laws, &c. And paying claims of citizens.

Passed at Dover, Feb. 12, 1835.

CHAPTER CCCLXVI.

Dig. 330. A SUPPLEMENT to the act entitled "*An act providing for the recovery of small debts.*"

So much of 15th section as requires two freeholders repealed. Officers to appraise. SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That so much of the fifteenth section of the said act to which this is a supplement, as requires an appraisement of goods and chattels taken in execution under said act, to be made by two freeholders, shall be and the same is hereby repealed; and that hereafter such appraisement shall be made by the officer taking said goods and chattels in execution.

Officers fees on inventory, appraisement and execution 20 cents. SEC. 2. *And be it further enacted,* That the constable or sheriff, as the case may be, shall be allowed and entitled to a fee of twenty cents for making an inventory and appraisement of goods and chattels, taken in execution by virtue of the said act to which this is a supplement, and making return thereof, including mileage; and that such constable or sheriff, as the case may be, shall also be allowed and entitled to receive, on every execution in his hands, issued under the said act to which this is a supplement, when the amount due on such execution shall be collected by him without a sale, a fee of twenty cents: *Provided,* that said execution shall have been in the hands of the said constable or sheriff fifteen days before the same be so collected; but if the sum contained in the execution shall exceed fifteen dollars exclusive of costs, then double the said fees shall be allowed for the same services.

Proviso.

Fees doubled.

Passed at Dover, Feb. 12, 1835.



CHAPTER CCCLXVII.

AN ACT for the payment of claims against the State.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be, and he is hereby authorised and directed to pay the following claims, viz: to William Burton, Esquire, late sheriff of Kent county, for attendance on the Court of Errors and Appeals, in the year 1833, ten dollars and fifty cents; to Robert W. Reynolds, for attendance on the Court of Errors and Appeals in 1834, twelve dollars; to Joseph Buckmaster, for attendance on the Court of Errors and Appeals, twenty dollars; to Jacob Biddle, late auditor, fifteen dollars and thirty-six cents; to Porter & Mitchell, for printing, seven dollars; to Daniel Godwin, escheator of Kent county, thirty-one dollars thirty-eight cents; to James S. McCalla, for

W. Burton.

R. W. Reynolds.

J. Buckmaster.

J. Biddle.

Porter & Mitchell.

D. Godwin.

J. S. McCalla.

printing, seventeen dollars and fifty cents; to Samuel Harker, for S. Harker. printing, eighteen dollars and eighty cents; to John Newton Har- J. N. Harker. ker, for printing, ten dollars; to John H. Eccleston, for stationery J. H. Eccles- ton. furnished to the Court of Appeals, twenty dollars; to William R. W. R. Mor- Morris, for arranging and taking care of the books, papers and fur- niture of the two Houses of the General Assembly, seventy-five dol- County of lars; to the county of Kent, for the rent of the office of the Secre- Kent. tary of State, one hundred and fifty dollars; to Joshua Hutton, for Joshua Hut- removing prisoners from Pennsylvania to New Castle and Dover, ton. one hundred and six dollars and twenty-five cents; to George M. G. M. Man- Manlove, for fifteen cords of hickory wood, fifty-two dollars and love. fifty cents; to Cornelius P. Comegys, late trustee of the school fund, C. P. Come- for postage on letters for the last four years, and for publishing a gy^{as}. division each year, in three newspapers of this State, the amount standing to the credit of said fund among the several school dis- tricts, in the respective counties of this State, forty-five dollars; also to Cornelius P. Comegys as late State Treasurer, ten dollars.

SEC. 2. *And be it enacted*, That the State Treasurer be, and he is hereby authorised to pay to the Secretary of State, the sum of two hundred dollars, to be applied by him to the payment of the contingent expenses of his office for the current and succeeding year, an account of which shall be submitted to the General Assem- Appropriation for the use of Secre- tary's office. Must be ac- counted for. bly, at the next biennial session.

Passed at Dover, Feb. 13, 1835.



CHAPTER CCCLXVIII.

AN ACT for the benefit of Sussex county.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That William D. Waples, Philip Short and Robert H. Griffith, of Sussex county, Trustees ap- be and they are hereby appointed trustees, for the purpose of car- pointed. rying into effect the objects of this act; and it shall and may be lawful for the said trustees or their successors, at any meeting to be held by them at Georgetown, in the said county, after the passing of this act, and by a majority of the votes of the said trustees, who shall then be assembled, to elect and appoint one or more person Their duties. or persons not exceeding five in number, as manager or managers, to institute, carry on, and draw a lottery in one or more classes, for raising a sum not exceeding twenty-five thousand dollars, clear of all expenses, costs and charges; ten thousand dollars of which said sum shall be applied by and under the direction of the said trustees or their successors, to the erection of a court house at Georgetown, in the said county, for holding the several courts of the State of Delaware, in and for the county of Sussex aforesaid,

RESOLUTIONS.

—000—

CHAPTER CCCLXIX.

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

Dover. For the principal bank at Dover, Robert Frame, Jonathan Jenkins and William K. Lockwood.

Wilmington. For the branch at Wilmington, Charles I. du Pont, John J. Miligan and Joseph C. Gilpin.

New Castle. For the branch at New Castle, George Platt, George B. Rodney and Thomas Stockton.

Georgetown. For the branch at Georgetown, William D. Waples, George Hickman and Henry Little.

Adopted at Dover, Jan. 12, 1835.



CHAPTER CCCLXX.

Resolved by the House of Representatives of the State of Delaware by and with the concurrence of the Senate, That George S. Adkins be, and he is hereby appointed Auditor of Accounts.

Adopted at Dover, Jan. 15, 1835.



CHAPTER CCCLXXI.

Resolved by the House of Representatives of the State of Delaware, by and with the consent of the Senate, That Peter S. Parker be, and he is hereby appointed State Treasurer.

Adopted at Dover, Jan. 27, 1835.

CHAPTER CCCLXXII.

Whereas, the port of New Castle presents a most eligible situation for a harbor, and is a point of paramount importance to the commercial interests concerned in the navigation of the waters of the Delaware, and as a winter port of safety is essential to the protection of the lives and property of citizens, from the force and collision of floating ice, which renders the navigation of the river Delaware so difficult and dangerous during the winter season, and which is at all times formidable, from the intricacies of its channel:

Preamble.

And whereas, by an act of the General Assembly of the State of Delaware, passed on the eleventh day of January, one thousand eight hundred and three, the public piers before that time erected off the town of New Castle, in the river Delaware aforesaid, and the sites thereof, and the sites of all piers which might hereafter be erected, under the provisions of an act of Congress, passed the sixth day of April, in the year of our Lord one thousand eight hundred and two, entitled "An act authorising the erection of certain light-houses, and for other purposes" were ceded to, and vested in, the United States of America, fully and absolutely; and also the lands and tenements belonging to the said piers and sites of piers, together with the jurisdiction of, in and over the same: And whereas, for a long time after that period, the harbor of the said town of New Castle remained amply adequate to the reception of at least thirty sail of vessels of the largest class, and fully competent to their protection from the dangers of floating ice: And whereas, the attention of the General Government was again directed to the said port of New Castle, in consequence of a gradual formation of a deposit of mud, which threatened a serious inconvenience; and a further cession of a site for piers in the river Delaware, at the said town of New Castle was made to the United States, by virtue of an act of the General Assembly of the State of Delaware, passed on the first day of February, in the year of our Lord one thousand eight hundred and twenty-seven, entitled "An act ceding to the United States, the sites for piers at New Castle:" And whereas, an appropriation was made by Congress for the improvement of the said harbor, and an engineer was appointed to direct and superintend the construction of new piers and wharves for that purpose: And whereas, when the plan for the construction of such new piers and wharves was announced, it became self-evident to all those who were experienced in the peculiar action of the current, and set of the tides of the river Delaware, at New Castle, and the consequent formation of deposits, that such plan, if carried into effect, would destroy the said harbor: And whereas, the said plan was persevered in, notwithstanding the representations of a committee delegated to Washington, and charged with remonstrances to this effect: And whereas, in consequence of the perseverance in the said plan, and in utter disregard of such remonstrances, the erection of the new wharves has rapidly accelerated the deposits of mud, before but partially forming; whereby the said harbor is now completely

choked up and destroyed, and scarcely affords adequate safety and protection for a single vessel: *And whereas*, it is believed that the wisdom and justice of an ample appropriation for the construction of a permanent, substantial, and capacious harbor, at the town of New Castle, so important to the protection and safety of the commerce of the Delaware, will accord with the disposition of Congress: Therefore,

Our representation in Congress, requested to urge an appropriation.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That our Senators and Representative in Congress be, and they are hereby particularly requested to urge an appropriation from the General Government for the construction of a permanent, substantial, and capacious harbor on the river Delaware, at the town of New Castle.

Copies to be transmitted to them.

Resolved, That copies of the foregoing preamble and resolutions be signed by the Speakers of the Houses respectively, and transmitted by them to each of the Senators and the Representative of this State, in the Congress of the United States.

Adapted at Dover, Jan. 28, 1835.



CHAPTER CCCLXXIII.

Secretary of State to have bound the 7th vol. Del. L., with table of private acts and general index.

Proviso.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State cause to be bound up so as to correspond with the other bound volumes of the laws, as many copies of the seventh volume of the laws of this State, with the table of private acts, and the general index to the same, as are to be found in his office, and as can be procured from the offices of the different prothonotaries in the State, and from the cases of the Senate and House of Representatives: *Provided*, that the number of copies so to be bound, shall not exceed in the whole, one hundred copies.

To close the 8th vol. Del. Laws.

Resolved by the authority aforesaid, That the Secretary of State shall be, and he is hereby authorised and directed, to close the eighth volume of the laws of this State, with the acts passed at the present session.

And make out a table of private acts and general index. 200 copies to be printed. How distributed.

Resolved by the authority aforesaid, That the Secretary of State be, and he is hereby directed to make out a table of private acts, and a general index to the said eighth volume: that he cause two hundred copies of the said table of private acts and general index to be printed; thirty-three copies whereof, he shall lodge with the prothonotary of each county, to be distributed gratis, to such citizens as may call for the same, and the remaining one hundred and one copies he shall retain in the Secretary's office.

Resolved by the authority aforesaid, That the Secretary of State cause to be bound up, to correspond with the other bound volumes ^{100 copies of} of the laws, one hundred copies of the aforesaid eighth volume, ^{8th vol. to be} with the table of private acts and general index to the same. ^{bound.}

Resolved by the authority aforesaid, That when the aforesaid volume shall have been bound, the Secretary of State shall retain ^{When bound.} in his office ten copies, and deliver to the Senate nine copies, to the ^{Now to be} House of Representatives twenty-one copies, and to the following ^{distributed.} officers in each county, one copy, for the use of their respective courts, namely: to the register for the probate of wills, register in Chancery, clerk of the Orphans' Court, prothonotary of the Superior Court, and clerk of the peace; and the remainder he shall equally divide between the respective counties, placing them in the hands of the different prothonotaries, who are authorised to sell the same at one dollar per copy, and make return thereof as the law directs.

Adopted at Dover, Jan. 30, 1835.



CHAPTER CCCLXXIV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Joseph Smithers and Henry F. Rodney of the Senate, and William Herdman, Robert Frame and Thomas Davis, of the House of Representatives, be ^{Committee} and they are hereby appointed a committee, on the part of this General Assembly, whose duty it shall be to meet at Dover, on the first Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-six, for the purpose of settling the accounts of the State Treasurer, and of receiving the report of the Auditor of Accounts for the current year. ^{appointed to settle with State Treasurer and receive the Auditor's report in Jan. 1836.}

Resolved, That it shall be the duty of said committee, after their settlement with the State Treasurer as aforesaid, to cause a statement of such settlement, under their hands, or the hands of a majority of them, to be published in two of the newspapers printed in this State, for the space of one month from the time of effecting the same. ^{To publish a statement of such settlement.}

Resolved, That said committee have full power and authority to audit the accounts of the clerk of the Senate, and the clerk of the House of Representatives, for superintending the printing of the Journals of the two Houses of the Legislature, during the present session, and for making indices thereto; and to make such allowance for said services as they may think just and proper; which said allowances shall be paid by the State Treasurer, upon orders drawn by the chairman of the committee in favor of said clerks. ^{To audit the accounts of the clerks of the two Houses and make them proper allowance, &c.}

Compensation of the committee.

Resolved, That said committee shall receive the same compensation as is by law allowed to members of the General Assembly, to be paid by the State Treasurer, upon orders drawn by the chairman of said committee, out of any money in the hands of said State Treasurer, not otherwise appropriated; and the chairman of said committee shall have authority to draw orders for the incidental expenses arising out of the session of said committee, to be paid in like manner.

Adopted at Dover, Feb. 3, 1835.

CHAPTER CCCLXXV.

Reports of cases adjudged in Sup. Court and Court of Errors and Appeals.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Samuel M. Harrington be requested to publish a report of cases adjudged in the Superior Court, and Court of Errors and Appeals in this State, commencing with the organization of those courts under the amended constitution.

Appropriation.

Resolved, That the sum of three hundred dollars be, and the same is hereby appropriated, to be paid to the said Samuel M. Harrington, or his order, to indemnify him for such incidental expenses as he may incur in the preparation of such reports for publication.

Further subscription.

Resolved, That in addition to the said sum of three hundred dollars, the State will further patronize the said work by the purchase, on its completion, of one hundred copies thereof, at the price for which it may be furnished to subscribers and others, not to exceed five dollars each copy.

Proviso.

Copy of these resolutions to be furnished S. M. Harrington.

Resolved, That a duly authenticated copy of these resolutions be communicated to the said Samuel M. Harrington.

Adopted at Dover, Feb. 10, 1835.

CHAPTER CCCLXXVI.

Preamble.

Whereas, by the twenty-third section of an act entitled "An act to incorporate a company to erect a drawbridge over the Christiana, at Wilmington, and for other purposes," passed at Dover, January 20, 1807, it is declared and enacted, that whenever the nett profits, arising or accruing to the Bridge Company from the tolls, shall exceed the sum of ten per cent., per annum, on the capital stock of the said Bridge Company, that the said company 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 nett profits of ten per cent., per annum, on the said capital stock: And whereas, it has been represented, that the nett profits on the said capital stock have exceeded ten per cent., per annum, for several years past; and without the intervention of the Legislature, the school fund may not derive the full benefit contemplated by the provisions of the said act: Therefore,

Be it resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the trustee of the school fund of the State of Delaware, be and he is hereby directed, in pursuance of the twenty-fourth section of said act, to ask for, and at such reasonable times as may be required, to examine the books of accounts belonging to the said Bridge Company, and other books and papers, with the view to ascertain the nett profits on the capital stock of the said Bridge Company, for each and every year since the erection of said bridge, and that the Attorney General and Auditor of Accounts be associated with him for that purpose: and that he make a report of his proceedings herein, to the next session of the General Assembly of this State.

Trustee of school fund,
Attorney General and Auditor of Accounts authorized to examine books, &c., of Wilmington Bridge Co. Trustee to report to the next Legislature.

Adopted at Dover, Feb. 12, 1835.



CHAPTER CCCLXXVII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That James H. M. Clayton, J. H. M. be and he is hereby appointed to take charge of all the books and papers belonging to the State in the Senate chamber, and the hall of the House of Representatives, and cause the same to be safely deposited in one or other of the said rooms, and from time to time, examine and attend to, as he may judge proper, in order to preserve the same; or in case he may deem it proper, such of the said articles may be deposited in the office of the Secretary of State.

Clayton appointed to take charge of books, &c. in Senate chamber and hall of House of Representatives.

Adopted at Dover, Feb. 13, 1835.



CHAPTER CCCLXXVIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Joseph Buckmaster be, and he is hereby appointed to take charge of all the furniture belonging to the State, in the chambers of the Senate and House of Representatives, during the recess of the Legislature; and shall cause the same to be safely deposited in one or the other of the said chambers, and locked up, and from time to time shall examine and attend to the same, that the same may be preserved from injury.

J. Buckmaster appointed to take care of furniture of Senate chamber and hall of House of Representatives.

Adopted at Dover, Feb. 13, 1835.

CHAPTER CCCLXXIX.

Removal of
the deposits
disapproved
of.
Because, &c.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That this General Assembly do not approve of the course pursued by the president of the United States, in regulating the currency of the Union by removing the public deposits of the funds of the government from the Bank of the United States and branches thereof; because as a measure of policy, it was unwise, imprudent and fraught with great evil in all its consequences, and because the mode of its accomplishment was in violation of the law and constitution.

Bank of the
U. S. is an
institution
beneficial to
the prosperity
of the coun-
try.
Proof of its
honesty, &c.

Resolved, That the Bank of the United States is an institution well calculated to regulate the currency of the Union;—that it hath fully answered the purposes contemplated in its creation, by establishing an uniform and stable currency, and equalizing exchange in commercial transactions, and by promoting to an unexampled extent the prosperity and happiness of the whole country, and that the best evidence of the honesty and integrity of its administration, is to be found in its firm resistance of executive influence, which sought to control its operations, and to make it as it had the post office and treasury departments, an engine of political power to corrupt the people by a distribution of “spoils” amongst devoted partisans.

President's
protest disap-
proved of.

Resolved, That the doctrines and assumptions contained in the protest message of the president, to the Senate of the United States, upon the occasion of its resistance and condemnation of his measures, in regard to the removal of the deposits from the Bank of the United States, are utterly at variance with the principles, inimical to the freedom and subversive of the constitution of our government, and that the conduct of our Senators upon that occasion accords with the views and meets the entire approbation of this General Assembly.

Senate's reso-
lution with
regard to the
executive
proceedings.

And whereas, the Senate of the United States, did by their resolution of the twenty-eighth of March last, declare and resolve that the president, in his last executive proceedings in relation to the public revenue, had assumed upon himself power and authority not conferred by the constitution and laws, but in derogation of both. And whereas, the Legislatures of certain States have instructed their Senators in Congress to cause the said resolution to be expunged from the journal of the Senate. And whereas, in and by the constitution of the United States, it is provided that each House of Congress shall keep a journal of its proceedings, and from time to time publish the same; and that the yeas and nays of either House of Congress, on any question shall, at the desire of one-fifth of those present be entered on the journal. And whereas, in pursuance of said provision, and at the request of at least one-fifth of the Senators present at the adoption of said resolution, the yeas and nays were entered on the said journal. And whereas, the true journal of the

aforesaid proceedings of the Senate, has been kept and published in pursuance of said constitution: Therefore,

Resolved, That our Senators in Congress be, and they are hereby instructed to oppose any proposition which may be made to expunge the said resolution of the Senate from the journal aforesaid, or to obliterate or falsify their records, as a palpable violation of the constitution of the United States.

Our Senators instructed to oppose any resolution to expunge or obliterate their records.

Resolved, That the thanks of this Legislature, on behalf of the people of this State, be and are hereby tendered to our representation in both Houses of Congress, for the manly and strenuous efforts used by them in resisting the tide of executive encroachments, and in sustaining upon all occasions those measures of policy so well calculated to advance the general welfare, and in support of the laws and constitution of the Union.

Thanks given to our representation in Congress, &c.

Resolved, That a copy of the foregoing resolutions be signed by the speakers of the Senate and House of Representatives, and sent to each of our Senators, and to our Representative in Congress.

Speakers to forward them a copy of these resolutions.

Adopted at Dover, Feb. 13, 1835.



CHAPTER CCCLXXX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State be and he is hereby directed, to cause the amended constitution to be printed and published as a part of the eighth volume of the Laws of Delaware.

Sec. of State directed to have the amended constitution bound with the 8th vol. Laws.

Adopted at Dover, Feb. 13, 1835.

SECRETARY'S OFFICE,

WILMINGTON, DEL. *April 14, 1835.*

In obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "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," I have collated with, and corrected by the original rolls, and caused to be published, this edition of the laws of the said State, passed during the last session of the General Assembly, which commenced on Tuesday the sixth day of January, and closed on Friday, the thirteenth day of February, in the year of our Lord one thousand eight hundred and thirty-five.

WILLIAM HEMPHILL JONES,

Secretary of the State of Delaware.

SECRETARY'S OFFICE,

Dover, *Feb. 9, 1842.*

I do hereby certify, that in obedience to a resolution of the General Assembly of the State of Delaware, adopted at Dover, January 30, 1841, I have caused to be re-published and bound up, so as to correspond with the other bound volumes of the laws, this edition of the eighth volume of the laws of the said State, and that the same is accurately re-printed.

JOHN W. HOUSTON,

Secretary of State.

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OF THE

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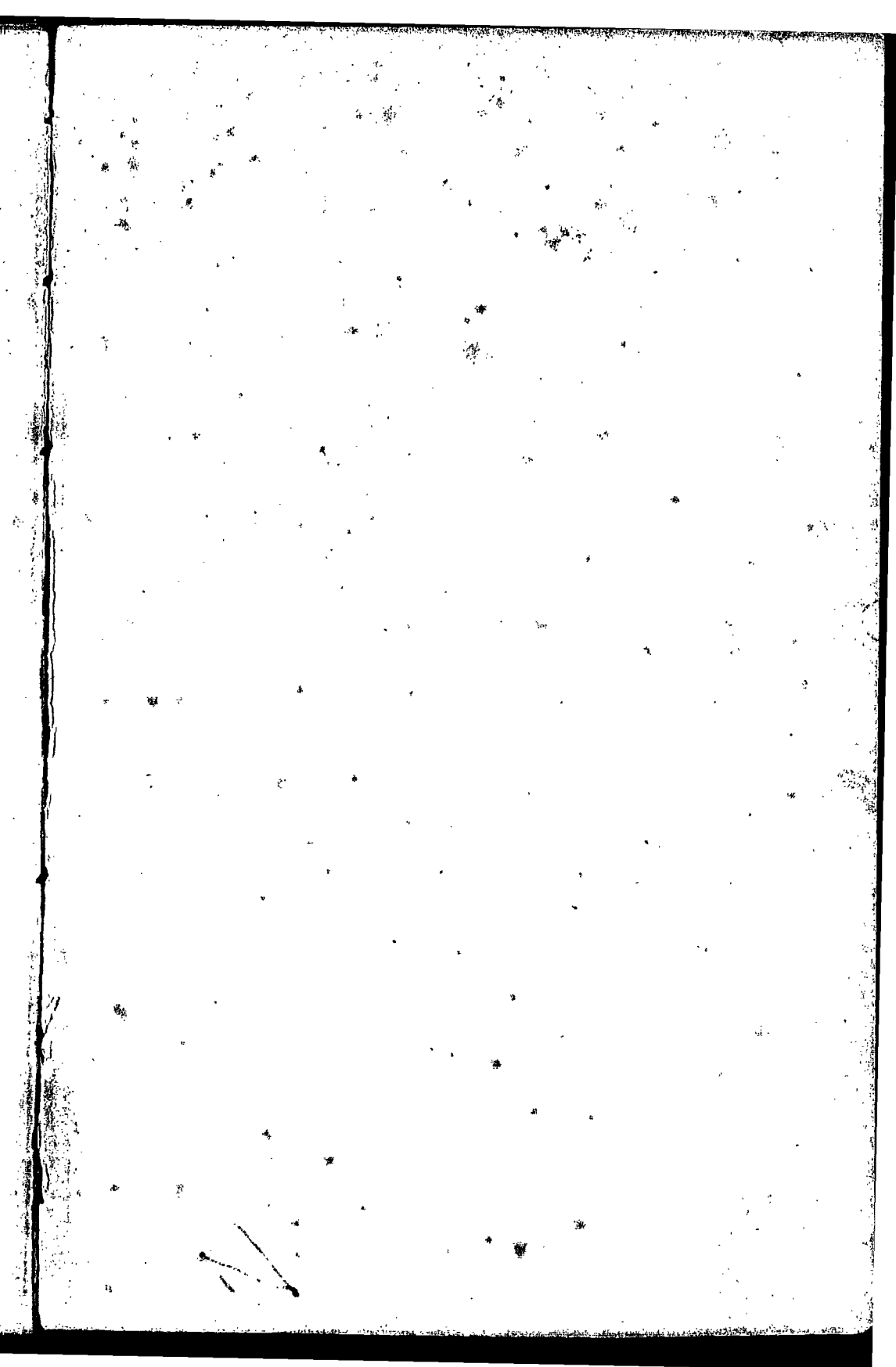
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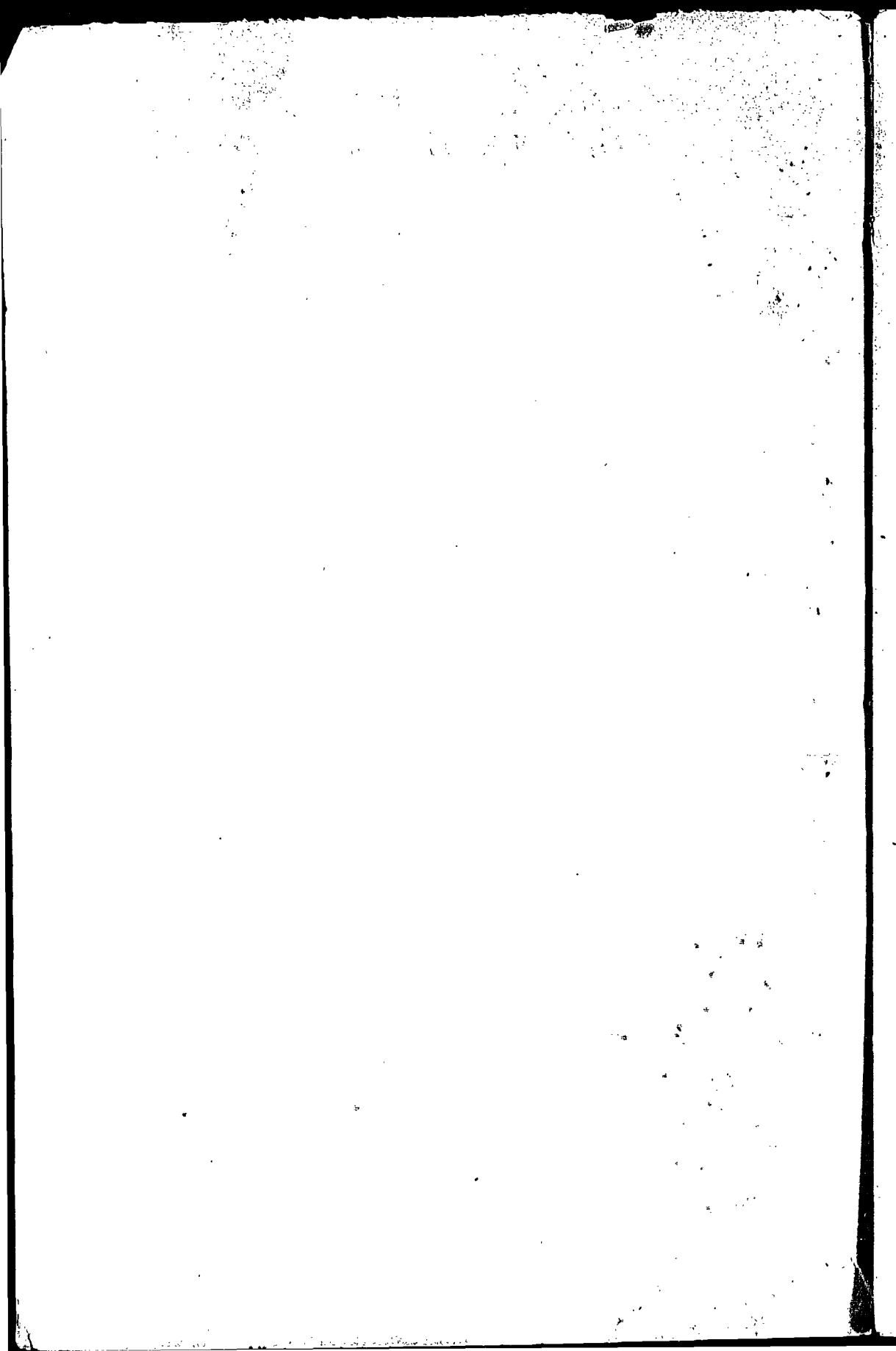
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HUNDRED AND THIRTY, TO THE THIRTEENTH DAY OF FEB.
RUARY, ONE THOUSAND EIGHT HUNDRED AND THIR-
TY-FIVE; TO WHICH IS PREFIXED THE AMEND-
ED CONSTITUTION OF SAID STATE.

VOLUME VIII.

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1837.



THE
AMENDED CONSTITUTION
OF THE
STATE OF DELAWARE.

WE, the People, hereby ordain and establish this Constitution of Government for the State of Delaware.

THROUGH Divine goodness all men have, by nature, the rights of ^{Essential} worshiping and serving their Creator according to the dictates of ^{rights.} their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of attaining objects suitable to their condition, without injury by one to another: and as these rights are essential to their welfare, for the due exercise thereof power is inherent in them; and therefore all just authority in the institutions of political society is derived ^{Political} from the People, and established with their consent, to advance ^{power.} their happiness: And they may for this end, as circumstances require, from time to time alter their Constitution of Government.

ARTICLE I.

SECTION 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the universe, and piety and morality on which the prosperity of communities depends, are thereby promoted; yet no man shall, or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent: and no power shall or ought to be vested in or assumed by any magistrate, that shall in any case interfere with, or in any manner control, the rights of conscience, in the free exercise of religious worship: nor shall a preference be given by law to any religious societies, denominations, or modes of worship.

SEC. 2. No religious test shall be required as a qualification to any office, or public trust, under this State.

SEC. 3. All elections shall be free and equal.

Elections.

SEC. 4. Trial by Jury shall be as heretofore.

Jury trial.

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The press.

SEC. 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity: and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence: and in all indictments for libels the jury may determine the facts and the law, as in other cases.

Warrants of search or arrest.

SEC. 6. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures: and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.

Rights of accused.

SEC. 7. In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury: he shall not be compelled to give evidence against himself: nor shall he be deprived of life, liberty or property, unless by the judgment of his peers or the law of the land.

SEC. 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger: and no person shall be for the same offence twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

Administration of justice.

SEC. 9. All courts shall be open: and every man for an injury done him in his reputation, person, moveable or immoveable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense: and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried, shall determine that an impartial trial therefor cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

Suits against the State.

Suspending laws.

SEC. 10. No power of suspending laws shall be exercised, but by authority of the Legislature.

Bail, punishments. Gaols.

SEC. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted: and in the construction of gaols, a proper regard shall be had to the health of prisoners.

Privileges of prisoners.

SEC. 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is positive or the presump-

tion great: and when persons are confined on accusation for such offences, their friends and counsel may at proper seasons have access to them.

SEC. 13. The privilege of the writ of *Habeas Corpus* shall not be suspended, unless when in cases of rebellion, or invasion the public safety may require it. ^{Habeas corpus.}

SEC. 14. No commission of Oyer and Terminer or Gaol delivery shall be issued. ^{Oyer and Terminer.}

SEC. 15. No attainder shall work corruption of blood, nor except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives, shall descend or vest as in case of natural death: and if any person be killed by accident, no forfeiture shall be thereby incurred. ^{Attainder, suicide, deodand.}

SEC. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also in governments of a republican form, contravenes the social principles of such governments founded on common consent for common good; yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government, for redress of grievances or other proper purposes, by petition, remonstrance or address. ^{Right to petition.}

SEC. 17. No standing army shall be kept up without the consent of the Legislature: and the military shall, in all cases and at all times, be in strict subordination to the civil power. ^{Military.}

SEC. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but by a civil magistrate, in a manner to be prescribed by law. ^{Quartering soldiers.}

SEC. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behaviour; and no person holding any office under this State, shall accept of any office or title of any kind whatever, from any King, Prince or foreign State. ^{Titles and offices.}

WE DECLARE THAT EVERY THING IN THIS ARTICLE IS RESERVED OUT OF THE GENERAL POWERS OF GOVERNMENT HEREINAFTER MENTIONED. ^{Reservation-}

ARTICLE II.

SEC. 1. The legislative power of this state shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. ^{Legislature. General Assembly.}

SEC. 2. The Representatives shall be chosen for two years, by the citizens residing in the several Counties. ^{Representatives.}

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Qualifications.

No person shall be a Representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the Legislature after his election, and the last year of that term, an inhabitant of the County in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

Number.

There shall be seven Representatives chosen in each County, until a greater number of Representatives shall by the General Assembly be judged necessary; and then, two thirds of each branch of the Legislature concurring, they may by law make provision for increasing their number.

Senators.

SEC. 3. The Senators shall be chosen for *four* years by the citizens residing in the several Counties.

Qualifications.

No person shall be a Senator, who shall not have attained to the age of twenty-seven years, and have in the County in which he shall be chosen, a freehold estate in two hundred acres of land, or an estate in real and personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the Legislature after his election, and the last year of that term an inhabitant of the County in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

Numbers.

There shall be three Senators chosen in each County. When a greater number of Senators shall by the General Assembly be judged necessary, two thirds of each branch concurring, they may by law make provision for increasing their number; but the number of Senators shall never be greater than one half, nor less than one third of the number of Representatives.

Vacancies.

If the office of Representative, or the office of Senator, become vacant before the regular expiration of the term thereof, a Representative or a Senator shall be elected to fill such vacancy, and shall hold the office for the residue of said term.

When there is a vacancy in either House of the General Assembly, and the General Assembly is not in session, the Governor shall have power to issue a writ of election to fill such vacancy; which writ shall be executed as a writ issued by the Speaker of either House in case of vacancy.

Biennial meeting.

SEC. 4. The General Assembly shall meet on the first Tuesday of January, *biennially*, unless sooner convened by the Governor.

First meeting.

The first meeting of the General Assembly, under this amended Constitution, shall be on the first Tuesday of January, in the year of our Lord, one thousand eight hundred and thirty three, which shall be the commencement of biennial sessions.

Each.

SEC. 5. Each House shall choose its Speaker and other officers,

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and also each House, whose Speaker shall exercise the office of Governor, may choose a Speaker *pro tempore*. House officers.

SEC. 6. Each House shall judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient. Powers. Quorum.

SEC. 7. Each House may determine the rules of its proceedings, punish any of its members for disorderly behaviour, and with the concurrence of two-thirds expel a member, and shall have all other powers necessary for a branch of the Legislature of a free and independent State. Punishing.

SEC. 8. Each House shall keep a journal of its proceedings, and publish them immediately after every session, except such parts as may require secrecy; and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal. Journals.

SEC. 9. The doors of each House, and of committees of the whole, shall be open, unless when the business is such as ought to be kept secret. Open doors.

SEC. 10. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting. Adjournment.

SEC. 11. The Senators and Representatives shall receive a compensation for their services to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect, till an election of Representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place. Compensation and privileges.

SEC. 12. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time. No person concerned in any army or navy contract, no member of Congress, nor any person holding any office under this State or the United States, except the Attorney General, officers usually appointed by the Courts of Justice respectively, Attorneys at law and officers in the militia, holding no disqualifying office, shall during his continuance in Congress or in office, be a Senator or Representative. Exclusion of members from offices. Disqualifications to be members.

SEC. 13. When vacancies happen in either House, writs of election shall be issued by the Speakers respectively, or in cases of necessity, in such other manner as shall be provided by law; and Vacancies.

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the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected, might have done, if such vacancies had not happened.

Revenue
bills.

SEC. 14. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose alterations as on other bills; and no bill, from the operation of which when passed into a law revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

Public mon-
ey.

SEC. 15. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published *at least once in every two years*.

State treas-
urer.

SEC. 16. *The State Treasurer shall be appointed biennially by the House of Representatives, with the concurrence of the Senate. In case of a vacancy in the office of State Treasurer in the recess of the General Assembly, either through omission of the General Assembly to appoint, or by the death, removal out of the State, resignation, or inability of the State Treasurer, or his failure to give security, the Governor shall fill the vacancy by appointment to continue until the next meeting of the General Assembly. The State Treasurer shall settle his accounts annually with the General Assembly or a committee thereof, which shall be appointed at every biennial session. No person who hath served in the office of State Treasurer, shall be eligible to a seat in either House of the General Assembly until he shall have made a final settlement of his accounts as Treasurer and discharged the balance, if any, due thereon.*

Corporations.

SEC. 17. *No act of incorporation, except for the renewal of existing corporations, shall be hereafter enacted without the concurrence of two thirds of each branch of the Legislature, and with a reserved power of revocation by the Legislature; and no act of incorporation which may be hereafter enacted, shall continue in force for a longer period than twenty years, without the re-enactment of the Legislature, unless it be an incorporation for public improvement.*

ARTICLE III.

Executive.
Governor.

SEC. 1. The Supreme Executive powers of the State shall be vested in a Governor.

Election.

SEC. 2. The Governor shall be chosen by the citizens of the State.

Election re-
turns.

The returns of every election for Governor shall be sealed up, and immediately delivered by the returning officers of the several Counties to the Speaker of the Senate, or in case of the vacancy of the office of the Speaker of the Senate, or his absence from the State, to the Secretary of State, who shall keep the same until a Speaker

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of the Senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both Houses of the Legislature. Duplicates of the said returns shall also be immediately lodged with the Prothonotary of each County. The person having the highest number of votes shall be Governor: but if two or more shall be equal in the highest number of votes, the members of the two Houses shall, by joint ballot, choose one of them to be Governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the Speaker of the Senate shall have an additional casting vote.

Contested elections of a Governor shall be determined by a joint Election committee, consisting of one-third of all the members of each branch of the Legislature, to be selected by ballot of the Houses respectively: every person of the committee shall take an oath or affirmation, that in determining the said election, he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors. tested.

SEC. 3. The Governor shall hold his office during *four years* from the third Tuesday of January next ensuing his election, and shall not be *eligible a second time to said office.* Tenure of office.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the Legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States or of this State. Qualifications.

SEC. 5. No member of Congress, nor person holding any office under the United States or this State, shall exercise the office of Governor. Disqualifications.

SEC. 6. The Governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected. Compensation.

SEC. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia; except when they shall be called into the service of the United States. Commander-in-chief.

SEC. 8. He shall appoint all officers whose offices are established by this Constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a County, who shall not have a right to vote for Representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the County. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of Judge, Treasurer, Attorney General, Secretary, Pro- Appointments to office.
Incompatible offices.

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thonotary, Register for the probate of wills and granting letters of administration, Recorder, Sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the Legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit: Treasurer, Attorney General, Prothonotary, Register or Sheriff. All commissions shall be in the name of the State, shall be sealed with the Great Seal, and be signed and tested by the Governor.

Commissions.

Pardon. SEC. 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment. *He shall set forth in writing, fully, the grounds of all reprieves, pardons and remissions, to be entered in the Register of his official acts, and laid before the General Assembly at their next session.*

Information. SEC. 10. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Communication to general assembly. SEC. 11. He shall from time to time give to the General Assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

Convening and adjourning General Assembly. SEC. 12. He may on extraordinary occasions convene the General Assembly, and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months.

SEC. 13. He shall take care that the laws be faithfully executed.

Vacancy. SEC. 14. *Upon any vacancy happening in the office of Governor by his death, removal, resignation, or inability, the Speaker of the Senate shall exercise the office until a Governor elected by the people shall be duly qualified. If there be no Speaker of the Senate, or upon a further vacancy happening in the office by his death, removal, resignation or inability, the Speaker of the House of Representatives shall exercise the office until a Governor elected by the people shall be duly qualified. If the person elected Governor shall die, or become disqualified, before the commencement of his term of office, or shall refuse to take the same, the person holding the office shall continue to exercise it, until a Governor shall be elected and duly qualified. If upon a vacancy happening in the office of Governor, there be no other person who can exercise said office within the provisions of the Constitution, the Secretary of State shall exercise the same until the next meeting of the General Assembly, who shall immediately proceed to elect by joint ballot of both Houses a person to exercise the office until a Governor elected by the people shall be duly qualified. If a vacancy occur in the office of Governor, or if the Governor elect die, or become disqualified, before the commencement of his term, or refuse to take the office, an election for Governor shall be held at the next general election, unless the vacancy happen within six days next pre-*

ceding the election, exclusive of the day of the happening of the vacancy and the day of the election: in that case, if an election for Governor would not have been held at said election, without the happening of such vacancy, no election for Governor shall be held at said election in consequence of such vacancy. If the trial of a contested election shall continue longer than until the third Tuesday of January next ensuing the election of a Governor, the Governor of the last year, or the Speaker of the Senate, or of the House of Representatives, who may then be in the exercise of the Executive authority, shall continue therein until a determination of such contested election. The Governor shall not be removed from his office for inability, but with the concurrence of two-thirds of all the members of each branch of the Legislature.

SEC. 15. A Secretary shall be appointed and commissioned during the Governor's continuance in office, if he shall so long behave himself well. He shall keep a fair Register of all the official acts and proceedings of the Governor, and shall when required by either branch of the Legislature, lay the same, and all papers, minutes, and vouchers, relative thereto, before them, and shall perform such other duties as shall be enjoined him by law. He shall have a compensation for his services to be fixed by law. Secretary of State.

ARTICLE IV.

SEC. 1. *All elections for Governor, Senators, Representatives, Elections. Sheriffs and Coroners shall be held on the second Tuesday of November, and be by ballot: And in such elections every free white male citizen, of the age of twenty-two years or upwards, having resided in the State one year next before the election, and the last month thereof in the County where he offers to vote, and having within two years next before the election, paid a County tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and every free white male citizen of the age of twenty-one years and under the age of twenty-two years, having resided as aforesaid, shall be entitled to vote without payment of any tax: Provided that no person in the military, naval, or marine service of the United States, shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot, or insane person, pauper, or person convicted of a crime deemed by law felony, shall enjoy the right of an elector; and that the Legislature may impose the forfeiture of the right of suffrage, as a punishment for crime.* Voters.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them. Privileges.

ARTICLE V.

SEC. 1. The House of Representatives shall have the sole power of impeaching: but two-thirds of all the members must concur in Impeachments.

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an impeachment. All impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the Senators.

SEC. 2. The Governor and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit under this State; but the party convicted shall nevertheless, be subject to indictment, trial, judgment and punishment according to law.

Treason.

SEC. 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the Government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

ARTICLE VI.

Judiciary.

Courts.

SEC. 1. *The judicial power of this State shall be vested in a Court of Errors and Appeals, a Superior Court, a Court of Chancery, an Orphans' Court, a Court of Oyer and Terminer, a Court of General Sessions of the Peace and Gaol Delivery, a Register's Court, Justices of the Peace, and such other courts as the General Assembly, with the concurrence of two-thirds of all the members of both Houses, shall from time to time establish.*

SEC. 2. *To compose the said courts there shall be five judges in the State. One of them shall be chancellor of the State: he shall also be president of the Orphans' Court: he may be appointed in any part of the State. The other four judges shall compose the Superior Court, the Court of Oyer and Terminer, and the Court of General Sessions of the Peace and Gaol Delivery, as hereinafter prescribed. One of them shall be Chief Justice of the State, and may be appointed in any part of it. The other three Judges shall be Associate Judges, and one of them shall reside in each county.*

Superior Court.

SEC. 3. *The Superior Court shall consist of the Chief Justice and two Associate Judges. The Chief Justice shall preside in every county, and in his absence the senior Associate Judge sitting in the county shall preside. No Associate Judge shall sit in the county in which he resides. Two of said Judges shall constitute a quorum. One may open and adjourn the court, and make all rules necessary for the expediting of business.*

This court shall have jurisdiction of all causes of a civil nature, real, personal and mixed, at common law, and all other the jurisdiction and powers vested by the laws of this State in the Supreme Court or Court of Common Pleas.

SEC. 4. *The Court of General Sessions of the Peace and Gaol Delivery shall be composed in each County of the same Judges and in the same manner as the Superior Court. Two shall constitute a quorum. One may open and adjourn the Court. This Court shall have all the jurisdiction and powers vested by the laws of this State in the Court of General Quarter Sessions of the Peace and Gaol Delivery.*

Court of General Sessions of the Peace.

SEC. 5. *The Chancellor shall hold the Court of Chancery. This Court shall have all the jurisdiction and powers vested by the laws of this State in the Court of Chancery.*

Court of Chancery.

SEC. 6. *The court of Oyer and Terminer shall consist of all the Judges except the Chancellor. Three of the said Judges shall constitute a quorum. One may open and adjourn the court. This court shall exercise the jurisdiction now vested in the courts of Oyer and Terminer and General Gaol Delivery by the laws of this State. In the absence of the Chief Justice the senior Associate present shall preside.*

Court of Oyer and Terminer.

SEC. 7. *The Court of Errors and appeals shall have jurisdiction to issue writs of Error to the Superior Court, and to receive appeals from the court of Chancery, and to determine finally all matters in error in the judgments and proceedings of said Superior Court, and all matters of appeal in the interlocutory or final decrees and proceedings in Chancery. The Court of Errors and appeals upon a writ of Error to the Superior Court shall consist of three Judges at least: that is to say, the Chancellor, who shall preside, the associate Judge who could not on account of his residence sit in the cause below, and one of the Judges who did sit in the said cause. The Judges of the Superior Court to whom it appertains to hold the Superior Court in each county, shall sit alternately in the Court of Errors and Appeals in cases in error brought from the Superior Court held in such county, according to the following rotation: that is to say: If the judgment below be rendered in the court in New Castle County at the first term of the said Court there, the Chief Justice shall sit; if at the second term of said court there, the associate Judge for Kent county shall sit, and if at the third term of said court there, the associate Judge for Sussex county shall sit. If the judgment below be rendered in the court in Kent county at the first term of said court there, the associate Judge for Sussex county shall sit, if at the second term of the said court there, the associate Judge for New Castle county shall sit, and if at the third term of the said court there, the Chief Justice shall sit. If the judgment below be rendered in the court in Sussex county at the first term of said court there, the Associate Judge for New Castle county shall sit, if at the second term of the said court there, the Chief Justice shall sit, and if at the third term of the said court there, the associate Judge for Kent county shall*

Court of Errors and Appeals.

sit ; and so from term to term, in every succeeding rotation the Judges beginning and following each other in the same order. But if in any case in the Court of Errors and Appeals, the Judge who sat in the cause below, and ought according to this provision to sit in the Court of Errors and Appeals, be absent, unable or disqualified, then either of the other Judges, who sat in the cause below, may sit : and the Court shall have power to prevent any inconvenience or delay from observing the rotation above prescribed, by making an order or regulation for either of the Judges who sat in the cause below, to sit in such cause in the court of Errors and Appeals. If a Judge did not sit in the cause below, he shall sit in the said cause in the court of Errors and Appeals, unless there be a legal exception to him ; but the court, if there be three Judges present, may proceed in his absence.

Questions of law. Whenever the Superior Court consider that a question of law ought to be decided before all the Judges, they shall have power, upon the application of either party, to direct it to be heard in the Court of Errors and appeals ; and in that case the chancellor and four judges shall compose the Court of Errors and Appeals, the chancellor presiding, and any four of them being a quorum ; and in the absence of the Chancellor, the Chief Justice shall preside. The Superior Court in exercising this power, may direct a cause to be proceeded into verdict and judgment in that court, or to be otherwise proceeded in, as shall be best for expediting justice.

Upon appeal from the Court of Chancery, the Court of Errors and Appeals shall consist of the Chief Justice and three Associate Judges ; any three of them shall be a quorum.

Chancellor interested.

SEC. 8. In matters of Chancery Jurisdiction in which the Chancellor is interested, the Chief Justice sitting in the Superior Court without the associate judges, shall have jurisdiction, with an appeal to the Court of Errors and Appeals, which shall consist in this case of the three associate judges, the senior Associate Judge presiding.

Judge ad litem.

SEC. 9. The Governor shall have power to commission a judge ad litem, to decide any cause in which there is a legal exception to the Chancellor or any Judge, so that such appointment is necessary to constitute a quorum in either court. The commission in such case shall confine the office to the cause, and it shall expire on the determination of the cause. The Judge so appointed shall receive a reasonable compensation to be fixed by the General Assembly. A member of Congress, or any person holding or exercising an office under the United States, shall not be disqualified from being appointed a judge ad litem.

Orphans Court.

SEC. 10. The Orphans' Court, in each county, shall be held by the Chancellor and the associate Judge residing in the County ; the Chancellor being President. Either of them, in the absence of the other,

may hold the court. When they concur in opinion there shall be no appeal from their decision except in the matter of real estate. When their opinions are opposed, or when a decision is made by one of them, and in all matters involving a right to real estate, or the appraised value or other value thereof, there shall be an appeal to the Superior Court for the county, which shall have final jurisdiction in every such case. This court shall have all the jurisdiction and powers vested by the laws of this State in the Orphans' Court.

SEC. 11. The jurisdiction of each of the aforesaid courts shall be Jurisdiction. co-extensive with the State. Process may be issued out of each court, in either county, into every county.

SEC. 12. The General Assembly, notwithstanding any thing con- General As-
tained in this article, shall have power to repeal or alter any act of semble may
the General Assembly, giving jurisdiction to the courts of Oyer and alter.
Terminer and General Gaol Delivery, or to the Supreme Court, or the court of Common Pleas, or the court of General Quarter Sessions of the Peace and Gaol Delivery, or the Orphans' court or to the Court of Chancery, in any matter, or giving any power to either of said courts. Until the General Assembly shall otherwise direct, there shall be an appeal to the Court of Errors and Appeals in all cases in which there is an appeal, according to any act of the General Assembly, to the High Court of Errors and Appeals.

SEC. 13. Until the General Assembly shall otherwise provide, the Chancellor shall exercise all the powers which any law of this State vests in the chancellor, beside the general powers of the court of Chancery; and the Chief Justice and Associate Judges shall each singly exercise all the powers which any law of this State vests in the Judges singly of the Supreme court or court of Common Pleas.

SEC. 14. The chancellor and judges shall respectively hold their Tenure of of-
offices during good behaviour, and receive for their services a compen- fice.
sation which shall be fixed by law and paid quarterly, and shall not be less than the following sums, that is to say:—the annual salary of Salaries.
the Chief Justice shall not be less than the sum of one thousand two hundred dollars: and the annual salary of the Chancellor shall not be less than the sum of one thousand one hundred dollars; and the annual salaries of the Associate Judges, respectively, shall not be less than the sum of one thousand dollars each. They shall hold no other office of profit, nor receive any fees or perquisites, in addition to their salaries for business done by them. The Governor may for any reasonable cause, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the General Assembly. In all cases where the Legislature shall so address the Governor, the cause of removal shall be entered on the Journals of each House. The Judge against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied with the causes alleged for his removal, at least five days before the day on which either House of the General Assembly shall act thereupon.

SEC. 15. The General Assembly may by law give to any inferior Inferior
courts by them to be established, or to one or more Justices of the Courts.

Peace, jurisdiction of the criminal matters following, that is to say: assaults and batteries, keeping without licence a public house of entertainment, tavern, inn, ale house, ordinary or victualling house, retailing or selling without licence, wine, rum, brandy, gin, whiskey or spirituous or mixed liquors contrary to law, disturbing camp meetings held for the purpose of religious worship, disturbing other meetings for the purpose of religious worship, nuisances, horse racing, cock fighting and shooting matches, larcenies committed by negroes or mulattoes, and the offence of knowingly buying, receiving, or concealing by negroes or mulattoes, of stolen goods and things the subject of larceny; and of any negro or mulatto being accessory to any larceny. The General Assembly may by law regulate this jurisdiction, and provide that the proceedings shall be with or without indictment by Grand Jury, or trial by Petit Jury, and may grant or deny the privilege of appeal to the Court of General Sessions of the Peace: the matters within this section shall be and the same hereby are excepted and excluded from the provision of the Constitution, that—"No person shall for an indictable offence be proceeded against criminally by information"—and also from the provisions of the Constitution concerning trial by jury.

Amending
pleadings.

SEC. 16. In civil causes when pending, the Superior Court shall have the power before judgment, of directing upon such terms as they shall deem reasonable, amendments, impleadings and legal proceedings, so that by error in any of them, the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses that are aged, very infirm, or going out of the State, upon interrogatories *de bene esse*, to be read in evidence, in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment, then to attend; and also the power of obtaining evidence from places not within the State.

Money into
Court.

SEC. 17. At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, and the costs then accrued, and the plaintiff not accepting thereof, it shall be delivered for his use to the Clerk or Prothonotary of the Court; and if, upon the final decision of the cause, the plaintiff shall not recover a greater sum than that so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

Suits survive.

SEC. 18. By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate, but until the Legislature shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner or plaintiff may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator being duly served with a *scire facias*, thirty days before the return thereof, shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and in any of those cases, the court shall pass a decree, or render judgment for, or

against executors or administrators, as to right appertains. But where an executor or administrator of a deceased respondent or defendant becomes a party, the court upon motion, shall grant such a continuance of the cause as to the Judges shall appear proper.

SEC. 19. Whenever a person, not being an executor or administrator, appeals from a decree of the Chancellor or applies for a writ of error, such appeal or writ shall be no stay of proceeding in the chancery, or the court to which the writ issues, unless the appellant or plaintiff in error, shall give sufficient security, to be approved respectively by the Chancellor, or by a Judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation money and all costs, or otherwise abide the decree in appeal or the judgment in error, if he fail to make his plea good. Security on appeal and error.

SEC. 20. No writ of error shall be brought upon any judgment heretofore confessed, entered, or rendered, but within five years from this time; nor upon any judgment hereafter to be confessed, entered or rendered, but within five years after the confessing, entering, or rendering thereof; unless the person entitled to such writ be an infant, feme covert, non compos mentis or a prisoner, and then within five years exclusive of the time of such disability. Limitation of writs of error.

SEC. 21. An executor, administrator, or guardian, shall file every account with the Register for the county, who shall as soon as conveniently may be, carefully examine the particulars with the proofs thereof, in the presence of such executor, administrator or guardian, and shall adjust and settle the same, according to the very right of the matter and the law of the land: which account so settled, shall remain in his office for inspection; and the executor, administrator, or guardian, shall within three months after such settlement, give due notice in writing to all persons entitled to shares of the estate, or to their guardians respectively, if residing within the State, that the account is lodged in the said office for inspection. *Exceptions may be made by persons concerned, to both sides of every such account, either denying the justice of the allowances made to the accountant, or alleging further charges against him; and the exceptions shall be heard in the Orphans' Court for the county; and thereupon the account shall be adjusted and settled according to the right of the matter and law of the land.* Executors' administrators' and guardian accounts.

SEC. 22. The Registers of the several counties shall respectively hold the Register's Court in each county. Upon the litigation of a cause, the depositions of the witnesses examined, shall be taken at large in writing, and make part of the proceedings in the cause. This Court may issue process throughout the State, to compel the attendance of witnesses. Appeals may be made from a Register's Court to the Superior Court, whose decisions shall be final. In cases where a Register is interested in questions concerning the Probate of wills, the granting letters of administration, or executors, Registers' Court.

administrators, or guardians accounts, the cognizance thereof shall belong to the Orphans' Court, with an appeal to the *Superior Court*, whose decision shall be final.

Prothonotary. SEC. 23. *The Prothonotary of the Superior Court may issue process, take recognizances of bail and enter judgments, according to law and the practice of the Court.* No judgment in one county shall bind lands or tenements in another, until a *Testatum Fieri Facias* being issued, shall be entered of record in the office of the Prothonotary of the County wherein the lands or tenements are situated.

Lien of judgments. SEC. 24. The Governor shall appoint a competent number of persons to the office of Justice of the Peace, not exceeding twelve in each county, until two-thirds of both Houses of the Legislature shall by law direct an addition to the number, who shall be commissioned for seven years, if so long they shall behave themselves well, but may be removed by the Governor within that time on conviction of misbehaviour in office, or on the address of both Houses of the Legislature.

Justices of the peace. SEC. 25. The style in all process and public acts shall be, **THE STATE OF DELAWARE.** Prosecutions shall be carried on in the name of the State.

ARTICLE VII.

Conservators of the peace. SEC. 1. The members of the Senate and House of Representatives, the Chancellor, the Judges, and the Attorney General shall, by virtue of their offices, be conservators of the Peace throughout the State; and the Treasurer, Secretary, Prothonotaries, Registers, Records, Sheriffs, and Coroners, shall by virtue of their offices, be conservators thereof within the counties respectively in which they reside.

Representatives in Congress. SEC. 2. The Representative, and when there shall be more than one, the Representatives of the people of this State in Congress, shall be voted for at the same places where Representatives in the State Legislature are voted for, and in the same manner.

Sheriff and Coroner. SEC. 3. *The Sheriff and Coroner of each county shall be chosen by the citizens residing in such county. They shall hold their respective offices for two years if so long they behave themselves well, and until successors be duly qualified; but no person shall be twice chosen Sheriff upon election by the citizens in any term of four years. They shall be commissioned by the Governor. The Governor shall fill vacancies in these offices by appointments to continue until the next election and until successors shall be duly qualified. The Legislature, two thirds of each branch concurring, may vest the appointment of Sheriffs and Coroners in the Governor; but no person shall be twice appointed Sheriff in any term of six years.*

Tenure of certain offices. SEC. 4. The Attorney General, Registers in Chancery, Prothonotaries, Registers, Clerks of the Orphans' Court and of the Peace, shall respectively be commissioned for five years, if so long they

shall behave themselves well; but may be removed by the Governor within that time on conviction of misbehaviour in office or on the address of both Houses of the Legislature. Prothonotaries, Registers in Chancery, Clerks of the Orphans' Court, Registers, Recorders and Sheriffs, shall keep their offices in the town or place in each county in which the *Superior Court* is usually held.

SEC. 5. Attorneys at law, all inferior officers in the Treasury Appointment Department, election officers, officers relating to taxes, to the poor of inferior offices, and to high ways, Constables and hundred officers, shall be appointed in such manner as is or may be directed by law.

SEC. 6. All salaries and fees annexed to offices shall be moderate; and no officer shall receive any fees whatever without giving rate; and no officer shall receive any fees whatever without giving to the person who pays, a receipt for them, if required, therein specifying every particular and the charge for it. Salaries and fees.
Receipt for fees.

SEC. 7. No costs shall be paid by a person accused on a bill being returned ignoramus, nor on acquittal by a jury. Costs in criminal cases.

SEC. 8. The rights, privileges, immunities and estates of religious societies and corporate bodies shall remain as if the Constitution of this State had not been altered. No ordained clergyman or ordained preacher of the gospel of any denomination, shall be capable of holding any civil office in this State, or of being a member of either branch of the Legislature, while he continues in the exercise of the pastoral or clerical functions. Rights of corporations.
Exclusion of Clergy.

SEC. 9. All the laws of this State existing at the time of making this Constitution and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending shall proceed as if this Constitution had not been made. Laws in force.

SEC. 10. This Constitution shall be prefixed to every edition of the laws made by direction of the Legislature.

SEC. 11. The Legislature shall, as soon as conveniently may be, provide by law for ascertaining what statutes and parts of statutes, shall continue to be in force within this State; for reducing them and all acts of the General Assembly into such order and publishing them in such manner that thereby the knowledge of them may be generally diffused; for choosing Inspectors and Judges of elections, and regulating the same in such manner, as shall most effectually guard the rights of the citizens entitled to vote; for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenements in sales by Sheriffs, where they will bear a division, into as many parcels as may be without spoiling the whole, and for advertising and making the sales in such manner, and at such times and places, as may render them most beneficial to all persons concerned: and for establishing schools, and promoting arts and sciences. Duties of legislature.

CONSTITUTION OF THE

Property
qualification.

SEC. 12. *No property qualification shall be necessary to the holding of any office in this State, except the office of Senator in the General Assembly, and the offices of Assessor, Inquisitor on lands and Levy court Commissioner, and except such offices as the General Assembly shall by law designate.*

ARTICLE VIII.

Oath of of-
fice.

Members of the General Assembly and all officers, executive and judicial, shall be bound by oath or affirmation, to support the Constitution of this State, and to perform the duties of their respective offices with fidelity.

ARTICLE IX.

Amend-
ments.

Convention.

Majority.

The General Assembly, whenever two thirds of each House shall deem it necessary, may with the approbation of the Governor, propose amendments to this Constitution, and at least three and not more than six months before the next general election of Representatives duly publish them in print for the consideration of the people; and if three-fourths of each branch of the Legislature shall, after such an election and before another, ratify the said amendments, they shall be valid to all intents and purposes as parts of this constitution. No Convention shall be called but by the authority of the People: and an unexceptionable mode of making their sense known will be for them at a *special election on the third Tuesday of May in any year* to vote by ballot for or against a Convention, as they shall severally choose to do; and if thereupon it shall appear that a majority of all the citizens in the State, having right to vote for Representatives, have voted for a Convention, the General Assembly shall accordingly at their next Session, call a Convention to consist of at least as many members as there are in both Houses of the Legislature, to be chosen in the same manner, at the same places, and at the same time that Representatives are by the citizens entitled to vote for Representatives, on due notice given for one month, and to meet within three months after they shall be elected. *The majority of all the citizens in the State having right to vote for Representatives shall be ascertained by reference to the highest number of votes cast in the State at any one of the three general elections, next preceding the day of voting for a Convention, except when they may be less than the whole number of votes voted both for and against a Convention, in which case the said majority shall be ascertained by reference to the number of votes given on the day of voting for or against a Convention: and whenever the General Assembly shall deem a Convention necessary, they shall provide by law for the holding of a Special Election for the purpose of ascertaining the sense of the majority of the citizens of the State entitled to vote for Representatives.*

SCHEDULE.

THAT no inconveniences may arise from the amendments of the Constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained, as follows:—

SEC. 1. The offices of the present Senators and Representatives shall not be vacated by any amendment of the Constitution made in this convention, nor otherwise affected, except that the terms of the Representatives and the terms of the Senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-two, are hereby extended to the second Tuesday of November in that year: and the terms of the Senators which will expire on the first Tuesday of October in the year of our Lord one thousand eight hundred and thirty-three, are hereby extended to the second Tuesday of November in that year: And the terms of the Senators which will expire on the first Tuesday of October in the year of our Lord, one thousand eight hundred and thirty-four, are hereby extended to the second Tuesday of November in that year.

The General Assembly shall meet on the first Tuesday of January next, and shall not be within the amended provision respecting biennial sessions, which biennial sessions shall commence with the session of the General Assembly on the first Tuesday of January in the year of our Lord one thousand eight hundred and thirty-three.

SEC. 2. The offices of the present Sheriffs and Coroners shall not be vacated by any amendment to the Constitution made in this Convention, nor otherwise affected, except that the term of office of the Sheriff of Sussex county is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, and until a successor be duly qualified: and on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, shall be the first election for Sheriff in Sussex county under this amended Constitution. And the term of the present Coroner for Sussex county is hereby extended to the second Tuesday of November in the year of our Lord one thousand eight hundred and thirty-four, and until a successor shall be duly qualified: and on the said last mentioned day shall be the first election for Coroner in Sussex county under this amended Constitution.

The terms of the present Sheriffs and Coroners for Kent county and New Castle county are hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hun-

dred and thirty-three and until successors to them respectively be duly qualified : and on or after the first Tuesday of November in the year of our Lord one thousand eight hundred and thirty-three, the Governor shall have power to appoint a Sheriff and a Coroner for New Castle county, and a Sheriff and Coroner for Kent county, to continue in office until the second Tuesday of November in the year of our Lord one thousand eight hundred and thirty-four, and until successors to them respectively be duly qualified. And on the said last mentioned day shall be the first election for Sheriff and for Coroner in New Castle county and in Kent County under this amended Constitution, unless a vacancy happen in the office of Sheriff or Coroner of New Castle or Kent county, or of Coroner for Sussex county before the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two ; in which case an election shall be held on that day for a Sheriff or Coroner under this amended Constitution, in place of the Sheriff or Coroner whose office has become vacant.

SEC. 3. The first election for Representatives under this amended Constitution shall be held on the second Tuesday of November in the year of our Lord one thousand eight hundred and thirty-two ; which shall be the commencement of biennial elections. At this election one Senator shall be chosen in each county for four years. Also at the biennial election to be held in the several counties on the second Tuesday of November in the year of our Lord one thousand eight hundred and thirty-four, two Senators shall be chosen in each county for four years each. But as the term of one Senator in each county will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, when no election will be held, to provide for this special case a Senator shall be chosen in each county, at the election held on the second Tuesday of November in the year of our Lord one thousand eight hundred and thirty-two for one year, to succeed the Senator for such county whose term will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and to continue in office until the second Tuesday of November in the year of our Lord one thousand eight hundred and thirty-four, when two Senators shall be chosen in each county as afore-provided.

SEC. 4. The term of office of the present Governor shall not be vacated nor extended by any amendment made to the Constitution in this Convention ; but the said office shall continue during the original term thereof ; but the ninth and fourteenth sections of the third article of this constitution shall be immediately in force as amended. An election for Governor shall be held on the second Tuesday of November in the year of our Lord one thousand eight hundred and thirty-two.

SEC. 5. This Constitution as amended, so far as shall concern the Judicial Department, shall commence and be in operation from and after the third Tuesday of January in the year of our Lord one thousand eight hundred and thirty-two. All the Courts of Jus-

tice now existing shall continue with their present jurisdiction, and the Chancellor and Judges and the Clerks of the said Courts shall continue in office until the said third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two; upon which day the said Courts shall be abolished, and the offices of the said Chancellor, Judges and Clerks shall expire. All writs of Error and Appeals and proceedings which, on the third Tuesday of January in the year of our Lord one thousand eight hundred and thirty-two shall be depending in the High Court of Errors and Appeals, and all the books, records and papers of said Court, shall be transferred to the Court of Errors and Appeals established by this amended Constitution; and the said writs of Error, Appeals, and proceedings shall be proceeded in the said Court of Errors and Appeals to final judgment, decree, or other determination.

All suits, proceedings and matters which, on the third Tuesday of January in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Supreme Court or Court of Common Pleas, and all books, records and papers of the said courts, shall be transferred to the Superior Court established by this amended Constitution, and the said suits, proceedings and matters, shall be proceeded in to final judgment, or determination in the said Superior Court. All indictments, proceedings and matters which, on the third Tuesday of January in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be transferred to and proceeded in to final judgment and determination in the Court of General Sessions of the Peace and Gaol Delivery, established by this amended Constitution, and all books, records, and papers of said Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be transferred to said Court of General Sessions of the Peace and Gaol Delivery. All suits, proceedings and matters which, on the third Tuesday of January in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the Court of Chancery or in the Orphan's Court, and all records, books, and papers of said Courts respectively, shall be transferred to the Court of Chancery or Orphan's Court respectively, established by this amended Constitution, and the said suits, proceedings and matters, shall be proceeded in to final decree, order or other determination.

SEC. 6. The Registers' Courts and Justices of the Peace shall not be affected by any amendments of the Constitution made in this Convention; but the said Courts and the terms of office of Registers and Justices of the Peace shall remain the same, as if said amendments had not been made.

SEC. 7. The General Assembly shall have power to make any law necessary to carry into effect this amended Constitution.

SEC. 8. The provision in the twentieth section of the sixth article of this amended Constitution (being the thirteenth section of the sixth article of the original Constitution,) of limitation of writs of

error, shall have relation to, and take date from, the twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-two, the date of said original Constitution.

SEC. 9. The Governor shall have power to issue writs of election to supply vacancies in either house of the General Assembly, that have happened or may happen.

SEC. 10. It is declared that nothing in this amended Constitution gives a writ of error from the Court of Errors and Appeals to the Court of Oyer and Terminer or Court of General Sessions of the Peace and Gaol Delivery, nor an appeal from the Court of General Sessions of the Peace and Gaol Delivery.

The acts of the General Assembly, increasing the number of Justices of the Peace, shall remain in force until repealed by the General Assembly; and no office shall be vacated by the amendments to this Constitution, unless the same be expressly vacated thereby, or the vacating the same is necessary to give effect to the amendments.

Done, in Convention, the second day of December, in the year of our Lord one thousand eight hundred and thirty-one, and of the Independence of the United States of America, the fifty-sixth. In testimony whereof, WE have herewith subscribed our names.

CHARLES POLK, PRESIDENT.

*Thomas Adams,
John Caulk,
John M. Clayton,
Peter L. Cooper,
Thomas Deakyns,
Edw. Dingle,
Wm. Dunning,
John Elliott,
James Fisher,*

*Willard Hall,
Thomas W. Handy,
John Harlan,
Charles H. Haughey,
Hughitt Layton,
James C. Lynch,
James B. Macomb,
Joseph Muill,
Elias Naudain,*

*William Nicholls,
Samuel Ratcliff,
John Raymond,
Geo. Read, jun'r.
Henry F. Rodney,
James Rogers,
Wm. Seal,
P. Spruance Jr.
Wm. D. Waples.*

(ATTEST,)

W. P. BROBSON, SECRETARY.

SECRETARY'S OFFICE,

Dover, August 17, 1837.

Pursuant to a resolution of the General Assembly of the State of Delaware, adopted at Dover, February 13, 1835, I have caused this edition of the Amended Constitution to be printed and published as a part of the Eighth volume of the Laws of the said State. I have collated the same with, and corrected it by, the Original Roll. The amendments are in italics.

CHARLES MARIM,

Secretary of the State of Delaware.

Transferred from State Library, 1837

**END
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VOLUME**