

LAWS

OF THE

STATE OF DELAWARE.

CHAPTER I.

AN ACT to incorporate the Camden Lime Company.

SECTION 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, and with a reserved power of revocation by the Legislature.)* That a company shall be established, the capital stock whereof shall not exceed five thousand dollars, divided into two hundred and fifty shares, each twenty dollars. Incorporation.
Capital stock.
Shares.

SEC. 2. *And be it enacted,* That Thomas Jackson, William Knotts, Alexander Jackson, James Lord and Nathaniel Coombe, be and they are hereby appointed commissioners, and they or any three of them are authorized to receive subscriptions to the said capital stock, and for that purpose to open books at such time and place in Camden as the said commissioners or any three of them may appoint, of which ten days' notice shall be given, and such books shall continue open at least two days, and afterwards at the discretion of said commissioners or any three of them. Comm'rs.

SEC. 3. *And be it enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns shall and hereby are ordained, constituted and declared to be a body politic or corporate in fact and in law, by the name of the "Camden Lime Company," and by that name shall have succession, and be capable of suing and being sued, plead and be 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, and may make and ordain by-laws for their own government not repugnant to the laws and constitution of this State or the United States; but it shall not be lawful for the 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 purchase, Name.
Powers.
By-laws.
Restriction
as to banking.

LAWS OF THE STATE

Proviso.

hold and convey any real or personal estate, and do all acts necessary and proper to effect the powers hereby granted or intended. *Provided*, that the real estate so to be holden shall be only such as is necessary and proper to effect such powers, or such as shall have been *bona fide* mortgaged or conveyed to the company for building kilns on, and necessary for burning lime, or 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 debts or sales made under any mortgage given to said company.

Directors.

Election.

SEC. 4. *And be it enacted*, That the stock, property, affairs and concerns of the said company shall be managed and conducted by three directors (of whom one shall be president) to be elected by the stockholders, and the first election for said directors 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 five of the most public places in Murderkill and Dover hundreds, in Kent county, 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 directors 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, 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 numbers to be their president; and if any vacancy shall happen in said directors by death, resignation or otherwise, the same shall be filled by the other directors or a majority of them for the time being, and the said directors shall have power and authority to call a meeting of the stockholders at any time.

President.

Quorum.

SEC. 5. *And be it enacted*, That a majority of the directors for the time being, shall form a board or quorum for transacting all the business of the said company, and that a failure to elect directors 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.

Directors
empowered
to call in sub-
scriptions.

SEC. 6. *And be it enacted*, That it shall be lawful for the president and directors of said company to call and demand of the stockholders respectively, all such sum or sums of money as shall be by them subscribed, at such times and in such manner and proportions as they shall deem proper, under forfeiture of their shares and all previous payments thereon to the corporation, provided twenty days' notice of such call and demand be given in five of the most public places in Murderkill and Dover hundreds, in Kent county.

OF DELAWARE.

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SEC. 7. *And be it enacted*, That no transfer of stock shall be valid or have effect until such transfer shall be entered or registered in the book to be kept by the company for that purpose. Transfers.

SEC. 8. *And be it enacted*, That the dividends to be made of the profits of the company if any, shall be annually, and shall be paid to all the stockholders in proportion to their respective interests therein. Dividends.

SEC. 9. *And be it further enacted*, That this act shall continue in force for and during the term of twenty 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 to revoke or dissolve the said corporation by this act created, is hereby reserved to the Legislature of this State, whenever the said Legislature shall deem such revocation or dissolution necessary or expedient, anything in this act contained to the contrary notwithstanding. Duration of company.
Revocation.

Passed at Dover, July 23, 1835.

CHAPTER II.

A SUPPLEMENT to the Act concerning constables.

Dig. 85.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That so much of the act to which this is a supplement, or of any other act of assembly of this State, as provides that no person shall hold the office of constable more than three years in any period of six years shall not be applicable to any person or persons holding, or who may hereafter hold the office of constable in New Castle hundred, in the county of New Castle; and it shall and may be lawful for the Levy Court and Court of Appeal within said county, to appoint any person or persons residing in New Castle hundred to the office of constable for any number of years in succession, any law to the contrary notwithstanding. Repeal and alteration of so much of the act as relates to N. Castle hundred.

SEC. 2. *And be it further enacted*, That it shall and may be lawful for William H. Stayton of New Castle hundred, to accept the office of constable and perform all the duties thereof, and receive the fees and emoluments incident thereto; and also, that it shall be lawful for the Governor of the State to appoint the said William H. Stayton to said office, in the same manner as such appointment is made in cases of vacancy. W. H. Stayton appointed.

Passed at Dover, July 23, 1835.

CHAPTER III.

Dig. 315. A SUPPLEMENT to the act entitled *An act concerning the real estates of intestates.*

Second section amended by inserting, &c.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the second section of the act to which this is a supplement be amended by inserting after the words "aggregate values of all said parts," these words following—"whenever all the parts shall be assigned on the same day, but when all the parts shall not be assigned on the same day, then to pay to the other parties entitled severally their just and proportionable shares of the excess of the value of the part assigned according to the appraised value thereof, beyond the just share of said assignee of the value of that part only," and the following clause in said second section, beginning with the words "In case of a division or subdivision," and ending with these words "proportionate to the deficiency and no greater," shall have force and effect only, and be applied whenever all the parts shall be assigned on the same day, and the said section shall be read and construed as amended and restricted by this section.

"Tenant by curtesy" entitled to a certain share and may recover by a "scire facias," &c.

SEC. 2. *And be it further enacted,* That whenever a party entitled to a share of an intestate's real estate shall die, leaving a husband entitled to have such a share as "*tenant by the curtesy*," and such share shall be appraised and assigned or sold, and assigned by order of the Orphans' Court, such husband during his lifetime shall be a party entitled to have and receive the interest which shall be due from the assignee on the appraised value of proceeds of sale of such share, and may recover the same by scire facias on the recognizance of the assignee and his sureties, or by an action of debt for the said interest; and also such husband shall be a party entitled to have, receive and to hold during his lifetime the appraised value or proceeds of sale of such share on entering into a recognizance to the State of Delaware, with sufficient surety or sureties, and in a penal sum to be approved by said court, with condition in substance "that the appraised value or proceeds of sale of such share, or such part thereof as he shall receive, shall upon his death be paid to the parties entitled severally, their just proportions, according to the act to which this is a supplement, or to their executors, administrators or assigns respectively, with interest from the death of such husband," and such husband after entering into such recognizance, may by scire facias or action of debt on the recognizance of the assignee and his sureties, recover said aforesaid value or proceeds of sale of such share, together with such interests as may be due; and when a party entitled to a share of an intestate's real estate shall die leaving a widow entitled to one-third or one moiety or all of such share, for the term of her life, and such share shall be appraised and assigned, or sold and assigned by order of said court, such widow shall for the term of her life, be a party entitled to have

Upon his death shall be distributed, &c.

and receive the interest of such third part, moiety or all of the appraised value or proceeds of sale of such share, which shall be due from the assignee, as the case may be, and may recover the same by scire facias on the recognizance of the assignee and his sureties or by action of debt for the said interest, and also such widow shall be a party entitled to have and receive for the term of her life, the said one-third, moiety or all of the appraised value or proceeds of sale of such share, as the case may be, upon entering into a recognizance as aforesaid, with condition in substance that the said one-third part (or one moiety or all) of the appraised value or proceeds of the sale of such share or such part thereof as she shall receive, shall after her death be paid to the parties entitled severally, according to the act to which this is a supplement, or to his or her executors, administrators or assignees respectively their respective, just and proportionable shares of the said one-third, moiety or all of the appraised value or proceeds of sale of such share (as the case may be) or such part thereof as she shall receive; and such widow, after entering into such recognizance as aforesaid, may by a scire facias or action of debt on the recognizance of the assignee and his or her sureties, recover the said one-third, moiety or all of the appraised value or proceeds of the sale of such share, as the case may be, and also such interest thereon as may be due, and if such widow shall become the wife of another husband before entering into such recognizance as aforesaid, then and in that case, if such last husband shall himself enter into such a recognizance as aforesaid, he shall be entitled to the same rights, privileges, actions and sums of money aforesaid to which his wife would have been entitled by her entering into such recognizance as aforesaid: *Provided nevertheless*, that it shall and may be lawful for the assignee of any such share as aforesaid, at any time before such recognizance as aforesaid shall be entered into, to pay into said court such sum as such husband or widow may be entitled to according to the provisions of this act, and from that time, the interest thereon against him shall cease: *And provided further*, that nothing herein contained shall be construed so as to deprive a defendant of the benefit of the "Act for the limitation of certain personal actions," and of exceptions to accounts in any scire facias or action before mentioned.

Widow may likewise recover.

Condition of recognizance.

Husband of such widow may recover.

Proviso.

SEC. 3. *And be it further enacted*, That when a party who shall stand prior according to the order of preference to a party applying, to accept or choose any appraised premises shall be incapable of accepting or choosing the same, because of infancy, idiocy or other incompetency of mind, the fact shall be made appear to the satisfaction of the court by oath or affirmation, then such prior party or parties shall be passed by, and the party next in order shall be admitted to accept and choose, in the same manner and as fully to all intents and purposes as if such prior party or parties had been of full age and had refused to accept, anything in the act to which this is a supplement to the contrary notwithstanding.

Priority of parties.

Passed at Dover, July 24, 1835.

CHAPTER IV.

A SUPPLEMENT to the act entitled *An act to enable the owners and possessors of the meadow, marsh and cripple lying on both sides of Silver Run fronting the river Delaware, effectually to embank and drain the same, and keep the banks, dams, sluices, canals and drains in repair, and to raise a fund to defray the expenses thereof.*

Private act.

Passed at Dover, July 24, 1835.



CHAPTER V.

AN ACT to confirm the marriage between *Vincent W. Moore and Ann Whitaker, of Kent county and State of Delaware.*

Private act.

Passed at Dover, July 24, 1835.



CHAPTER VI.

AN ACT to authorize *Dr. James N. Sutton* to construct a Railroad across a public road in *New Castle county.*

Private act.

Passed at Dover, July 24, 1835.



CHAPTER VII.

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

Private act.

Passed at Dover, July 24, 1835.

CHAPTER VIII.

AN ACT to incorporate the owners of the Beaver Gut Marsh, for the better securing and improving the same.

Private act.

Passed at Dover, July 24, 1835.



CHAPTER IX.

A FURTHER SUPPLEMENT to an act entitled *An act to incorporate the Wilmington and Susquehanna Railroad Company.*

Vol. 8, chap.
110, p. 107,
chap. 312, p.
311.

SECTION 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 in this act,)* That the president and directors of the Wilmington and Susquehanna Railroad Company, or a majority of them, and the president and directors of the Delaware and Maryland Railroad Company (which said last mentioned company has been incorporated by an act of the Legislature of the State of Maryland) or a majority of them, be and they are hereby authorized and required at any time after the Legislature of Maryland, have ratified and adopted this section as hereinafter provided, to call a meeting of the stockholders of the Wilmington and Susquehanna Railroad Company, and the Delaware and Maryland Railroad 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 railroad companies, attending in person or by proxy, shall be competent to decide whether or not the said railroad 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 railroad companies shall be united and together form one body politic and corporate, it shall be 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 Wilmington and Susquehanna Railroad Company and the said Delaware and Maryland Railroad Company shall be, and are hereby created one body politic and corporate in fact and in law, and by the name, style and title of "The Wilmington and Susquehanna Railroad Company," and by and under that corporate name, the holders of the

Meeting of
stockholders.

Notice of
time and
place to be
published.

Union of the
companies.

To be certi-
fied in writ-
ting.

Title of com-
pany.

Powers. stock of the said railroad companies, so enacted 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 railroad companies or either of them, by this or any other law or laws of this State or of the State of Maryland: *Provided*, that the number of directors of the said company created by the said union as aforesaid, shall not be less than nine, nor exceeding fifteen, two-thirds of whom shall always be residents of the States of Delaware and Maryland, and all of them shall be stockholders and citizens of the United States: *And provided further*, that this section shall not go into operation until the Legislature of the State of Maryland shall have ratified and adopted the same.

Proviso as to number of the directors.

Further proviso.

Comm'rs. to estimate damage. SEC. 2. *Be it further enacted by the authority aforesaid*, That whenever it shall in the opinion of the directors of the Wilmington and Susquehanna Railroad Company, be necessary for the said company to enter into and upon and occupy for the purpose of making said railroad, any lands or tenements, they shall signify the same to the commissioners hereinafter named, whose duty it shall be under oath or affirmation, fairly to estimate the damage that may be done to said lands and tenements by such entry and occupation, and to examine and survey the said lands and tenements, and to report the same to the prothonotary of the Superior Court for New Castle county; and it shall be the duty of the said commissioners in estimating such damage, to take into consideration the advantages as well as the disadvantages that will be derived by the owner or owners of the said lands from the said railroad; and upon the return of the said report, and the said company paying to such owner or owners the sum in said report specified, the said company shall become seized of the same estate in the said lands which the owner or owners held in the same. If any such owner shall refuse to accept the said sum when legally tendered, or in case any such owner shall be a minor, feme covert, reside out of the State, or be absent from his residence in the State, the said company, shall cause the said sum of money to be deposited to his or her credit in the Farmers' Bank of the State of Delaware, or the Bank of Delaware, in the city of Wilmington, and such deposit shall operate as a payment to such owner to all intents and purposes; and in case of a feme covert, owner of such lands or tenements, such deposit to her credit shall operate as a payment to her and her husband, and thereupon the said company shall have the right to enter upon, use and occupy the lands and tenements, the damage upon which shall have been so estimated and paid for or deposited as aforesaid. But any owner or owners dissatisfied with any such report may apply to the Superior Court of the State of Delaware, in and for said county, at the next term thereof after the coming in of said report, and the said court may direct a writ of *ad quod damnum* to be issued, commanding the sheriff of said county to inquire by twelve impartial men of his bailiwick, under their several oaths or affirmations, what damages will be sustained by such owner or owners, by reason of said railroad so passing through any lands or tenements belonging to him,

Upon payment made, company to become seized, &c.

Deposit to be made under certain circumstances.

Owners may apply for a writ of *ad quod damnum*.

her or them, taking into consideration all the advantages to be derived to him, her or them, by reason of said railroad, and thereupon the said sheriff shall inquire according to the command of said writ, and make return of such inquiry and of all his doings by virtue of said writ, and upon such return being made, the said company shall pay over to any such owner or owners the excess, if any there be, over and above the sum so paid or deposited as aforesaid, and upon any appeal being so taken as aforesaid by the owner or owners of any such lands or tenements, the said Wilmington and Susquehanna Railroad Company shall give such security as the said court shall direct for the payment of the excess, if any, which may be assessed and awarded by the said sheriff and jury. But in no case after such payment or deposit as aforesaid, of the sum found and reported by the said commissioners, shall the works of the said company be delayed by such application for a writ of ad quod damnum; but the right of entry and occupation in the said company, their servants and workmen, of, in and to, all such lands and tenements, whereof an estimate and report of damage shall have been made by said commissioners, shall on such payment or deposit being made as aforesaid, be lawful and perfect. The costs of the assessment of damage shall be paid by said company in all cases, except where any such owner or owners shall have applied for and obtained a writ of ad quod damnum as aforesaid, and the assessment of damage on said writ has not exceeded the sum reported by the said commissioners, but in such excepted case the party applying for said writ of ad quod damnum as aforesaid, shall pay the costs of the said writ, and of the proceedings thereunder. And whenever the sum deposited under an assessment by the commissioners, shall exceed the assessment on a writ of ad quod damnum, the party shall not receive the excess, but shall be concluded by the last assessment of damage, and shall pay all the costs of said writ and of the execution thereof. Notice to a tenant, or notice left on the demised premises, of the time and place of executing a writ of ad quod damnum, shall in all cases be notice to his landlord, and a notice of ten days shall always be sufficient, if left on the lands, whether personally served on the owner or not. The following persons shall be the commissioners to assess damages, that is to say: Richard Mansfield, Jacob Ferris, John Ginn, Daniel Corbit and William Polk, all of New Castle county, and the act of a majority of them shall be as binding and effectual to all intents and purposes as the act of the whole. Each of the said commissioners shall receive for every whole day, by him devoted to the discharge of the duties imposed upon him by this act, the sum of five dollars, to be paid by the said company, and so pro rata for a less period, and in case of any vacancy occasioned by the death, resignation, inability, removal out of the State, refusal to serve or absence of any one or more of said commissioners, such vacancy shall be supplied by the other commissioners, who shall certify the facts to the prothonotary for New Castle county.

Proceedings
thereon.

No delay to
ensue from
the proceed-
ings.

Costs to be
paid by the
company, ex-
cept, &c.

Party not to
receive any
excess.

Notice.

Comm'rs.

Salary.

Vacancy
how supplied

Sec. 3. And be it further enacted, That so much of the tenth

10th section repealed, section of the act to which this is a further supplement as provides that the dividends on the capital stock of the said company shall not exceed twelve per cent. per annum, and that the contingent fund of the said company shall not at any time exceed one-fourth of the capital stock thereof, and also the twenty-third section of the said act, be and the same are hereby repealed, made null and void.

23d section
also repealed,

Tax of 4 per cent,
First payment,
SEC. 4. *And be it further enacted*, That the said Wilmington and Susquehanna Railroad Company shall pay annually into the treasury of the State, a tax of one quarter of one per cent on the capital stock thereof of four hundred thousand dollars, the said tax to be paid semi-annually on the first day of January, and the first day of July in each and every year hereafter, and the first payment of five hundred dollars to be made on the first day of January next.

Revocation,
Public act.
SEC. 5. *And be it further enacted by the authority aforesaid*, That the power of revoking this act shall be, and is hereby reserved to the Legislature. This act and the act to which it is a supplement, and all other supplements thereto, shall be held in all courts of law and equity in the State as public acts, and shall be considered as evidence without setting them forth in pleading, all former acts or parts of such acts as are inconsistent with or repugnant to any of the provisions of this act, shall be and are hereby repealed.

Acceptance to be sent to the Governor.
SEC. 6. *And be it further enacted*, That the president and directors of the said Wilmington and Susquehanna Railroad Company shall signify their acceptance of this act through their president to the Governor of this State, under the corporate seal of said company, within three months after the passing of this act, to be by him transmitted to the Legislature, otherwise the same shall be void and of no effect.

Passed at Dover, July 24, 1835.



CHAPTER X.

AN ACT to appropriate the moneys in the Treasury of this State.

Paying members,
Printing the Laws and Journals,
SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That so much of the moneys now in, or hereafter to be paid into the treasury of this State, and not otherwise appropriated, as shall be necessary for that purpose, shall be applied, and is hereby appropriated to, and for the payment of, the daily allowance to the members of the Legislature at the present session, their clerks and other expenses, and for printing the Laws and Journals of the Senate and House of Representatives.

Passed at Dover, July 25, 1835.

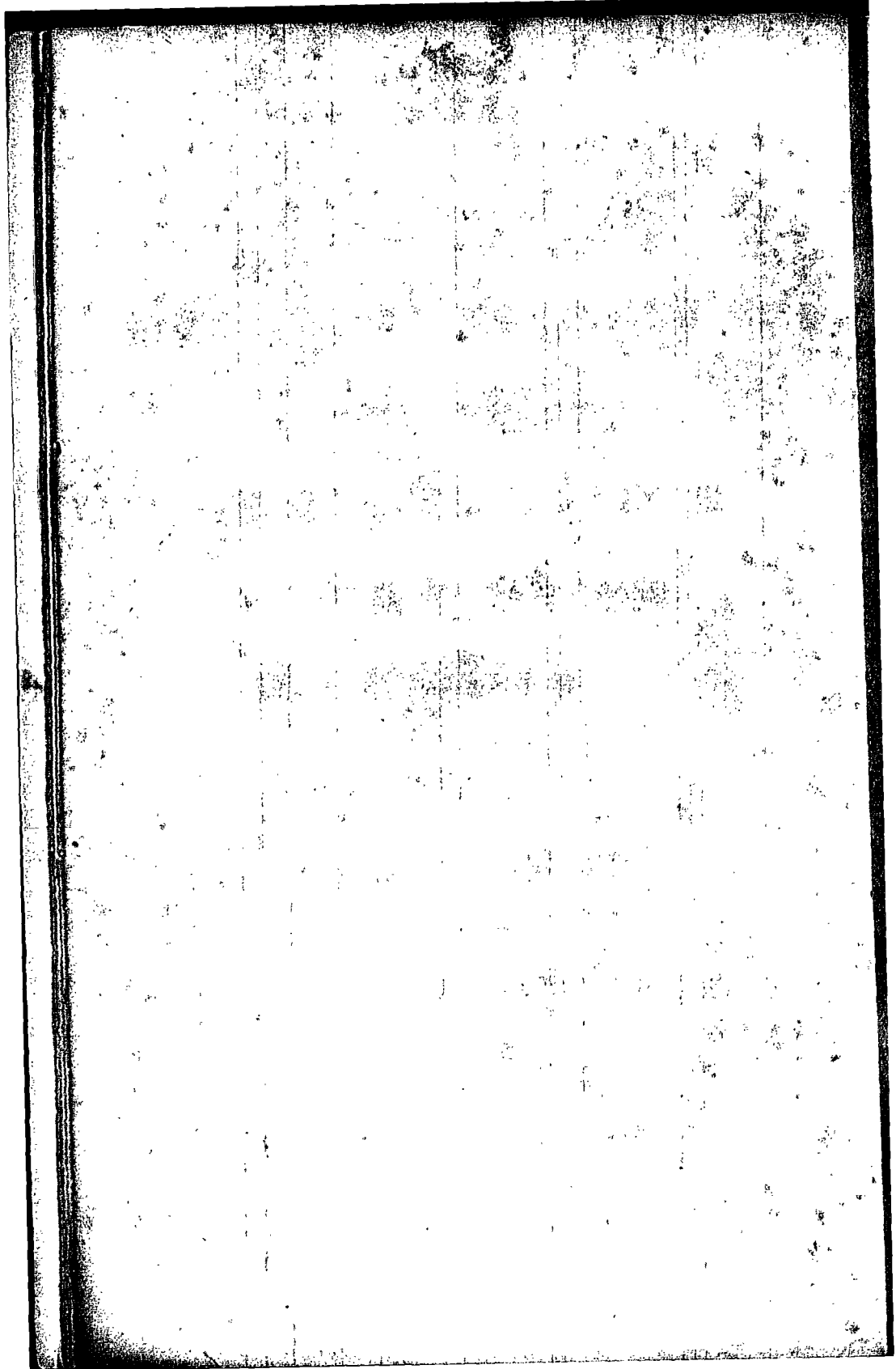
SECRETARY'S OFFICE,

WILMINGTON, *August 10, 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 a special session of the General Assembly, which commenced on Tuesday the twenty-first day of July, and closed on Saturday the twenty-fifth day of July, in the year of our Lord, one thousand eight hundred and thirty-five.

WILLIAM HEMPHILL JONES,

Secretary of the State of Delaware.



L A W S

OF

T H E S T A T E O F D E L A W A R E ,

P A S S E D A T A S P E C I A L S E S S I O N O F T H E

G E N E R A L A S S E M B L Y ,

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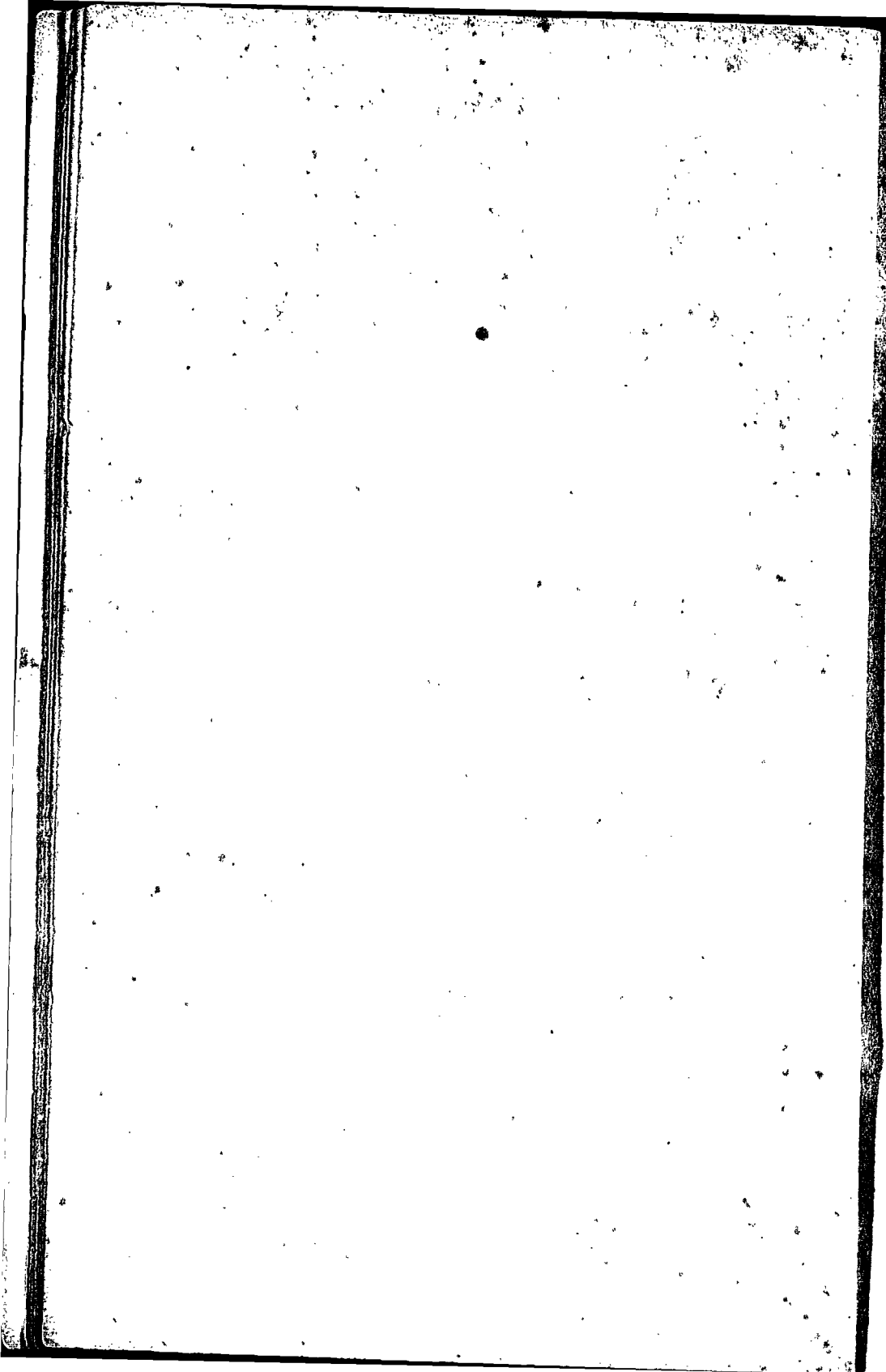
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B Y A U T H O R I T Y .

D O V E R .

P R I N T E D B Y A U G : M . S C H E E .

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LAWS

OF THE

STATE OF DELAWARE.

CHAPTER XI.

AN ACT to incorporate the Delaware Rail Road Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* Commissioners appointed
two-thirds of each branch of the Legislature concurring, that John M. Clayton, William D. Waples, and Richard Mansfield, be, and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: They, or a majority of them, shall, on or before the first Monday in November next, procure a sufficient number of suitable books, which shall be opened at such time or times, place or places, as they shall think proper, in each of which the following entry shall be made: "We whose names are hereunto subscribed, do promise to pay to the President and Directors of the Delaware Rail Road 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 said company, in pursuance of an act of the General Assembly of the State of Delaware, entitled 'An act to incorporate the Delaware Rail Road Company.' Witness our hands, this to open books, day of and their duties therein;
in the year of our Lord one thousand eight hundred and thirty and give notice thereof—: and after giving such notice as to them shall seem proper, they shall permit all persons of lawful age who shall offer to subscribe in the said books, in their own names, or in the name of any other person or company who shall authorize the same for who may subscribe. any number of shares in the said stock. And the said books shall be kept open until there shall have been subscribed forty thousand books to be kept open till 40,000 shares are subscribed; shares; and the said commissioners may adjourn from time to time, Commissioners may adjourn—and transfer the books, &c. and transfer the book or books from place to place, and appoint agents, with power to obtain subscriptions, until the whole number of shares shall be subscribed: 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 Payment on subscribing; travelling expenses of said commissioners and their agents allowed. on each share, for the use of the company. And the travelling expenses of the said commissioners and their agents, actually incurred in endeavoring to procure the said subscriptions, on being properly authenticated to the satisfaction of the Governor, shall be paid by the State Treasurer, on the warrant of the Governor, out of any money in the treasury not otherwise appropriated.

Company in-
corporated.

Title of—
and general
corporate pow-
ers—

Not to exercise
banking pow-
ers.

Meeting of the
subscribers;

Officers, how
to be chosen;

term of office;
to make by
laws.

Meetings of
stockholders;

choosing their
officers;

SECTION 2. And be it further enacted by the authority aforesaid, That when and as soon as twenty 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 Delaware 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.

SECTION 3. And be it further enacted, That the commissioners aforesaid, as soon as conveniently may be after twenty 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 town of Dover, in order to organize 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, being first sworn well and faithfully to discharge the trust reposed in them, shall conduct the business of the said company until the second Monday of January in the year one thousand eight hundred and thirty-eight, 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.

SECTION 4. And be it further enacted, that the stockholders shall meet on the second Monday in January, one thousand eight hundred and thirty-eight, and in every year thereafter, at the town of Dover, 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 one calendar month 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 right of his wife, or of 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 for 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 authenticated by the signatures of two subscribing witnesses to its execution.

SECTION 5. *And be it further enacted,* That the election of officers provided for in the preceding section shall be conducted in the following 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. The president and directors shall always be sworn or affirmed well and faithfully to discharge the trust reposed in them.

Elections for officers, how conducted.

In case of failure to elect, corporation not thereby dissolved—

but to hold other elections, and the officers of the preceding year to continue.

Vacancies, how filled;

Provido.

SECTION 6. *And be it further enacted,* That the said president and directors shall hold their meetings in the town of Dover, or

Meetings, where held;

quorum; such other place as the stockholders shall direct, 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 money 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 authorized to do.

Certificates of stock; SECTION 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 authorized 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.

transferable, and how;

assignee, rights and liabilities of.

Neglect to pay instalments— SECTION 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 cent. 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 sum before paid in part, and on account of such shares, the same shall be forfeited to the said company, 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 payment by any stockholder of any such instal-

forfeiture incurred,

ment as aforesaid, the president and directors may, at their election, cause suit to be brought before any justice of the peace, or in any court having competent jurisdiction 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.

SECTION 9. *And be it further enacted*, That the president and directors 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 by-laws, rules and regulations required for the faithful performance of the several duties and trusts to them or any of them respectively committed.

SECTION 10. *And be it further enacted*, That dividends of so much of the profits of the company as shall appear advisable to the directors, 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 net profits actually acquired by the company, so that the capital stock shall never be thereby impaired: if the said directors shall make any dividends which shall impair the capital 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.

SECTION 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 each 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, like notice as that required for annual meetings, specifying more-over 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.

SECTION 12. *And be it further enacted*, That the said company be and they are hereby authorized, as soon as they conveniently can, to locate and construct a rail road of one or more tracks, from any point on or near the Wilmington and Susquehannah Rail Road or the Newcastle and Frenchtown Rail Road; thence to the southern line of this State in a direction towards Cape Charles or the southern part of the peninsula, via Millsborough, Dagsborough, or otherwise with full power to locate and

quorum;

Secretary to be
appointed;Directors—
powers of.

such other place as the stockholders shall direct, 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 money 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 authorized to do.

Certificates of
stock;transferable,
and how;assignee,
rights and lia-
bilities of.

SECTION 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 authorized 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.

Neglect to pay
instalments—forfeiture in-
curred,

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ment as aforesaid, the president and directors may, at their election, cause suit to be brought before any justice of the peace, or in any court having competent jurisdiction 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.

SECTION 9. *And be it further enacted*, That the president and directors 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 by-laws, rules and regulations required for the faithful performance of the several duties and trusts to them or any of them respectively committed.

SECTION 10. *And be it further enacted*, That dividends of so much of the profits of the company as shall appear advisable to the directors, 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 net profits actually acquired by the company, so that the capital stock shall never be thereby impaired: if the said directors shall make any dividends which shall impair the capital 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.

SECTION 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 each 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 more-over 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.

SECTION 12. *And be it further enacted*, That the said company be and they are hereby authorized, as soon as they conveniently can, to locate and construct a rail road of one or more tracks, from any point on or near the Wilmington and Susquehannah Rail Road or the Newcastle and Frenchtown Rail Road; thence to the southern line of this State in a direction towards Cape Charles or the southern part of the peninsula, via Millsborough, Dagsborough, or otherwise with full power to locate and

lateral branches. construct the said rail road or any lateral projection or projections thereof to the town of Lewes, to the town of Seaford on the Nanticoke River, and to any other points or places within the limits of this State; the said rail road and branches thereof to be of such width as may be proper for the purpose, and 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 lands 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; 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.

Powers to enter upon lands, &c.

Power to erect works, &c.

and to contract with the owner of lands.

Owners of land necessary to be used for said road, on conveying the same to the company, to have certain parts of their other lands exempt from taxation. *Proviso,*

SECTION 13. *And be it further enacted,* That whenever the owner or owners of any land necessary to be used and occupied by the said company for the purpose of locating and constructing said road or any part thereof shall convey a good and perfect title in such land to the said company, in fee simple, for the use of said rail road, such owner shall have and enjoy such part of his other lands, if he have any adjoining the said road, free and exempt from taxation forever: *Provided,* that the quantity of land so exempt from taxation shall never exceed five times the area of the parcel of land so conveyed by him to the said company, and provided further, that such owner shall select the said tract of land, so to be exempt from taxation, within thirty days after the date of his conveyance to the company, and cause the same to be accurately surveyed by an approved engineer of the said company, and the survey to be recorded in the office for the recording of deeds in and for the county where the said lands are situate: *Provided also further,* that the board of directors of said company shall give a certificate to such owner, stating how much land ought to be exempted from taxation in consideration of such owner's grant to the company, and the survey of the land so to be exempt from taxation shall contain no more land than the board of directors shall certify ought to be exempted as aforesaid.

Condemning lands necessary for said road, and assessing the damages; how to be effected

SECTION 14. *And be it further enacted,* That whenever application shall be made for that purpose, by the said company, the five Judges of this State shall appoint five commissioners, and whenever it shall be necessary for the said company to enter in and upon, and occupy 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, the said commissioners on being notified by the said company shall go upon the said lands and assess the damages of such owner or owners on oath or affirmation, fairly and impartially, taking into consideration all the bene-

Commissioners to be appointed; who shall assess the damages.

fits to be derived from, or in consequence of the said rail road to the said owner or owners, and the said commissioners shall certify their finding and award to both parties; whereupon, the said company, on paying the damages so assessed, shall become entitled to have, use and enjoy the said lands for the purposes by them required forever; and in case any owner or owners of any lands necessary for the purposes of said company shall be a minor or non-resident, or for any cause incapable of receiving, or unwilling, or neglecting to receive said damages, or to call on the said company for the same, the said company may deposite the amount of the said damages to the credit of such owner or owners in the Farmers' Bank of the State of Delaware, subject to his, her, or their order, whereupon the said company shall be entitled to have, use and enjoy the said lands and premises required for the purposes of said company, for, or on account of which damages shall have been so assessed, and in the case of the death of any such commissioner, the governor shall appoint another or others to supply the vacancy. The expenses of the assessment of said damages shall always be paid by the said company. Every commissioner shall be allowed the sum of five dollars for every day during which he shall be actually engaged in the service required by this act, and so in proportion for a lesser period.

and certify the same— on paying or deposit in such damages, the company to be entitled to use of the land.

Company to pay the expense of the assessment.

SECTION 15. *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, canal 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, canal or creek for the purpose of letting vessels pass and repass through the same, which draw shall, at all times on the approach of any masted vessel or vessels, be drawn at the cost of the 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 said company shall make such a bridge with a sufficient draw for vessels where the said rail road shall pass the Chesapeake and Delaware canal, as the president and directors of the Chesapeake and Delaware Canal Company shall approve of, and shall keep the same in perpetual repair at their own expense, and shall at all times provide a careful keeper to remove the draw and take care of the bridge, and for every failure in these particulars, they shall pay all damages that shall be suffered by the canal company by reason of such failure, and shall moreover forfeit and pay to the state a penalty of five hundred dollars.

In case the road shall pass over any navigable river, &c. the duty of the company.

or when it passes across a public road, or farm,

or passes the Ch. & Del. canal—duty of the company.

SECTION 16. *And be it further enacted,* That on completion of the said rail road, it shall and may be lawful for the said com-

pany 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 six cents each per mile.

rate of.

For injuries to the road, or obstructions on the same—

penalty.

SECTION 17. *And be it further enacted*, That if any person or persons shall wilfully and knowingly break, injure or destroy the rail road, 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 company three times the actual damages so sustained, to be sued for, and recovered with costs of suit before any justice of the peace, or in any court having cognizance thereof, by action of debt, or on the case in the name and for the use of the said company.

Passing toll-house without paying toll—

penalty.

SECTION 18. *And be it further enacted*, That if the owner or driver of any car, carriage, waggon or conveyance upon the said rail road, or other person, shall pass by any place appointed by the directors of the said company 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 fifty dollars, to be sued for and recovered by said company by action of debt, before any justice of the peace, in like manner and subject to the same rules and regulations as debts under fifty dollars may be sued for and recovered, together with costs of suit.

May form an union with a. other rail road companies in Maryland and Virginia—

or may contract with such companies, &c. for conveyance of passengers, &c. Proviso.

SECTION 19. *And be it further enacted*, That the president and directors of the said company are hereby authorized and empowered to form an union with such companies as are, or may be incorporated in the States of Maryland and Virginia, respectively, for the purpose of constructing rail roads in the said states to unite with the rail road contemplated by this act, 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; or this company may contract with any such company or companies, on any other terms, for the conveyance of passengers and any articles whatsoever, or with any individuals whatsoever, provided such contract be not prohibited by the laws of Maryland or Virginia.

Free from taxation for 50 years.

This act construed favorably, and deemed a public act; and perpetual.

SECTION 20. *And be it further enacted*, That the company hereby incorporated shall be free and exempt from all manner of taxation for any stock, tolls, or other property whatsoever for the period of fifty years from the passage of this act; and that every thing in this act contained shall be construed most favorably for the corporation hereby enacted; that this act shall be forever held and considered as a public act; that this charter shall be perpetual or without limitation as to time; that the said company shall, at

all times, and from time to time, have power to increase its capital stock by additional subscriptions to an amount or to amounts sufficient to effectuate the objects of this act and construct the rail roads contemplated by it, and from time to time to borrow money for corporate purposes or uses, not exceeding in the aggregate or whole amount so borrowed a half a million of dollars.

Power to increase the stock and borrow money—

SECTION 21. *And be it further enacted,* That a sum not exceeding two thousand dollars shall be appropriated out of any money which may be in the treasury not otherwise appropriated, to defray the expense of a reconnoissance and survey of the best routes for the rail roads contemplated by this act, and of an estimate of the cost thereof with a full report to be published showing the advantages of said roads; that the commissioners appointed hereby to obtain subscriptions shall employ suitable engineers to make the said survey, estimate and report, and shall publish the report before opening the books for subscriptions: that the said commissioners shall lay before the next General Assembly a statement of all their doings in the premises, with an account of the sums due and paid to the engineers by them employed, and such engineers shall be paid by warrants drawn by said commissioners, or a majority of them, on the State-treasurer. The acts of a majority of any commissioners to be appointed under this act, shall always be as valid as the acts of all.

Appropriation to defray expenses of survey, &c. Commissioners to employ detail-Engineers to make survey, &c. other duties of commission-ers. Act of a majority of commissioners valid.

SECTION 22. *And be it further enacted,* That it shall be the duty of the president and directors of the said company at all times to invite the co-operation of the states of Maryland and Virginia in the construction of rail roads for the improvement of the peninsula on just and equitable principles, and to grant every facility for transportation and passage to the other citizens of the peninsula as well as those of this state, on the roads to be constructed under the provisions of this act, which can be granted consistently with justice to the said company.

Co-operation of Maryland and Virginia to be invited by the Pres and directors.

SECTION 23. *And be it further enacted,* That the state treasurer be and he is hereby authorized to subscribe for and in behalf of this state, the sum of twenty-five thousand dollars in the capital stock of said company, to be paid in five equal annual instalments, the first instalment to be paid on the fourth day of July in the year one thousand eight hundred and thirty-seven, and the whole sum to be sooner paid, if the legislature shall hereafter so order: and for the purpose of meeting this subscription the sum of money going to the fund for establishing schools in the state of Delaware by the act entitled "An act authorizing a lottery for the benefit of Delaware College and for other purposes therein mentioned" and by said act directed 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" is hereby appropriated: *Provided, nevertheless,* the said investment of the said money shall not have been made in the said "Rehoboth and Cape Charles Canal and Transportation company" within the time designated for that purpose by the said last mentioned act.

State-treasurer to subscribe for the State; how much, &c. appropriation to meet the same.

Power to purchase real estate; build wharves, &c. own steam-boats; and contract with owners of steam boat and rail road companies.

Recording survey; where—&c.

SECTION 24. *And be it further enacted*, That the said company shall have full power to purchase and hold all real estate necessary for the purposes of the said rail roads, or any of their works; to buy and build wharves, houses and shops for corporate purposes; to purchase and hold steamboats, to ply in connection with the said roads to any other place or places whatsoever; and to contract with the owner or owners of any steamboats and any other rail road company for transportation and passage to and from the said roads; and when the final survey of any part of said road shall be made by the company's engineer, such survey shall be recorded in the recorder's office of the county where the land surveyed is situated, and the record thereof shall be evidence of the route and limits of said road.

Legislature may revoke this charter for violations of the same.

SECTION 25. *And be it further enacted*, That in case the said company shall hereafter misuse or abuse the privileges hereby granted, and shall be lawfully convicted of such misuse or abuse, the legislature shall have power to revoke this charter, and to resume the rights and privileges hereby granted.

Governor to fill vacancies among the commissioners.

SECTION 26. *And be it further enacted*, That the governor shall fill any vacancy occurring by the death, resignation, or otherwise, of the commissioners named in the first section of this act.

Passed at Dover, June 20th, 1836.

CHAPTER XII.

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

3 vol. p. 170, chap. lxxviii.

Preamble.

WHEREAS, in pursuance of an agreement by and between the Chesapeake and Delaware Canal Company and John Randel, junior, and the other creditors and loan-holders of said company, this Legislature hath been requested by the said parties to enact the following provisions: *And whereas*, the public interest will be best consulted by the settlement of all controversies between the said parties on just and equitable principles: Therefore,

Power to fund the debts of the company given

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall and may be lawful for the Chesapeake and Delaware Canal Company to fund all the debts now due by said company to creditors whose debts are secured, or supposed to be so, by judgments or mortgages, or are evidenced by certificates issued by said company, or due in any other way, or for any cause or contract whatsoever, including the judgment obtained by John

Randel, junior, against the said company in the Superior Court of the State of Delaware, for two hundred and twenty-six thousand eight hundred and eighty-five dollars, eighty four cents, with lawful interest from the twenty-fifth day of January eighteen hundred and thirty-four.

SECTION 2. *And be it enacted*, for the purpose of so funding their said debts, it shall be lawful for the said Chesapeake and Delaware Canal Company to grant and issue to each and every of its said creditors a certificate of debt for the amount due to such creditor, which amount shall be ascertained in each case by adding to the principal sum all arrearages of interest now due, and all interest to become due, at the rate of six per cent. per annum up to the first day of July eighteen hundred and thirty-six, except in the case of the said John Randel, junior, whose certificate of debt, or the aggregate of whose certificates, if he shall prefer to have the amount subdivided into several certificates shall amount to the sum of two hundred and twenty-nine thousand, eight hundred and twenty dollars, which shall be taken to be the amount due to him exclusive of costs, as of the said first day of July eighteen hundred and thirty-six, after deducting all claims of the company against him, and shall after payment of costs as agreed by the parties, be received by him or his assigns in certificates as aforesaid, in lieu of all demands against the said company, and shall be considered as a final and absolute adjustment of all pending suits, causes of action, and matters in variance between the said John Randel, junior, and the said Chesapeake and Delaware Canal Company, or between him and the directors, agents, committees, creditors, garnishees or any of them of said company, and every other person having acted on behalf of said company.

Certificates of debt to be issued to the several creditors—
certificates to be issued to John Randel, jun.—
the amount thereof;
to be conclusive, &c.

SECTION 3. *And be it enacted*, That the said certificates and every of them shall, at all times, be good and valid evidences of debt against the said company, and shall be deemed and taken to be in all courts of justice in this commonwealth and elsewhere, as fully as if the debts had been created and the certificates provided for in the original charter of the said company, and each of the said certificates and the whole of the said funded debt or debts which they represent shall bear interest at the rate of six per cent. per annum, payable at the office of the said company in Philadelphia, on the first days of January and July in each and every year, and every portion of the said funded debt and the certificates representing the same, except the said portion of the said John Randel, junior, shall be irredeemable by the said company until the expiration of twenty years from the said first day of July eighteen hundred and thirty-six; and shall, during that period, be convertible into capital stock of the said company at the will of the holder; and if there shall, at any time, be a deficiency in the means of the said company to pay the whole of the said semi-annual interest upon the whole of the said funded debt, then and in such case the holders of the certificates to be issued for the said John Randel, junior's portion, of two hundred and twenty-nine thousand eight hundred and twenty dollars shall be entitled to be

Certificates to be good evidence of debt;
and bear interest—
irredeemable for 20 years—except as to J. Randel, jr.
convertible into
Randel's debt preferred as to payment of interest—

interest to be
paid before di-
vidends.

paid the full interest due upon each and every of their said certificates, so far as the means of the said company may go, before it shall be lawful for the said company to pay any portion of the interest which may be due upon any other part of its said funded debt, nor shall it ever be lawful for the said company to pay any dividend of profits to the stockholders or any of them, until all the interest due upon the whole of its said funded debt shall have been paid or set apart or provided for.

The funded
debt of J. Ran-
del, jr. redeem-
able—

when,

by whom.

in what man-
ner,

Proviso.

SECTION 4. *And be it enacted*, That the said debt of two hundred and twenty-nine thousand, eight hundred and twenty dollars, so as aforesaid to be funded on account of the said John Randel, junior, shall be redeemable at any time within five years from the first day of July eighteen hundred and thirty-six, and it shall be lawful for the said company or for any person or persons by them employed and empowered upon such terms as may be mutually agreed upon, to redeem the said debt, or any portion thereof, from time to time, at any time within the said period, at par: and for that purpose to give notice of their intention so to do, of not less than thirty, nor more than sixty days, in two daily newspapers published in the city of Philadelphia, in two published in the city of Baltimore, and in one published in the state of Delaware; and the said redemption shall be by payments to be made at the office of the company in the city of Philadelphia upon presentment and surrender to the company of the certificate or certificates of the portion to be redeemed. And all interests and right to claim the same by any holder of any portion of the said John Randel, jr.'s funded debt, who shall fail to present his certificate as aforesaid, or shall refuse or neglect to accept payment, shall cease from, and immediately after the day appointed for redemption, and in lieu of the notice aforesaid, a personal notice shall be deemed sufficient, or an advertisement in two of the daily newspapers of the place in which the holder of the portion or portions intended to be redeemed shall reside. *Provided, however*, that this right of redemption shall always be exercised only at the time of a semi-annual payment of interest falling due, *and provided further*, that the said John Randel, junior, or any of the holders by assignment or transfer of any part of the said debt so funded for his benefit shall not be required to receive at one time a less sum than ten thousand dollars, unless the portion or share so to be redeemed, and which may be held at any time by the said John Randel, junior, or by any other person by assignment or transfer, shall be less than that sum.

If the debt of
Randel be not
redeemed;

remedy by dis-
tress and sale
given;

SECTION 5. *And be it enacted*, That if the said debt of the said John Randel, junior, and his assigns, be not redeemed within the said period of five years from the first day of July, eighteen hundred and thirty-six, it shall and may be lawful for the holder of any portion thereof, at any time after that period, to proceed, by way of distress and sale, to sell the said canal and any property belonging to the said company wheresoever the same may be found, or so much thereof as shall be necessary to redeem the portion of debt held by him; the proceeds of sale to be first applied

to the payment of said debt: *Provided*, that no such proceeding ^{after notice} shall be instituted until after forty days' written notice to the pre-^{given—}sident and directors of the said company, and a like notice published in at least two newspapers in the city of Philadelphia, and at least two newspapers in the city of Baltimore. And the said ^{His debt pre-}debt so funded for the benefit of the said John Randel, junior, and ^{ferred,} any and every portion thereof, shall have priority and precedence over any and every other debt, claim, mortgage, judgment and incumbrance, whatsoever and wheresoever, of the said company, now or hereafter made, created, or entered into, and interest at the rate of six per cent. per annum shall be payable and paid semi-^{and interest} annually as hereinbefore provided for, upon the said sum and every ^{thereon;} part thereof so funded for the benefit of the said John Randel, jr., in whosoever hands it may be, in preference to all other creditors whatsoever; and at the expiration of the said term of five years ^{payment there-}the whole of the debt due to the said John Randel, junior, or any ^{of preferred;} holder of any portion thereof shall be paid in preference to any other creditor or creditors whatsoever as aforesaid, and if not then redeemed, then no other debts, the funding of which is hereby intended to be provided for, and no other loan to be created or raised under this act shall be redeemed in whole or in part until the whole of the said funded debt of the said John Randel, junior, be first paid and redeemed; and if to the said company it shall seem good to redeem the said debt as hereinbefore provided for by ^{company may} or through any other person or persons, they shall have the pow-^{redeem by o-}er, and it shall be lawful for them to create and give to such other ^{ther persons—}person or persons a certificate or certificates of stock for such ^{how,} amount as they may agree upon, to be made irredeemable as long ^{and the effect} as they may deem proper, and to have such priority and security ^{thereof.} as are herein given to the said Randel funded debt, or such other as to the said parties may seem best; and the holders of the redeemed certificates shall, if required so to do, transfer them to such persons as the board of directors of said company may indicate.

SECTION 6. *And be it enacted*, That the certificates to be issued ^{Form of the} by the said Chesapeake and Delaware Canal Company for the ^{certificates;} purposes aforesaid shall be in such form as may by them be deemed best, and most in accordance with usage in similar cases; but the certificate or certificates to be issued for the benefit of the said John Randel, junior, and all the certificates, by whomsoever holden, which shall represent any portion of that debt, shall contain upon the face the words "*Entitled to priority of payment and transferable;*" and all the said certificates of either or any description so to be issued, shall be transferable in whole or in part by the holder in person, or by attorney duly constituted, upon the books of the said company, in presence of its president or secretary, and upon the surrender of the old certificates in lieu of which new ones to the proper amount shall be issued.

SECTION 7. *And be it enacted*, That any holder of a certificate ^{Holders of the} for any portion of the debt so as aforesaid to be secured to the said ^{Randel certi-} John Randel, junior, shall have the right, at any time within five ^{cates may sur-}render the

same—
when,

and take new
certificates, ir-
redeemable, &c.

Proviso.

years from the said first day of July, eighteen hundred and thirty-six, and while the same remains unredeemed as aforesaid, to waive his right of priority of payment as hereinbefore provided for, by surrendering to the said company his said certificate of preferred debt, and taking out in lieu thereof another certificate of the same description with those hereinbefore provided for the other creditors of the said company whose debts are to be funded: in which case the new certificates thus to be received shall, like the said other certificates of other creditors, be irredeemable within twenty years from the said first day of July, eighteen hundred and thirty-six, and shall at any time within that period be convertible into capital stock of the company at the will of the holder: *Provided*, that the right given by this section shall not exist after notice shall have been given by the company in manner hereinbefore provided for, of their determination to redeem any such certificate or portion of said preferred debt, nor shall the certificate or certificates to which said notice shall apply be thenceforward transferable until the company shall have neglected to redeem the debt thereby secured in pursuance of such notice. But if the said company shall refuse or neglect to redeem at the appointed time, then the transferability of such certificate or certificates shall revive from the period of such refusal or neglect, and be in full force, as if no such notice had been given.

Tolls, how and
in was propor-
tions applica-
ble to the other
creditors;

subject to the
priority of the
Randel debt.

No dividends
to be made un-
til all interest
paid:
Nor shall in-
terest be paid
to loan holders
until, &c

Judgments and
other evidences
of debt to be
delivered up,
&c.
exception as to
Randel—

SECTION 8. *And be it enacted*, That all the other creditors and holders of certificates herein provided for, except the said John Randel, junior, and those who may hold the certificates of his preferred debt, shall be entitled to a proportional share without any priority among themselves of the net proceeds arising from the tolls after deducting all expenditures to be authorized by the company or board of directors or the stockholders according to the charter to an extent sufficient to cover at all times the interest due on their said certificates; subject always to the established priority and precedence secured as aforesaid to the amount of the debt to be funded for the benefit of the said John Randel, junior, and his assigns. And it shall not be lawful for the said company to make or declare any dividend to or among its stockholders, or any of them, at any time while any portion of such interest shall remain unpaid and unprovided for; nor shall interest be paid to any person now a loanholder, or holder of a certificate for money borrowed, whether secured by mortgage, or judgment, until such person shall have surrendered or offered to surrender such existing certificate, and have taken out, or offered to take out and receive, the new certificates herein provided for.

SECTION 9. *And be it enacted*, That all judgments, vouchers of, or bonds for debts or claims shall be mutually satisfied, extinguished, or delivered up contemporaneously with the delivery by the said company of certificates of funded debt as aforesaid, save and except that while the debt of the said John Randel, junior, remains unsatisfied, or the certificates representing it unredeemed, his said judgment in the superior court of the state of Delaware shall be and remain as a collateral security for the amount of the

said debt and said preferred certificates, and of the priority herein given; but the same shall be vacated, if required, whenever the said preferred debt is redeemed, or whenever all the other creditors shall have taken out certificates as herein provided for. But in the mean time an entry shall be made on the record of the said judgment by the clerk of the said court, stating that it is held and continued alive for the purposes expressed in this section; and if the said company shall, through the medium of other persons, as hereinbefore provided, cause the said preferred debt to be redeemed, and shall create a new set of certificates, or negotiate a loan for said purpose, the said judgment shall remain as a security for such new loanholders, if the said company shall so contract with them; and in such case it shall be the duty of the said John Randel, junior, to execute such transfers, and agree to such entries upon the said record, and of the said clerk to make such entries as may be necessary and proper to effectuate this purpose.

His judgment to remain as a collateral security. An entry to be made on the record of his judgment.

SECTION 10. *And be it enacted*, That the said Chesapeake and Delaware Canal Company shall have right and power to borrow money— from time to time, all such further sums of money as may be deemed necessary by the directors, and be agreed to by a majority in interest of stockholders and loanholders assembled or represented at meetings duly called for that purpose in order to accomplish any of the objects of this act, or to improve, enlarge and perfect the said Chesapeake and Delaware Canal navigation, or for any other purpose which may be deemed advisable without affecting the priority of said Randel funded debt, upon such terms as may be agreed upon by the lenders and the said company, and to issue certificates for such new loans which shall bear interest, be transferable, convertible and redeemable, or otherwise, according to the contract between the parties.

May borrow money— for what purposes.

SECTION 11. *And be it enacted*, That in all elections to be held for president and directors of said company after the sixth day of June in the present year, and at all meetings of stockholders to be called upon the business of the company, the holders of any certificates of debt herein provided for, and of any to be created by virtue of future loans, shall be entitled to participate and to vote in person or by proxy, and in voting shall have the same rights and privileges as the stockholders; and in estimating the number of votes which any holder of a certificate shall be entitled to give, every two hundred dollars of the amount held by such person shall be taken and estimated as equal to one share of the stock: *Provided always*, that no person shall be entitled to vote upon any certificate which such person shall not have held at least two months before the election, or the meeting of business at which his vote may be offered; nor shall any vote by proxy be received, unless such proxy shall have been created within ninety days next preceding that on which such vote shall be tendered.

Holders of certificates of debt right to vote; how many votes.

SECTION 12. *And be it enacted*, That at all elections for president and directors to be held after the sixth day of June in this

Directors to be chosen;

quorum;
vacancies.

present year there shall be chosen fourteen directors, who, together with the president, shall constitute the board of president and directors, any eight of whom shall constitute a quorum; and if at any time hereafter a vacancy shall occur in the board by death, it shall be lawful for the remaining members to fill the same by electing a person to serve until the next general meeting of proprietors.

*Passed * at Dover, June 15th, 1836.*

CHAPTER XIII.

Digest, 97, 98. **A SUPPLEMENT to the Act entitled “An act for expediting suits against corporations.”**

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That when and as soon as the Chesapeake and Delaware Canal Company shall accept as a part of their charter, the act entitled, *Fourth sec. &c., repealed—upon condition.* “A further additional supplement to the act entitled ‘An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake Bay and Bay or River Delaware or the waters thereof,’” passed at the present session; the fourth section of the act to which this is a supplement, and so much of any other act or acts of the Legislature of this State as authorizes the attachment of the tolls of the said corporation, shall be, and the same are hereby repealed, made null and void: *Proviso.* *Provided,* that nothing in this act shall extend to the repeal of any part of said last mentioned acts, except so far as the same apply to the said corporation.

Passed at Dover, June 15th, 1836.

CHAPTER XIV.

AN ACT to incorporate “The Agricultural Society of New-castle County.”

Incorporation. **SECTION 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 James Canby, William Chandler, John C. Clark, James J. Brindley, James W. Thomson, Edward Tatnall, Thomas Stockton, William Herdman, Justa Justis, William J. Hurlock, Philip Reybold,

*Passed by the *unanimous* vote and concurrence of both branches of the legislature. Vide Journal of the Senate and House of Representatives.

William Gibbons, Henry Dupont, Alexander Read, Charles Dupont, Colonel Thomas Robinson, Allen M'Lane, Henry Whiteley, Samuel Wollaston and other subscribers to the Agricultural Society of Newcastle County and their successors, shall be and are hereby created and made a corporation and body politic, by the name and style of "The Agricultural Society of Newcastle County," 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, real and personal, to sue and be sued, plead and be impleaded, answer and defend, be answered and defended in courts of law and equity, or in any place whatever, to receive and make all deeds, transfers, contracts, covenants, conveyances and grants whatever, 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 or proper to carry into effect the provisions of this act: *Provided always*, that the said corporation shall not, at any time, hold more than one thousand acres of land, and that the personal property of the said corporation, shall not exceed the sum of fifty thousand dollars.

Title.

General corporate powers.

Proviso.

SECTION 2. *And be it further enacted*, That the said corporation shall, annually, on the second Saturday of October, 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 the following officers: a president, ten vice-presidents, a corresponding secretary, a recording secretary, a treasurer, a counsellor, and a board of eighteen directors to hold their offices for the term of one year, or until others shall be chosen. The said board of directors, during their term of service, shall have the sole management and direction of the concerns of the said corporation, and are hereby authorized to make, from time to time as they may deem expedient, such by-laws or rules for the regulation and government of themselves and the members of the said corporation, and for the regulation and government of the affairs of the said corporation, and the same to change, add to or amend as may appear necessary and 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 authorized to make or issue any bills or notes in the nature of bank notes, and shall be limited and restricted in their business and objects to agricultural matters, including horticulture, the rearing of silk, and the breeding and improvement of horses and cattle.

Officers—
Directors, their powers.

By-laws.

Proviso.

Not to have banking powers, &c.

SECTION 3. *And be it further enacted*, That the president, vice-presidents, secretaries, treasurer, counsellor and directors of the association hereby incorporated which were chosen at a meeting of the said association held at the Town-hall in the city of Wilmington, on Saturday the seventh day of May last, shall be and remain the officers of the said corporation until other officers shall be chosen according to the provisions of this act, and that the said board of directors shall possess all the powers hereby

Officers here-
tofore elected
to continue un-
til, &c.;

their powers.

Constitution.

vested in the board of directors by the second section of this act; and the constitution of the said association adopted at the said meeting, held on Saturday the seventh day of May last, shall be and remain the constitution of the said corporation, until the same shall be altered by future by-laws, to be made by the said board of directors, according to the provisions of the second section of this act.

Public Act.
Revocable by
the Legisla-
ture.

SECTION 4. *And be it further enacted*, That this act shall be deemed and taken to be a public act, and that the power to revoke the same, at any time hereafter, is hereby reserved to the Legislature.

Passed at Dover, June 16th, 1836.

CHAPTER XV.

AN ACT *to authorize the Recorder of Deeds of Sussex County to procure a new seal for his office.*

Recorder of
deeds for Sus-
sex county to
procure a new
seal.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the recorder of deeds in and for the county of Sussex, shall be and he is hereby authorized to procure for his office as soon as may be, a seal of steel or brass, to be made of the size, and engraved with the device of the seal now in use in said office; and the said seal when made and engraved as herein directed, shall be taken, adjudged and deemed to be the seal of the office to which it belongs, and it shall be affixed to all writings, papers and copies where a seal of office is required; and immediately after such new seal shall have been procured, the seal heretofore used as the seal of said office shall be delivered by the said recorder to the sheriff of Sussex county, to be by him broken.

The old seal to
be broken.

Passed at Dover, June 16th, 1836.

CHAPTER XVI.

Del. Laws, AN ACT *to authorize the widening of Water street, in the*
vol. 8, chap.
cviii. p. 97. *city of Wilmington.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the city council of Wilmington shall have power to increase the width of Water street in the said city, from the eastern side of Orange street along the whole length of Water street, eastwardly.

Width of Wa-
ter Street may
be increased.

to that point of the said street where the Wilmington and Susquehanna Rail Road curves off from the said street towards the Brandywine creek; and that the additional width of the said street shall be obtained by extending it twenty-two feet on the south or lower side of the said street beyond its present southern limit, so as to make the said street within the above-mentioned limits fifty-five feet in width.

SECTION 2. *And be it further enacted,* That the pavements or Pavements and footways of the said street within the limits where it shall be so footways. widened shall not exceed eight feet in breadth, any law to the contrary notwithstanding.

SECTION 3. *And be it further enacted,* That before any pro-Private proper-
erty shall be taken or occupied for widening the said street, the ty not to be
owner or owners of the property or ground which it is intended taken or used,
so to take or occupy shall be paid or tendered the value of the said until the owner
property or ground, to be ascertained by five impartial freeholders is paid dama-
of New Castle county, not inhabitants of the said city, or a major- ges therefor.
ity of them, to be summoned by the sheriff of the said county, in Damages how
pursuance of a warrant or precept under the hands of the mayor assessed.
and alderman and the seal of the said city, who are hereby autho-
rized and required to grant the same, and to which the said sheriff
is hereby ordered and required to pay due obedience; and the said
freeholders or any three of them are to view the property to be so
taken or occupied, and taking into consideration the advantages, as
well as disadvantages, which may arise to the property by reason
of the widening of the said street, shall assess the damage which
may be done to the said property, and return the same under oath
or affirmation to the city council, who are to cause the said return
to be entered on the minutes of the said council, and upon payment
or tender of the said assessed damage to the owner of the property,
the said property may be taken or occupied for the purpose afore-
said.

SECTION 4. *And be it enacted,* That if any owner or owners of If the owner
any of the property that shall be so taken or occupied shall be dis- be dissatisfied
satisfied with the said assessment, said owner or owners may apply with the as-
to the superior court of the state of Delaware in and for Newcastle assessment, a
county, and the said court may direct a writ of 'ad quod damnum' writ of ad quod
to be issued, commanding the sheriff of the said county to inquire damnum shall
by twelve impartial men of his bailiwick under their several oaths issue, &c.
or affirmations, what damages will be sustained by such owner or
owners by reason of widening the said street, taking into consi-
deration the advantages as well as disadvantages which may arise
to the property by reason of widening said street as aforesaid: and
thereupon the said sheriff shall inquire according to the command of
the said writ, and make his return of his proceedings under said
writ, and when the return and proceedings of the sheriff under the
writ shall be confirmed by the court, it shall be final and conclu-
sive upon all parties.

Passed at Dover, June 17th, 1836.

CHAPTER XVII.

Del. Laws, A FURTHER SUPPLEMENT to an act entitled "*An act to*
 8 vol p 107, *incorporate the Wilmington and Susquehanna Rail Road*
 chap cx. *Company.*"

Increase capi- SECTION 1. *Be it enacted by the Senate and House of Repre-*
 tal stock, *sentatives of the State of Delaware, in General Assembly met,*
 or borrow mo- That the Wilmington and Susquehanna Rail Road Company shall
 ney. have power to increase the capital stock of the said company, or to
 borrow such sum or sums of money as shall be necessary to com-
 plete the rail road from the line of Pennsylvania and Delaware to
 the Susquehanna river, and to erect the necessary and appropriate
 buildings, and supply locomotive engines, cars and steamboats, for
 the proper transportation of passengers, goods, wares and mer-
 chandize: *Provided*, that the power herein granted shall be limit-
 ed to the purposes mentioned, and that the money to be raised,
 either by loan or increase of capital, shall not exceed three hun-
 dred thousand dollars, *and provided also*, that the right of taxing
 the said sum, when it shall become a part of the capital stock of
 the said company, shall be reserved to the legislature.

Proviso.
 Limitation.
 Taxation.

Passed at Dover, June 17, 1836.

CHAPTER XVIII.

AN ACT to authorize John Stradley, minor, or his guardian,
 to erect a gate across a public road therein described.

Authorized to SECTION 1. *Be it enacted by the Senate and House of Repre-*
 erect a gate a- *sentatives of the State of Delaware, in General Assembly met,*
 cross public That it shall and may be lawful for John Stradley, minor, or his
 road. guardian, or other person in possession, to erect and place a gate
 across the public road through Mispillion neck, leading from Fre-
 derica to the Delaware bay, through lands of the said John Strad-
 ley, at or near the place where the said road crosses a canal or
 ditch leading from Baucum-Brig Gut to Murderkill creek.

Penalty for in- SECTION 2. *And be it further enacted*, That if any person
 jury to the or persons shall destroy or injure the said gate, or pass through
 same. without passing through, he, she or they so offending, for every
 offence, shall 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; and shall also pay to the
 person or persons injured all damages that may be sustained by
 reason of such neglect or wilfulness: *Provided*, nevertheless, it

Proviso.

shall be the duty of the said John Stradley, minor, and his guardian, and other person in possession of the lands of said John Stradley, and of each of them, to keep the said gate in good repair, and in such manner as shall be most convenient for the citizens or persons passing or repassing through the same to open and shut the same.

Passed at Dover, June 17, 1836.

CHAPTER XIX.

AN ACT to enable William Inskeip, of Newcastle county, to raise his mill dam, and for other purposes therein mentioned.

(Private act.)

Passed at Dover, June 17, 1836.

CHAPTER XX.

AN ACT providing for the sale of certain houses and lots of land in the city of Wilmington, belonging to Harriet Broom, a lunatic, now residing at Washington city.

(Private act.)

Passed at Dover, June 17, 1836.

CHAPTER XXI.

AN ACT for the relief of John Lamb, a non-resident insolvent debtor.

(Private act.)

Passed at Dover, June 17, 1836.

CHAPTER XXII.

A FURTHER ADDITIONAL SUPPLEMENT to an act entitled "An act to extend the time for recording of deeds." 8 vol. p. 273, chap. 265.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, Time for recording extended.
That all deeds or letters of attorney concerning lands, tenements, ded.

LAWS OF THE STATE

or hereditaments, sealed and delivered before the first day of September, one thousand eight hundred and thirty-five, 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 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 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-seven, and the said record, or a 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-five, shall be recorded.

Duty of Sec. of State to publish, &c. SECTION 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 August next, a copy of this act in two or more newspapers printed within this state.*

Passed at Dover, June 17th, 1836.

CHAPTER XXIII.

8 vol. p. 50, chap. lxix. A SUPPLEMENT to the act entitled "*A supplement to an act entitled 'An act ceding 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.'*"

Repeal of part of sec. 1; and of sec 2. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the provisions of the first section of the act to which this is a supplement, which allows the sweeping for and taking possession of any anchors, chains, cables or buoys, between the first days of November and April, and the second section of said act, which limits the operation of said law, be, and the same are hereby, repealed, made null and void.*

Passed at Dover, June 17th, 1836.

CHAPTER XXIV.

A SUPPLEMENT to an act entitled "*An act to revive and renew the act entitled 'An act to incorporate the Brandywine and Christiana Manufacturing Company, and to extend to the provisions of the same to the corporation in and by this act created.'*"

SECTION 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 name of the Brandywine and Christiana Manufacturing Company be changed to "The Brandywine Manufacturing and Banking Company," and that all the powers, privileges, rights, immunities and capacities granted by the act to which this is a supplement, and which are not herein and hereby enlarged, restricted, or otherwise altered, be transferred to and conferred upon the said "Brandywine Manufacturing and Banking Company."

SECTION 2. *Be it further enacted,* That the capital of the said Brandywine Manufacturing and Banking Company shall be and not exceed one million of dollars, divided into shares of fifty dollars each, and be certified, held and assignable according to the provisions of the by-laws of the company.

SECTION 3. *Be it further enacted,* That the estate and property of "The Brandywine and Christiana Manufacturing Company" described in the first schedule hereunto annexed shall, at a valuation thereof to be made in writing by Edward Tatnall, Alfred DuPont, John Gordon, James Price, Thomas Robinson, Charles I. DuPont, Samuel Baily, William Polk, Daniel Corbit and Richard Mansfield, or a majority of them, become the property of this company and constitute part of the capital stock thereof, and that certificates for shares of fifty dollars each shall be issued to the present stockholders of the said "Brandywine and Christiana Manufacturing Company" to the extent of the value of their respective interests in the said company for the aggregate amount of said valuation, upon execution by them of a proper and legal conveyance of all the said estate and property to the corporation created by this supplement; and also that the estate and property described in second schedule hereunto annexed, as the property of James Canby, shall become the property of this company, and constitute a part of the capital stock thereof, at a valuation thereof to be made in writing by Edward Tatnall, Alfred DuPont, John Gordon, James Price, Thomas Robinson, Charles I. DuPont, Samuel Bailey, William Polk, Daniel Corbit and Richard Mansfield, or a majority of them, and that certificates for shares of fifty dollars each as shall amount to the valuation last mentioned shall be issued to the said James Canby upon the execution by him of a proper and legal conveyance to the company of the estate and

or hereditaments, sealed and delivered before the first day of September, one thousand eight hundred and thirty-five, 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 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 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-seven, and the said record, or a 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-five, shall be recorded.

Duty of Sec. of State to publish, &c. **SECTION 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 August next, a copy of this act in two or more newspapers printed within this state.

Passed at Dover, June 17th, 1836.

CHAPTER XXIII.

8 vol. p. 50, chap. lxix. **A SUPPLEMENT** to the act entitled "*A supplement to an act entitled 'An act ceding 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.'*"

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Passed at Dover, June 17th, 1836.

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Residue of capital stock— property described in the said second schedule; and for the purpose of obtaining subscriptions to the residue of the stock of the company, Doctor James W. Thomson, John H. Price, John Gordon, James A. Bayard, Stephen Bonsall, David C. Wilson, Peter Keyser, Charles W. Churchman, Isaac Starr, John White, Thomas Gilpin, Erasmus D. Wolf, William A. Budd and Samuel Comly are hereby appointed commissioners; and they or any three of them are hereby authorized and empowered to procure a sufficient number of suitable books, and cause the same to be opened at such place or places as they shall determine in the city of Wilmington, and in the city of Philadelphia, on Wednesday, the twelfth day of October next ensuing the passage of this act, for the purpose of receiving subscriptions to the residue of the said shares of the capital stock; in each of which books they shall enter as follows:

when, and where—

and how to be opened— “We whose names are hereunto subscribed do promise to pay to ‘The Brandywine Manufacturing and Banking Company’ the sum of fifty dollars for each and every share of stock set opposite to our respective names, in such manner, proportions, and at such times as shall be directed by the president and directors of the said company.”

And the said commissioners shall cause advertisements to be inserted in two newspapers printed in the city of Wilmington, one in the town of Newcastle, and two or more printed in the city of Philadelphia, of the place or places, day and hour, when and where the said books are to be opened, at least fifteen days before the said twelfth day of October, at which place and time two or more of the said commissioners shall attend and permit all free white persons of lawful age, who may offer to subscribe in said books in manner following, that is to say: On the first day on which said books are opened, no person shall subscribe for more than five shares, either in his own name, or as attorney for another; and on the second day no person shall subscribe for more than ten shares, either in his own name or as attorney for another; and if at the expiration of the second day, the residue of the shares of the said stock 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 names or as attorney for another, to subscribe for any number of shares of the said residue of the shares of the said stock, until the whole number of shares thereof shall be subscribed: and the said books shall be kept open at least six hours in each day for the space of at least ten days, unless the said shares shall be sooner subscribed, and when the said residue of shares is subscribed, the said books shall be closed. No subscriptions shall be received by the commissioners unless the person offering to subscribe shall pay to the commissioners at subscribing the sum of five dollars, in gold or silver, or notes of some specie-paying bank, on each share by him or her subscribed, for the use of the company: but nothing in this act contained shall be construed to prevent any of the said subscribers from paying to the said commissioners at the time of subscribing the full sum of fifty dollars on each and every share by him or her subscribed, for the use of the company; the said payment to

who may subscribe; for how many shares:

how long books to be kept open; when to be closed;

payment on subscribing;

be made in gold or silver, or notes of some specie-paying bank. In case the whole of the said residue of said shares be not subscribed for as aforesaid at the expiration of the said tenth day of opening the said books, then the said commissioners, or a majority of them, before the said company shall have gone into operation, and after the said company shall have gone into operation, then the president and directors of the said company shall have the right and power, if they deem proper, to sell and dispose of any part or portion of said residue of said shares which shall not have been subscribed for as aforesaid, by way of public auction, to the highest and best bidder or bidders for the same, to and for the use and benefit of the said corporation, after first giving ten days' public notice of the time and place of such sale or sales by advertisements to be inserted in two newspapers printed in the city of Wilmington, and two or more newspapers printed in the city of Philadelphia; and the purchaser and purchasers of said stock at any such sale shall be and become stockholders of the said company for and according to the number of shares so by them purchased as aforesaid, respectively, in the same manner as if they had taken the same by subscription as herein aforesaid: *Provided, nevertheless*, that the said shares of stock shall not be sold and disposed of at any such sale for less than fifty dollars for each and every share so to be sold as aforesaid.

SECTION 4. *And be it further enacted*, That the said commissioners, as soon as conveniently may be after the said residue of the shares is subscribed as aforesaid, shall give ten days' notice in two newspapers printed in the city of Wilmington, one printed in the town of New Castle, and two printed in the city of Philadelphia, of the time and place in the city of Wilmington at which the said subscribers shall meet in order to organize the said company; and the commissioners, or any two of them, may hold the election, at which time and place the said subscribers shall choose by a majority of votes, to be given in person or by proxy, seventeen directors, a majority of whom shall be residents of this state, and all of them stockholders and citizens of the United States; and the said directors at their first meeting after the said election shall choose one of their number as president of the said company; and the said president and directors when chosen shall have authority to appoint such other officers and agents as shall be deemed necessary and proper for conducting the business of the company; and they shall transact and direct the business of the company until the first Monday in February in the year of our Lord one thousand eight hundred and thirty-eight, and until others are chosen in their places, and may make such by-laws, rules and regulations, not repugnant to the constitution and laws of the state, nor of the United States, as may be proper to the well governing of the affairs of the said company: *Provided*, that no by-laws shall be enacted or repealed by less than two-thirds of the said directors, including the president as one.

SECTION 5. *And be it further enacted*, That the stockholders shall meet on the first Monday in February in the year of our

Lord one thousand eight hundred and thirty-eight, and on the same day in every year thereafter, in the city of Wilmington, of which twenty days' notice shall be given in four newspapers, two printed in the city of Wilmington, and two printed in the city of Philadelphia, at which meeting the stockholders shall choose by a majority of votes to be given, by ballot, in person or by proxy, seventeen directors, a majority of whom shall be residents of this State, and all of them stockholders and citizens of the United States; and the said directors, at their first meeting after each election, shall choose one of their number as president of the said company; and the said directors shall continue in office for and during the ensuing year and until others are chosen. No person shall be elected or permitted to take his seat as a director unless he shall be, at the time, a stockholder; and if, at any time, he shall cease to be a stockholder, he shall cease to be a director, and not more than three-fourths of the directors in office who shall have been chosen by the stockholders, exclusive of the president, shall be eligible for the next succeeding year, but the director who is president of the said company, at the time of the election, may be re-elected: and special meetings of the stockholders, of which like notice shall be given, shall also be called by the president and directors, upon request in writing of stockholders holding one thousand shares of the capital stock, or by the president and directors when deemed necessary; at which annual or special meetings the stockholders shall have the right and power by a majority of votes of removing any director and of filling the vacancy occasioned by such removal: the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold in the proportions following, that is to say: for one share and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership or body politic shall be entitled to a greater number than thirty votes; and after the first election no share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election; and at all the meetings of the stockholders, the proceedings shall be conducted in such manner as a majority of those present shall prescribe: but at every election of directors, or to fill a vacancy or vacancies occasioned by removal, three stockholders not being directors shall be appointed "Judges of the said election," by a majority of the stockholders present; and they shall, before acting as such judges, take and subscribe an oath or affirmation before some judge or justice of the peace "well and fairly, according to law, to conduct the election of which they are appointed judges," and the said judges shall decide upon the qualifications of voters, and shall when the said election is closed, count the votes and declare who has been elected, to the meeting, and certify the same to the existing president and directors. In case it shall happen, at any

ings of stockholders;
 and choose directors, &c.
 who may be a director;
 rotation in office.
 special meetings;
 removal of directors;
 voting, how graduated
 majority to govern;
 judges of elections.
 mode of election;
 Failure to elect &c not to dis

time, that an election of directors shall not be made, the corporation shall not be thereby dissolved, but it shall be lawful to hold said election at any day to which the annual meeting of the stockholders may be adjourned, or at any special meeting called according to the provisions of this section; and in case the said directors shall fail to choose one of their number as president of the company at the time hereinbefore provided, it shall be lawful for them to make such choice at any subsequent meeting.

SECTION 6. *And be it further enacted,* That all the corporate powers of the said company shall be exercised by the president and directors and such other officers and agents as they shall appoint. All by-laws, rules and regulations shall be made by the president and directors, the president voting on all occasions as a director; but no by-law shall be enacted or repealed unless by a vote of two-thirds of all the directors. All meetings of the directors, whether stated or occasional, shall be held or called as fixed by by-laws; and seven directors shall constitute a quorum for the transaction of business. The salaries of the president and all other officers appointed by the directors shall be ascertained by by-laws; but the compensation of temporary agents may be allowed by the directors at any meeting. All vacancies occasioned by death, resignation or otherwise of either president or a director, shall be filled by the directors, except vacancies arising from a removal by the stockholders.

SECTION 7. *And be it further enacted,* That in case of the refusal or neglect of any subscriber to the residue of the stock hereby authorized to be subscribed as aforesaid, to pay any instalment of the shares subscribed for by him or her when called in by order of the president and directors, for more than ten days after notice of the amount of the instalment and of the time and place of payment shall have been advertised, by order of the president and directors, in two newspapers printed in the city of Wilmington and two printed in the city of Philadelphia; the said shares upon which an instalment so remains unpaid, may be forfeited by the president and directors and sold for the use of the company; and the said company may have and maintain an action against the subscriber neglecting or refusing as aforesaid, for the deficiency, injury or damage which the company may sustain by reason of the non-payment of the said instalment, or the said company may sue for the instalment or instalments, so becoming due, at their option; but the president and directors may remit any such forfeiture on such terms as they shall deem proper: *Provided,* that no instalment shall be required to be paid in less than twenty days after advertising as aforesaid.

SECTION 8. *And be it further enacted,* That the said company shall have the right and privilege of erecting dams, constructing races, building mills and other houses, and generally to make and establish such other improvements as may be to the interest of the said company, as well upon the estate mentioned in the first section of the act to which this act is a supplement, as also upon

LAWS OF THE STATE

any other estate on the banks of the Brandywine in Newcastle county as may be purchased hereafter by them; but nothing contained in this, or the act to which this is a supplement, shall be construed to authorize the said company to carry on any manufacturing business; and the said company is hereby expressly inhibited and denied the right and power of conducting or carrying on the manufacturing business. And the said company shall have,

General powers of the company enumerated.

First—Banking powers;

Second—Power to make insurance on lives, and to grant and purchase annuities; and to make any other contracts involving the interest or use of money, and the duration of life; subject, however, to the following restrictions:

Restrictions thereon.

First. The bills and notes issued by the company shall, at no time, exceed the amount of the capital stock of the company actually paid in, more than fifty per centum.

Second. All bills and notes not under the corporate seal of the company shall be signed by the president, and by such other officer of the institution as shall be appointed by the president and directors for that purpose.

Third. The company shall not take more than at the rate of one per centum for every sixty days upon its loans and discounts.

Fourth. No compensation shall be allowed to any director, except the president, for services, except by a vote of a majority of the stockholders at an annual or special meeting.

Fifth. The said company shall keep their banking house east of Broad Street in the city of Wilmington, and their notes shall be made payable there; and in case of a refusal, when there called upon, to pay the full amount of any note, of which payment is demanded in specie, in gold, or silver, they shall forfeit and pay to the holder of said note twelve per centum in addition to the amount of the said note, to be sued for and recovered with costs of suit, as other debts due from the said company may be sued for and recovered.

Their debts to be liens.

Sixth. All debts of the said company shall be liens upon the real estate belonging to the company at the time they were incurred or contracted; and the value of the real estate owned by the company shall, at no time, exceed one-third of the amount of capital stock paid in.

To make a rail road.

Proviso.

SECTION 9. *And be it further enacted,* That the said company shall have the power to locate and construct a rail road from some point intersecting the Wilmington and Susquehanna Rail Road within the limits of the city of Wilmington: *Provided,* the Wilmington and Susquehanna Rail Road Company will allow and consent to the same; and to extend the same along the margin of the Brandywine Creek to some point on the estate now owned by the Brandywine and Christiana Manufacturing Company, and to extend the same, if the president and directors shall deem it advisable, as far as the State line along the margin of the Brandywine:

Further proviso

Provided, that the said road shall not be located on any land without the consent of the owner thereof; and that in crossing any public road, it shall be so constructed as not to interfere with the travelling thereon.

SECTION 10. *And be it further enacted,* That on the completion of any one mile of the said road, the same may be opened for use, and become a public highway, subject to the rules and regulations established by the by-laws of the company; and the company may receive such sums of money for tolls on persons or property as they shall from time to time think reasonable: *Provided,* that the tolls on any species of property shall not exceed eight cents per ton per mile; nor on passengers four cents each per mile.

Said road to be opened—when; to be a public road. Tolls.

SECTION 11. *And be it further enacted,* That if any person or persons shall destroy, damage, or otherwise injure the said rail road or works, or any of them, or any of the embankments, buildings, or property of the said company, or shall abet, aid, or counsel the doing of the same, all and every such person and persons so offending shall, at the option of the president and directors of the said company, be liable either to indictment in the Court of General Sessions of the Peace and Gaol Delivery within the county of Newcastle, and on conviction, upon indictment, shall be fined in any sum of money not exceeding five thousand dollars at the direction of the court, and shall be sentenced to pay the fine and all the costs; and such proceedings shall be had as in 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.

For injuries to said road or any of their works, &c. remedy given.

SECTION 12. *And be it further enacted,* That the persons named to make the said valuations of the said real estate in the third section mentioned, shall severally take an oath or affirmation, to be administered by any judge or justice of the peace of this State, faithfully and impartially to make said valuations, according to the best of their knowledge and ability; and that, upon the said valuations being made as aforesaid, and accepted by the said stockholders of the Brandywine and Christiana Manufacturing Company, the said James Canby, and also by the corporation hereby created, and also upon ten thousand shares of the said residue of the said capital stock, being subscribed for, or sold and disposed of in the manner hereinbefore provided for, and when ever at least two-thirds of the amount of the said ten thousand shares shall be actually paid in, in gold or silver, or the notes of specie paying banks, this act shall go into effect; and all the powers, privileges, rights, immunities and capacities hereby granted, shall vest in, and be exercised by the said corporation; which acceptance of the said valuations when made, the said stockholders of the Brandywine and Christiana Manufacturing Company, the said James Canby and the corporation hereby created, shall signify by an agreement in writing duly executed under their hands and seals respectively, and the corporate seal of the said corporation, wherein and whereby they shall covenant and agree to stand to, and abide by the said valuations, and shall cause the same to be recorded in the office for the recording of deeds in and for New-

The commissioners to value the property, &c. to be first sworn. &c. said valuation to be made and accepted, &c. and 1000 shares of the residue of the stock to be subscribed, &c. and two-thirds paid in before this act shall go into effect; such acceptance to be signified by agreement in writing, &c. terms thereof; and recorded;

any other estate on the banks of the Brandywine in Newcastle county as may be purchased hereafter by them; but nothing contained in this, or the act to which this is a supplement, shall be construed to authorize the said company to carry on any manufacturing business; and the said company is hereby expressly inhibited and denied the right and power of conducting or carrying on the manufacturing business. And the said company shall have,

General powers of the company enumerated.

First—Banking powers;

Second—Power to make insurance on lives, and to grant and purchase annuities; and to make any other contracts involving the interest or use of money, and the duration of life; subject, however, to the following restrictions:

Restrictions thereon.

First. The bills and notes issued by the company shall, at no time, exceed the amount of the capital stock of the company actually paid in, more than fifty per centum.

Second. All bills and notes not under the corporate seal of the company shall be signed by the president, and by such other officer of the institution as shall be appointed by the president and directors for that purpose.

Third. The company shall not take more than at the rate of one per centum for every sixty days upon its loans and discounts.

Fourth. No compensation shall be allowed to any director, except the president, for services, except by a vote of a majority of the stockholders at an annual or special meeting.

Fifth. The said company shall keep their banking house east of Broad Street in the city of Wilmington, and their notes shall be made payable there; and in case of a refusal, when there called upon, to pay the full amount of any note, of which payment is demanded in specie, in gold, or silver, they shall forfeit and pay to the holder of said note twelve per centum in addition to the amount of the said note, to be sued for and recovered with costs of suit, as other debts due from the said company may be sued for and recovered.

Their debts to and be liens.

Sixth. All debts of the said company shall be liens upon the real estate belonging to the company at the time they were incurred or contracted; and the value of the real estate owned by the company shall, at no time, exceed one-third of the amount of capital stock paid in.

To make a railroad.

Proviso.

SECTION 9. *And be it further enacted*, That the said company shall have the power to locate and construct a rail road from some point intersecting the Wilmington and Susquehanna Rail Road within the limits of the city of Wilmington: *Provided*, the Wilmington and Susquehanna Rail Road Company will allow and consent to the same; and to extend the same along the margin of the Brandywine Creek to some point on the estate now owned by the Brandywine and Christiana Manufacturing Company, and to extend the same, if the president and directors shall deem it advisable, as far as the State line along the margin of the Brandywine:

Further proviso

Provided, that the said road shall not be located on any land without the consent of the owner thereof; and that in crossing any public road, it shall be so constructed as not to interfere with the travelling thereon.

SECTION 10. *And be it further enacted,* That on the completion of any one mile of the said road, the same may be opened for use, and become a public highway, subject to the rules and regulations established by the by-laws of the company; and the company may receive such sums of money for tolls on persons or property as they shall from time to time think reasonable: *Provided,* that the tolls on any species of property shall not exceed eight cents per ton per mile; nor on passengers four cents each per mile.

Said road to be opened—
when;
to be a public road.
Tolls.

SECTION 11. *And be it further enacted,* That if any person or persons shall destroy, damage, or otherwise injure the said rail road or works, or any of them, or any of the embankments, buildings, or property of the said company, or shall abet, aid, or counsel the doing of the same, all and every such person and persons so offending shall, at the option of the president and directors of the said company, be liable either to indictment in the Court of General Sessions of the Peace and Gaol Delivery within the county of Newcastle, and on conviction, upon indictment, shall be fined in any sum of money not exceeding five thousand dollars at the direction of the court, and shall be sentenced to pay the fine and all the costs; and such proceedings shall be had as in 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.

For injuries to said road or any of their works, &c.
remedy given.

SECTION 12. *And be it further enacted,* That the persons named to make the said valuations of the said real estate in the third section mentioned, shall severally take an oath or affirmation, to be administered by any judge or justice of the peace of this State, faithfully and impartially to make said valuations, according to the best of their knowledge and ability; and that, upon the said valuations being made as aforesaid, and accepted by the said stockholders of the Brandywine and Christiana Manufacturing Company, the said James Canby, and also by the corporation hereby created, and also upon ten thousand shares of the residue of the said capital stock, being subscribed for, or sold and disposed of in the manner hereinbefore provided for, and when ever at least two-thirds of the amount of the said ten thousand shares shall be actually paid in, in gold or silver, or the notes of specie paying banks, this act shall go into effect; and all the powers, privileges, rights, immunities and capacities hereby granted, shall vest in, and be exercised by the said corporation; which said acceptance of the said valuations when made, the said stockholders of the Brandywine and Christiana Manufacturing Company, the said James Canby and the corporation hereby created, shall signify by an agreement in writing duly executed under their hands and seals respectively, and the corporate seal of the said corporation, wherein and whereby they shall covenant and agree to stand to, and abide by the said valuations, and shall cause the same to be recorded in the office for the recording of deeds in and for New-

The commissioners to value the property, &c. to be first sworn, &c.
said valuation to be made and accepted, &c.
and 1000 shares of the residue of the stock to be subscribed, &c. and two-thirds paid in, before this act shall go into effect;
such acceptance to be signified by an agreement in writing, &c. terms thereof;
and recorded;

castle county in this State; the record whereof, or a duly certified force thereof, copy thereof shall be competent evidence in all cases: which said agreement shall be and enure as an agreement to and for the benefit of the corporation by this act created: *Provided nevertheless*, that after the said valuations are so made as aforesaid, the stockholders of the said company shall have the full power and right, and such power and right are hereby expressly reserved to them to accept or refuse to take the said property or any part thereof, at such valuation.

Power reserved to the legislature to appoint a committee to inspect the books &c. of the company. refusal to produce books, &c. forfeiture therefor. Power to revoke the charter reserved.

SECTION 13. *And be it further enacted*, That the Legislature shall have the right to appoint a committee, at every session thereof, if they shall see fit, to inspect the books and accounts, and examine into, and ascertain the state of the affairs of the company; and in case of refusal to produce the said books and accounts, or any of them, to the committee for inspection, then this charter and all the rights granted by it, shall be forfeited. The power and right to revoke and annul this charter, or any of its provisions, at any time hereafter, is hereby expressly reserved to the Legislature, as provided for in and by the amended constitution of this State.

Repeal of parts of the former act.

SECTION 14. *And be it further enacted*, That all such sections, clauses, or parts of the act to which this act is a supplement, as are hereby altered or modified, be and the same are hereby repealed.

This to be a public act.

SECTION 15. *And be it further enacted*, That this act shall be taken and deemed as a public act in all courts of law and equity in this State.

Continuation of this act.

SECTION 16. *And be it further enacted*, That this act shall continue in force for twenty years and no longer, and that the company shall have two years after the expiration of their charter, to wind up their business and dispose of their property.

Acceptance of this act to be certified, &c.

SECTION 17. *And be it further enacted*, That 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 twelve months from the passing of this act, to be by him transmitted to the Legislature.

Bonus to the State.

SECTION 18. *And be it further enacted*, That in consideration of the immunities and privileges granted by this act, the said company shall pay to the treasurer of the State of Delaware for the use of the State the sum of eighty thousand dollars in twenty equal annual instalments of four thousand dollars each: the first instalment to be payable on the first day of July in the year of our Lord one thousand eight hundred and thirty-seven, and the other of said instalments shall severally and successively become due and payable on the first day of July in each and every year thereafter, until the whole be paid.

Passed at Dover, June 18, 1836.

SCHEDULE No. 1,

Schedule No. 1.

REFERRED TO IN THE THIRD SECTION.

Schedule of property of the Brandywine and Christiana Manufacturing Company, situate at the Brandywine Paper Mill estate, on the south side of the Brandywine creek, one mile above the tide water of the city of Wilmington.

The tract of land containing the rights of water on the creek, 130 acres of land, extending three quarters of a mile upon the creek, and containing the water-fall of 24 feet six inches.

On the estate there are erected the mills, houses and improvements as follows:

One stone paper mill, with three water wheels, running six paper engines, with machinery for manufacturing paper, in complete order and operation, 60 feet broad, 90 feet long.

One stone rag house, two stories high, 80 feet long, 24 broad.

One large cotton mill building, built of stone, 80 feet long, 45 feet broad, four stories high.

One large cotton mill building, built of stone, four stories high, 40 feet by 45 feet.

One stone paper mill, 40 feet by 45 feet, not in repair.

One stone mill, 25 feet by 35 feet, five stories high, used as a work house and machine shop.

All of the above on the margin of the creek.

Forty-five stone dwelling houses, 15 feet by 20 feet, three stories high, built for the accommodation of the work-people.

One hundred and thirty acres of land, containing cleared and improved land, stone quarries and woodland.

The water rights on the creek, unoccupied, of 24 feet 6 inches waterfall, capable of very great improvement.

SCHEDULE No. 2,

Schedule No. 2.

REFERRED TO IN THE THIRD SECTION OF THE BILL.

Schedule of the property belonging to James Canby.

1. Mills second below the bridge, with first right of water, and dwelling house on Mill street, between King and French streets, 90 feet by 48 feet, of stone.

2. Lower mill but one on south side of the Brandywine, 40 feet by 45 feet, built of stone.

3. Surplus of water with buildings above the bridge, and all the land between the upper race and the creek, from King street to the line of William Canby's estate.

4. The house in which James Canby resides, and grounds, the latter extending along Market street, from Washington street, and crossing Stidham street to the mill race, and also fronting on Washington to Orange street, and along Orange to the race; the buildings, a large brick house, kitchen, &c.; also, a large brick barn, carriage house, &c.

5. Property known as "The Barley Mill," with stone house, mill, and eight acres of land, and all the water of the Brandywine at that place.

LAWS OF THE STATE

6. Such portion of 20 acres of land, more or less, between "Barley Mill" land and West street as may be deemed necessary to be used or occupied in constructing a race or races for said company, and all the land lying between the said race and the Brandywine creek.

7. Eight acres of land bounding on the Brandywine on Rattle Snake Run, and lands late of John Shallcross, deceased.

CHAPTER XXV.

AN ACT for the relief of School District No. 19, in Kent County.

Preamble.

WHEREAS, it has been represented to this General Assembly by the commissioners of school district No. 19, in Kent county, that the said commissioners can get no person to agree to collect the taxes for the support of the said school in said district, which was regularly laid in the said district for the present year: Therefore,

Commissioners empowered to collect tax of present year.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the commissioners or any one of them shall be, and are hereby authorized and empowered to collect the school taxes in said school district No. 19 in Kent county, which have been laid for the present year, in the same manner and as fully, to all intents and purposes, as a collector by them appointed could have done under the existing laws of this State.

Passed at Dover, June 18, 1836.

CHAPTER XXVI.

AN ACT to revive an Act entitled "*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 Newcastle county.*"

Passed at Dover, June 18, 1836.

(Private Act.)

CHAPTER XXVII.

AN ACT for the division of the real estate of James Jamison and Catharine Jamison, late of Newcastle county, deceased.

Passed at Dover, June 18, 1836.

(Private Act.)

CHAPTER XXVIII.

AN ACT to amend the Act entitled "*An Act to incorporate the Wilmington Whaling Company.*" 8 vol. p. 308, chap. cccviii.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* Amendments to the original act.
That the act entitled "An act to, incorporate the Wilmington Whaling Company," be and the same is hereby altered, amended and supplied by striking out the words "triennial" and "fourth Monday of November" in the sixth line of the fifth section thereof, and inserting in place thereof, "annual" and "first Monday of September," and by striking out the word "triennially" in the ninth line of said section, and inserting in place thereof "annually," and by striking out the words "three years" in the twelfth line thereof, and inserting in lieu thereof the words "one year;" and that 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.

Passed at Dover, June 18, 1836.

CHAPTER XXIX.

AN ACT to appropriate the moneys in the Treasury of this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* Appropriations for
That so much of the moneys now in, or hereafter to be paid into the treasury of this State, and not otherwise appropriated, as shall be necessary for that purpose, shall be applied, and is hereby appropriated to and for the payment of the daily allowance to the members of the Legislature, their clerks &c., and other expenses, and for printing the laws and the journals of the Senate and House of Representatives, allowances to members of Legislature, &c., and for printing laws, &c.

Passed at Dover, June 20, 1836.

CHAPTER XXX.

AN ACT for the payment of claims against the State.

Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer be, and he is hereby authorized and directed to pay the following claims: to Robert Ritchie for his services and expenses incurred in going to Maryland after Robert Harris, kidnapper, and bringing the said Robert Harris into the State of Delaware, on the order of the governor, thirty dollars; to Joseph Buckmaster for his services as cryer of the Court of Errors and Appeals, and for preparing the House, &c., preparatory to the present session of the Legislature, twenty-two dollars; to Sipple & Pennewill for articles furnished Joseph Buckmaster, for the State, ninety-three and a half cents; and to Henry Todd, recorder of deeds of Kent county, for recording bonds of the Secretary of State, one dollar.

Passed at Dover, June 20, 1836.

CHAPTER XXXI.

8 vol. p. 358,
chap. cccxxiii.

A SUPPLEMENT to the Act entitled "*An Act to provide suitable rooms for the Legislature of this State.*"

Additional ap-
propriation.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That in addition to the appropriation made by the act to which this is a supplement, the sum of fifteen hundred dollars be, and the same is hereby appropriated for the purposes of said act, to be drawn on the orders of the commissioners therein named, or a majority of them.

Duty of com-
missioners as
to removing
books &c.
and of Sec of
State with
them.

SECTION 2. *And be it enacted,* That the said commissioners shall have authority to remove the books and papers of the Senate and House of Representatives to the library room when completed, except such books and papers as it may be necessary to retain in the chambers for immediate reference; and also in conjunction with the Secretary of State to remove to the said library room such books and papers belonging to his office as they shall consider proper to be out of the immediate custody of the Secretary.

Further duties.

They shall also have power to fit up and furnish the present chamber of the House of Representatives for a Senate chamber, and to arrange the present furniture, pictures and other decorations, in either room, as they shall think proper.

Passed at Dover, June 20, 1836.

RESOLUTIONS.

CHAPTER XXXII.

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the state treasurer do pay to Jehu Reed five dollars, for the purpose of procuring a silver medal, to which the said John Reed is justly entitled, under the resolution of the 14th [16th] February, 1829, for his successful exertions in raising the white mulberry tree in this state, demonstrating, as he has fully done, that the climate and soil are adapted to the cultivation of the food of the silk worm.

State-Treasurer to pay Jehu Reed \$5 to procure a silver medal for his success in rearing the white mulberry tree. Vide 7 vol. p. 496, chap. ccxvii.

Adopted at Dover, June 16th, 1836.

CHAPTER XXXIII.

Resolved, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the state treasurer be, and he is hereby authorized and required to borrow the sum of five thousand dollars, to be applied and used towards the payment of the expenses of the state for the current year; and that the faith of the state be and the same is hereby pledged for the repayment of the said sum of money, with interest of six per centum per annum, at the expiration of one year from the date of the loan; and that the treasurer shall receive for his services one fourth of one per centum out of the money so obtained.

State-Treasurer authorized to borrow 5000 dolis. for use of the State.

Adopted at Dover, June 18th, 1836.

CHAPTER XXXIV.

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the commissions of the state treasurer on any monies which shall come to his hands from the government of the United States from and on by him from

Commissions of the State treasurer on monies raised by him from

the distribution of the surplus revenue of the U S. fixed and limited. account of a division and distribution which may be made of the surplus revenue of the United States by congress to and among the several states shall not exceed the rate of one quarter of one per centum upon any sums by him so received, any law or usage to the contrary notwithstanding: *Provided, nevertheless*, that nothing herein contained shall be deemed or held to vest in or confer upon the state treasurer any right or power to receive or collect the said monies or any part thereof which may become due to this state by and under such division and distribution aforesaid, which right and power he may not already possess by the existing laws of this state.

Adopted at Dover, June 20th, 1836.

CHAPTER XXXV.

Acts of P. S. Parker, trustee of school fund, in re investing the State's stock in the Bank of the U. States, &c. confirmed. *Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That this general assembly do approve and hereby ratify and confirm the acts and proceedings of Peter S. Parker as the trustee of the fund for establishing schools in the state of Delaware, done, had and performed by him as such trustee as aforesaid in the matter of transferring or reinvesting of the shares of stock owned by this state and held in the name of the trustee aforesaid in the capital stock of the bank of the United States incorporated by the congress of the United States, from the said bank to and in the capital stock of the present bank of the United States lately incorporated by the state of Pennsylvania.

Adopted at Dover, June 20th, 1836.

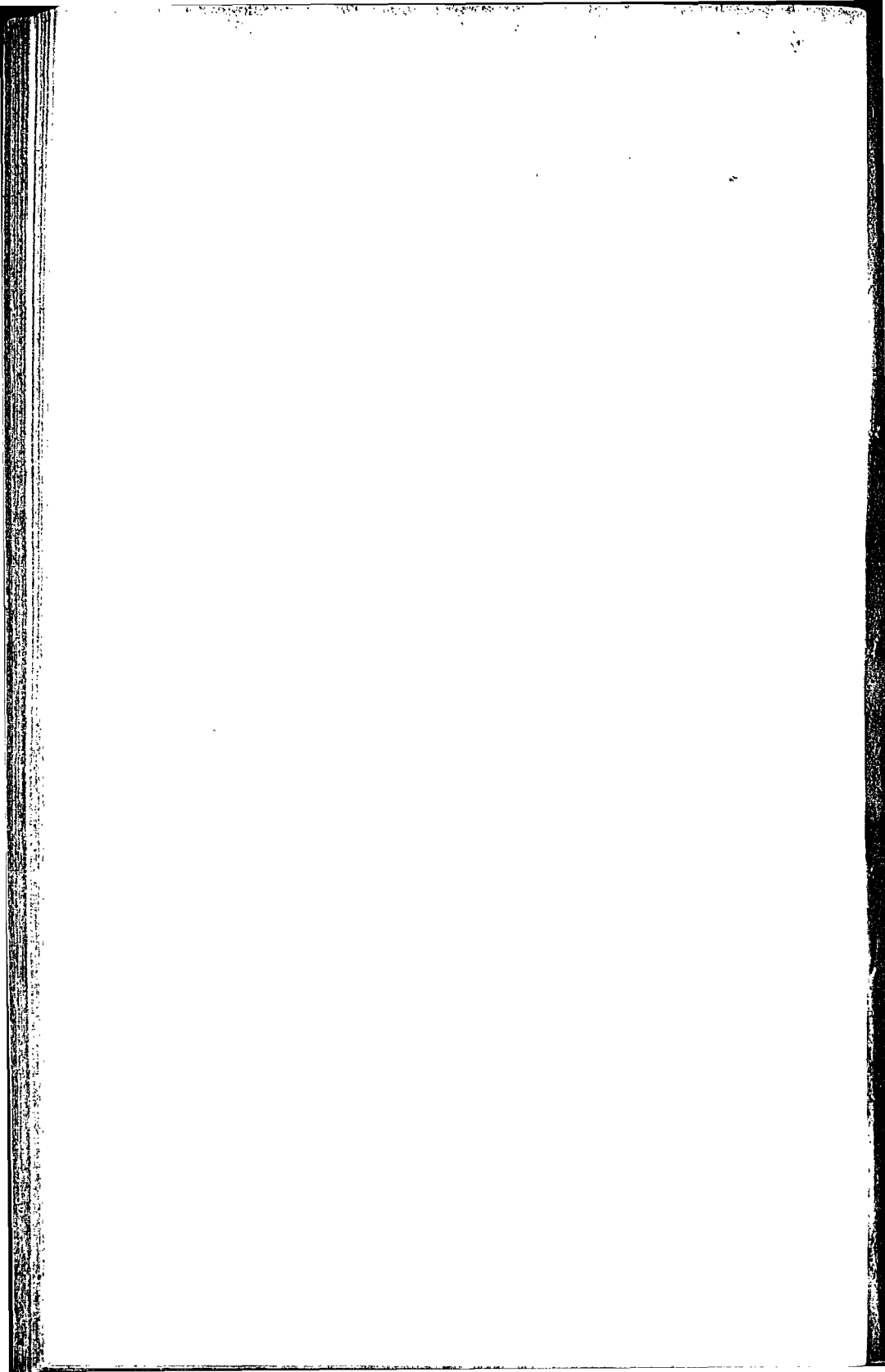
SECRETARY'S OFFICE,

Dover, August 27, 1836.

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 State, passed during a special session of the General Assembly, which commenced on Tuesday the fourteenth day of June, and closed on Monday the twentieth day of June, in the year of our Lord one thousand eight hundred and thirty-six.

ROBERT FRAME,

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 THIRD DAY OF JANUARY,

IN THE YEAR OF OUR

LORD, ONE THOUSAND EIGHT HUNDRED AND THIRTY-SEVEN,

AND OF THE

INDEPENDENCE OF THE UNITED STATES

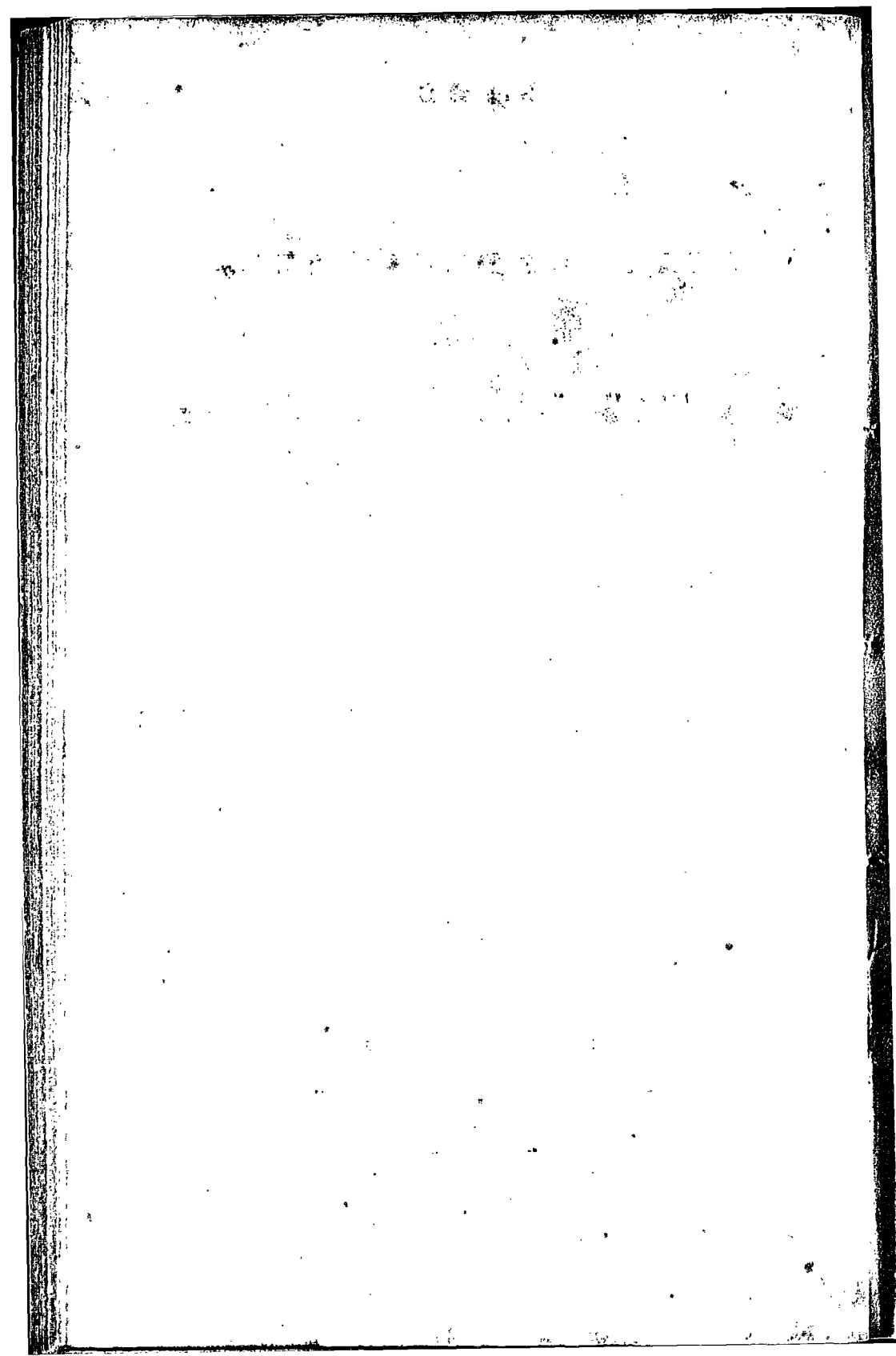
THE SIXTY-FIRST.

BY AUTHORITY

PRINTED BY SAMUEL KIMMEY, DOVER, DEL.

—000—

1837.



L A W S
OF THE
STATE OF DELAWARE.

CHAPTER XXXVI.

AN ACT for the relief of Henry Thistlewood,

Private act.

Passed at Dover, January 6, 1837.

—:00:—

CHAPTER XXXVII.

AN ACT to amend the act entitled "An Act directing the time, place and manner of holding elections for Senators from this State in the Senate of the United States." Dig. 195.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That so much of the act aforesaid as provides for a joint meeting of both Houses of the Legislature, in the Senate chamber, be, and the same is hereby repealed, made null and void. Repeal of part of the original act. Dig. 195.

Passed at Dover, January 9, 1837.

—:00:—

CHAPTER XXXVIII.

AN ACT fixing the salary of the State Treasurer.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That hereafter there shall be allowed to the State Treasurer, the annual salary of five hundred dollars, in full and complete compensation for his services as State Treasurer and Trustee of the school fund, and that the resolution allowing to the State Treasurer, one quarter of one per cent., "on any monies which shall come into his hands from the Government of the United States, from and on account of division and distribution of the surplus revenue of the United Salary of State Treasurer \$500.
Repeal of ch. 34, vol. 9, p. 51, &c.

LAWS OF THE STATE

States," adopted on the twentieth day of June, in the year of our Lord, one thousand eight hundred and thirty-six, and so much of all other acts and resolutions as is inconsistent herewith, be and the same is hereby repealed, made null and void.

Passed at Dover, January 10, 1837.

—:00:—

CHAPTER XXXIX.

AN ACT to confirm the last will and testament of John Flemming, late of the city of Wilmington, deceased, and to authorize and empower his executors to sell and convey his real estate, and make good the title to the same.

Private act.

Passed at Dover, January 11, 1837.

—:00:—

CHAPTER XL.

AN ACT for the relief of Philip Tolberry, a free man of color.

Private act.

Passed at Dover, January 13, 1837.

—:00:—

CHAPTER XLI.

A supplement to the Act entitled "An Act to incorporate the Wilmington Whaling Company."

8 vol. p. 308,
chap. cccviii.

Number of
Directors in-
creased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in general Assembly met,* That from and after the first day of March next, the number of Directors of the Wilmington Whaling Company shall consist of twelve, who shall hold their offices for the term of three years, one third to be elected annually; and that on the said first day of March next, there shall be a special election, on ten days notice, by the stockholders, at which five directors shall be chosen, who, in addition to the seven directors elected on the fourth Monday of November last past, shall be the directors of the Wilmington Whaling Company, and shall hold their offices for the term of three years, from the fourth Monday of November, eighteen hundred and thirty-six, subject nevertheless, to the arrangement by lot which is hereinafter provided.

SECTION 2. *And be it further enacted,* That immediately after the said special election, the directors of the said Company, shall assemble, that is to say, the five directors who shall be elected at the

said special election, and the seven directors who were elected on the fourth Monday of November last past, and shall divide themselves by lot into three classes of four directors each: the term of office of the directors of the first class, shall expire on the fourth Monday of November, eighteen hundred and thirty-seven; of the second class on the fourth Monday of November, eighteen hundred and thirty-eight; and of the third class, on the fourth Monday of November eighteen hundred and thirty-nine; and one third shall thereafter be chosen every year, at an election to be held on ten days notice, in two or more newspapers printed in the city of Wilmington, on the fourth Monday of November in each year. Five directors shall constitute a quorum for the transaction of business; but no by-law shall be made or repealed by the vote of less than eight directors. The directors at their first meeting after each election, shall choose a president from their number, who shall hold his office for one year.

Directors to divide themselves into three classes.

Their continuance in office, &c.

Five shall be a quorum.

SECTION 3. *And be it further enacted*, That so much of the act to which this is a supplement, as is hereby amended or supplied, be, and the same is hereby repealed, made null and void.

Repeal of part of chapter cccviii. v. 8. p. 308.

Passed at Dover, January 13, 1837.

—:00:—

CHAPTER XLII.

A FURTHER SUPPLEMENT to *An Act entitled "An Act to incorporate the Wilmington and Susquehanna Rail Road Company."*

chap. cx. vol. 8. p. 107.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the further supplement to the act, to which this is a supplement, passed at Dover on the seventeenth day of June, in the year of our Lord eighteen hundred and thirty-six, be amended by striking out in the first proviso, all the words following the word "mentioned" in the eleventh line, to the word "dollars," in the thirteenth line, inclusive, and that the said further supplement shall be read and construed and have full force and effect, subject to this amendment.

Chap. xlvii. p. vol. p. 36, amended.

SECTION 2. *And be it further enacted*, That the Wilmington and Susquehanna Rail Road Company, be, and it is hereby authorized and empowered to enter into an agreement with "The Philadelphia, Wilmington, and Baltimore Rail Road Company," a corporation created by the laws of Pennsylvania, under the corporate seals of the said Companies, providing for the construction and completion of so much of the Rail Road, authorized to be constructed by the said Wilmington and Susquehanna Rail Road Company, as extends from its depot in the city of Wilmington, to the State line between the States of Delaware and Pennsylvania, by the said, the Philadelphia, Wilmington and Baltimore Rail Road Company, at its own proper cost and expense, and transferring to the said, the Philadelphia, Wilmington and Baltimore Rail Road Company, the rights vested in the said, the Wilmington and Susquehanna Rail Road Company by the laws of this State, of demanding and re-

Company authorized to enter into an agreement with the Philadelphia Wilmington and Baltimore R. Road Company, providing for the construction and completion by said company, of a part of the road author-

ized to be constructed by the Wilmington and Susquehanna Rail Road Company.

Proviso.

Said agreement to be recorded, and a copy thereof to be evidence.

ceiving tolls over such portion of the said Road, as may be constructed, and completed by the said, the Philadelphia, Wilmington, and Baltimore Rail Road Company in pursuance of the said agreement: and altogether, the rights, powers, privileges and authorities necessary for the making, constructing, completing, repairing and protecting of such portion of said Rail Road, in as full and ample a manner as they are now vested in, and enjoyed by, the said the Wilmington and Susquehanna Rail Road Company: Provided nevertheless, that the said agreement shall, within sixty days after its execution, be recorded in the office of the Recorder of Deeds in and for New Castle county, and after the same is so recorded, a copy thereof under the seal of the Recorder, shall be evidence; and in all proceedings in courts of law and equity in this State or before the Commissioners appointed by a former supplement to the act to which this is a supplement, necessary or proper to be had for the making, constructing, completing, repairing, or protecting so much of the said Road, as is within the terms of said agreement, and enforcing the payment of tolls for the use of the same, the name of "The Philadelphia, Wilmington and Baltimore Rail Road Company," shall be used instead of that of "the Wilmington and Susquehanna Rail Road Company," and have the same force and effect, as if it had been inserted in the law to which this is a supplement, and the several supplements passed thereto, and shall be judicially noticed in all such proceedings.

Statements of cost of work to be filed where.

Tax.

SECTION 3. *Be it further enacted,* That the said, the Philadelphia, Wilmington and Baltimore Rail Road Company, shall, within sixty days, after the completion of so much of the said Rail Road as they may undertake to contract and complete, within this State, by any agreement to be made as aforesaid, file in the office of the Secretary of State, of this State a statement verified by the oaths or affirmations of its President and Treasurer or Secretary, showing the cost of the same, and pay annually thereafter into the Treasury of this State, a tax, of one fourth of one per centum, upon the amount of such cost; the said tax to be paid in equal semi-annual payments in each and every year, from the day of filing the the said statement as aforesaid.

Company authorized to convert the Drawbridge over White Clay creek, into a permanent bridge.

SECTION 4. *And be it further enacted,* That the Wilmington and Susquehanna Rail Road Company, be, and it is hereby authorized, to convert the drawbridge erected by it, over the White Clay creek, into a permanent bridge, and to keep the draw thereof, at all times closed hereafter, or to dispense altogether with the said draw as they may deem proper: Provided, that, if by accident or otherwise the said bridge shall be broken down or destroyed, it shall be the duty of the said, The Wilmington and Susquehanna Rail Road Company, and they are hereby required to erect at their own cost and expense, another bridge over the said creek, at the same place and of the same height and dimensions and of the same width between the piers as those of the present bridge.

SECTION 5. *And be it further enacted,* That John C. Farra, William Smith, (Farmer) and John Clark, all of Brandywine hundred,

and James J. Brindley of Christiana hundred, be, and are hereby appointed Commissioners, who shall, in conjunction with the Commissioners, appointed by the second section of the act, entitled "A further supplement to An act entitled 'An act to incorporate the Wilmington and Susquehanna Rail Road Company,'" passed at Dover, the twenty-fourth day of July, one thousand eight hundred and thirty-five, under oath or affirmation, perform the same duties as are required to be performed by the Commissioners therein named, and who shall be entitled to the same pay as the said Commissioners are entitled to receive, by the said act, and that all the rights and privileges, secured by the said act, to the said The Wilmington and Susquehanna Rail Road Company and to the owner or owners of lands and tenements, which may have been entered into and upon, and occupied by the said, The Wilmington and Susquehanna Rail Road Company, shall be extended and secured to the owner or owners of the lands and tenements, which may be entered into and upon and occupied by the said, The Philadelphia, Wilmington and Baltimore Rail Road Company. Commissioners appointed.
Rights secured to owners of land.

Passed at Dover, January 13, 1837.

—:00:—

CHAPTER XLIII.

A SUPPLEMENT to an Act entitled "*A supplement to an Act entitled '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.*" 9. vol. p. 39.
chap. xxiv.

SECTION 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, passed at Dover on the eighteenth day of June in the year of our Lord one thousand eight hundred and thirty-six, be, and the same is hereby altered and amended, by striking out, in the twelfth section thereof, the words, "ten thousand shares of the said residue of the said capital stock, being subscribed for or sold and disposed of, in the manner hereinbefore provided for, and whenever at least two-thirds of the amount of the said ten thousand shares shall be actually paid in," and inserting, in lieu thereof, the words "eight thousand shares of the said residue of the said capital stock being subscribed for, or sold and disposed of, in the manner herein-before provided for, and whenever at least twenty dollars per share, on the said eight thousand shares shall be actually paid in," and also by striking out in the seventeenth section the word, "twelve," and inserting in lieu thereof, the word "fifteen," and also by striking out, in the eighth section, the words "east of Broad street," in the fifth paragraph thereof, and the words, "paid in" in the sixth paragraph thereof.* Amended by striking out &c.
Sec. 12.
Sec. 17.
Sec. 8.

SECTION 2. *And be it further enacted, That in consideration of the immunities and privileges, granted by the said Act, to which*

Bonus to the State. this is a supplement, the said "Brandywine Manufacturing and Banking Company" shall annually pay to the Treasurer of the State of Delaware, for the use of the said State, a tax of two-fifths of one per cent., on the amount of the capital stock actually paid in; and that in estimating the amount of the said tax the sum of one hundred and thirty thousand nine hundred dollars, being the appraised value of the estates and property, mentioned in the third section of the said act, to which this is a supplement, shall be taken and deemed to constitute a part of the said capital stock actually paid in; the said tax to be paid annually, on the first day of December in each and every year hereafter, and the first payment to be made on the first day of December next.

How to be read and continued. SECTION 3. *And be it further enacted,* That the said act to which this is a supplement, shall be read and construed, have full force and effect, be deemed and taken, according to the foregoing amendments.

To be a public act. SECTION 4. *And be it further enacted,* That this act shall be held, deemed and taken to be a public act in all courts of law and equity in this State.

Section 18. repealed. SECTION 5. *And be it further enacted,* That the eighteenth section of the said act, to which this is a Supplement, be and the same is hereby repealed, made null and void.

Passed at Dover, January 13, 1837.

—:00:—

CHAPTER XLIV.

AN ACT fixing the salary of the Auditor of Accounts.

Salary to be \$500 per annum. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Auditor of Accounts shall receive for his services, the sum of five hundred dollars annually, to be paid quarterly by the Treasurer of this State. And that the "Act, fixing the salary of the Auditor of Accounts," passed February 8, 1820 be, and the same is hereby repealed.

Passed at Dover, January 14, 1837.

—:00:—

CHAPTER XLV.

8 vol. p. 355, chap. cccxii. AN ACT to amend the Act entitled "An Act authorizing a Lottery, for the benefit of Delaware College and for other purposes therein mentioned."

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

whenever the word "*Delaware*" occurs in the act aforesaid, before the word "*College*," the same shall be stricken out, and the word "*Newark*" inserted; and also that the second section of the said act shall be amended by inserting after the word "*Wilmington*" in the sixteenth line thereof, the words "*or the town of New-Castle*," and by striking out the word "*three*," before the word "*Commissioners*" in the fourteenth line thereof, and inserting the word "*eight*." Amended by striking out and inserting,

SECTION 2. *And be it further enacted*, That any three of the commissioners appointed by the managers of the said Lottery, shall be sufficient to superintend the drawing of the Lottery, authorized by the act aforesaid, and to perform all the duties prescribed in the act aforesaid, to be done and performed by three commissioners as therein provided for. Any three Commissioners may superintend the drawing.

SECTION 3. *And be it further enacted*, That so much of the aforesaid act as is inconsistent herewith, be and the same is hereby repealed, made null and void. Repeal of parts of former act.

Passed at Dover, January 14, 1837.

—:00:—

CHAPTER XLVI.

A SUPPLEMENT to the Act entitled "*An Act concerning the jurisdiction of Justices of the Peace, in certain actions of trespass and their powers, in certain cases of complaints of assaults and batteries*." Dig. 359.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That whenever upon a trial, before a Justice of the Peace, under the provisions of the second section of the act to which this is a supplement, any person or persons complained against, may have been or hereafter shall be found guilty of an assault, or assault and battery, and such justice shall adjudge that the party so found guilty, shall pay to the State a fine, and also pay the costs of the proceeding before such justice and stand committed till such fine and costs be paid, and the party so convicted and adjudged, be committed to gaol in pursuance of such judgments, it shall and may be lawful for the court of General Sessions of the Peace and Gaol delivery, in term time, on its being made satisfactorily to appear to such court, that the person or persons so convicted and imprisoned, is not, or are not able to pay the fine and costs, which he, she, or they, pursuant to such conviction, may have been adjudged to pay, to order, that every such person or persons shall be disposed of, as a servant to any person or persons residing in the county, wherein such party may be imprisoned, for the highest sum that can be obtained for such term as shall be necessary to raise sufficient money, to pay such fine and costs, or any balance remaining after such payment, as can be obtained from the person Sec. 2.

A person committed to gaol under sect. 2.

May be disposed of as a servant.

Term not to exceed one year.

A white person so committed, may be discharged.

Rights of the purchaser.

so convicted: Provided, that such term shall not exceed one year. Provided always, that in every case of such commitment, of any white person or persons, the said court shall order the said white person or persons to be discharged from imprisonment, if it shall satisfactorily appear to the said court, that such white person or persons, is, or are, unable to pay the fine and costs. The person purchasing such servant, shall, during the term of servitude, have all the rights and authority of a master, over such servant, except that it shall not be lawful to export such servant from this State, nor to transfer his term, nor shall such servant be transmissible to the representatives of such purchaser.

Passed at Dover, January 16, 1837.

—:oo:—

CHAPTER XLVII.

AN ACT authorizing and appointing the State Treasurer of the State of Delaware, to receive this State's share of the surplus revenue, in the treasury of the United States.

State Treasurer authorized to receive this State's share in U. S. Treasury.

And sign certificates of deposit therefor.

And pledge the faith of the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer of the State of Delaware, be, and he is hereby authorized to receive from the Secretary of the Treasury of the United States, the share or quota of the State of Delaware, in the treasury of the United States, on the first day of January, in the year of our Lord, one thousand eight hundred and thirty-seven, and directed to be deposited with such of the several States, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall by law, authorize their treasurers, or other competent authorities, to receive the same, on the terms specified in the thirteenth section of the Act of Congress, entitled "An Act to regulate the deposits of the public money;" approved on the twenty-third day of June, in the year of our Lord, one thousand eight hundred and thirty-six; and that the said State Treasurer of the State of Delaware, on receiving the said money or the proportional share thereof, which shall be due, or become due, to this State by virtue of the said Act of Congress, is hereby authorized and empowered in behalf of this State, to sign and deliver certificates of deposit therefor, to the said Secretary of the Treasury, in such form as may be prescribed by the secretary aforesaid, which certificate shall express the usual and legal obligations, and pledge the faith of this State, for the safe keeping and repayment of the money deposited with it; and shall pledge the faith of this State, on receiving the same, to pay the said monies and every part thereof, from time to time, whenever the same shall be required by the said Secretary of the Treasury, for the purpose of defraying any wants of the public treasury, beyond the amount of the five millions mentioned in, and reserved by, the said Act of Congress.

SECTION 2. *And be it further enacted,* That whereas, the Secretary of the Treasury in and by his written communication to the Governor of this State, dated Treasury Department, the nineteenth day of December, in the year of our Lord, one thousand eight hundred and thirty-six, has prescribed the form of the receipts or certificates required by him, to be executed by the proper authority of a State, upon a deposit made, under the thirteenth section of the "Act to regulate the deposits of the public money," which said form of a receipt or certificate is in the following words, that is to say: "Whereas, by the thirteenth section of an Act of the Congress of the United States, entitled 'An Act to regulate the deposits of the public money,' approved the twenty-third day of June, in the year of our Lord, one thousand eight hundred and thirty-six, it was enacted "that the money which shall be in the Treasury of the United States, on the first day of January, eighteen hundred and thirty-seven, reserving the sum of five millions of dollars, shall be deposited with such of the several States, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall by law authorize their treasurer, or other competent authorities to receive the same, on the terms hereafter specified: and the Secretary of the Treasury shall deliver the same to such treasurer, or other competent authorities, on receiving certificates of deposit therefor, signed by such competent authorities, in such form as may be prescribed by the secretary aforesaid.

Form of certificates, prescribed by the Secretary of the Treasury.

And whereas, the State of _____ has, by an Act of its Legislature, passed on the _____ day of _____ one thousand eight hundred and thirty _____ authorized and directed the _____ of the said State, to receive its proportional share of the said surplus monies of the United States, on deposit with the said State, upon the terms specified in the said Act of Congress.

And whereas, the Secretary of the Treasury in pursuance of the provisions of the said Act of Congress, and in conformity with the provisions of the said Act of the Legislature of the State of _____ has delivered to the _____ thereof the sum of _____ dollars and _____ cents, the same being the first instalment, or one-fourth part of the rateable proportion of the said State, in the surplus money in the treasury, on the first day of January, eighteen hundred and thirty-seven.

Now therefore be it known, That I _____ do hereby certify that the said sum of _____ dollars and _____ cents, has been deposited by the Secretary of the Treasury with the State of _____, and that for the safe keeping and repayment of the same to the United States, in conformity to the said Act of Congress, the State of _____ is legally bound, and its faith is solemnly pledged. And in pursuance of the authority of the Act of the Legislature aforesaid, for and in behalf of the said State, I hereby affix my signature and seal, in testimony of the premises and of the faith of the said State, to pay the said money so deposited, and every part thereof, from time to time, whenever the same shall be required by the Secretary of the Treasury, for the purposes and in the manner and proportions, set forth and described in the said recited thirteenth section of the Act of Congress

aforesaid, and by a requisition or notice, prescribed by the said Secretary of the Treasury, addressed to the care of the Governor of said State.

Signed and sealed this day of one thousand
eight hundred and thirty-

Attest.

State Treasurer authorized to sign a certificate of foregoing form.

Or any other, prescribed by the Sec'y. of the Treasury.

Now, therefore, the said State Treasurer aforesaid, on receiving the same or any part thereof, shall be, and he is hereby fully authorized and empowered, on the part and in behalf of this State, to sign, seal and deliver to the said Secretary of the Treasury, a receipt or receipts, certificate or certificates of the form so prescribed by the Secretary aforesaid, or any other certificate or certificates, the form of which may be prescribed by the said Secretary, in pursuance of the thirteenth section of the Act of Congress, aforesaid.

SECTION 3. *And be it further enacted,* That the State Treasurer aforesaid, shall, immediately after the receipt thereof, or any part thereof, deposit the whole sum so by him received, without delay, in the Farmers' Bank of the State of Delaware, at Dover, to the credit of the said State, and shall take from the Cashier of the said Bank, duplicate certificates of deposit therefor, one of which he shall immediately deliver to the Governor of this State: and the said State Treasurer shall without delay deposit each and every dividend of the said public money so received by him, in the Bank aforesaid, and take certificates as aforesaid, one of which he shall immediately deliver to the Governor aforesaid, and the said State Treasurer shall retain the other as aforesaid.

Passed at Dover, January 16, 1837.

—:00:—

CHAPTER XLVIII.

8 vol. p. 317.
chap. cccxx.

AN ACT *to extend the provisions of the Act entitled "An Act to provide for the instruction of the indigent blind of this State," to the case of Beniah Parvin, an indigent blind boy."*

Gov'r to draw
on Trustee of
school fund.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the provisions of the "Act to provide for the instruction of the indigent blind, of this State," passed at the January session, in the year of our Lord one thousand eight hundred and thirty-five, be extended and construed, so as to authorize and require the Governor of this State to draw his warrant, on the Trustee of the Fund for establishing schools in this State, in favor of the President of the Pennsylvania Institution for the instruction of the blind, for the amount due to said Institution, for the maintenance and instruction of Beniah Parvin, an indigent blind boy of New-Castle county, in this State, from the twenty second day of May, in the year of our Lord one thousand eight hundred and thirty-four, to the first day of

January, in the year of our Lord, one thousand eight hundred and thirty-seven;—Provided that the amount, so to be paid, shall be taken from that portion of the school fund, belonging to New-Castle county, and shall not exceed the amount, paid by the Commonwealth of Pennsylvania, to the President of said Institution, for each indigent pupil of the said Commonwealth of Pennsylvania, taught in said Institution, during the aforesaid length of time.

Proviso.

N. C. county,
amount.

Passed at Dover, January 16, 1837.

—:00:—

CHAPTER XLIX.

AN ACT to authorize Mary Lowber, minor, or her guardian, to erect a gate across a public road, therein described.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful, for Mary Lowber, minor, or her guardian, or any other person in possession, to erect and place a gate across the public road, through Mispillion Neck, leading from Frederica to the Delaware Bay, at or near the gate leading to the farm of Henry M. Ridgely, Esquire, where Reuben Bowman now lives, and adjoining the lands of Mary Lowber, minor.

Gate may be
erected across
a certain road.

SECTION 2. *And be it further enacted,* That if any person or persons shall injure or destroy the said gate, or pass through and leave the same open, or open the said gate and leave it open without passing through, he, she, or they, so offending, for every offence, shall 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; and shall also pay to the person or persons injured, all damages that may be sustained, by reason of such neglect or wilfulness: Provided nevertheless, it shall be the duty of the said Mary Lowber, minor, and her guardian, and other person, in possession of the lands of said Mary Lowber, and of each of them, to keep the said gate in good repair, and in such manner, as shall be most convenient for the citizens or persons, passing or repassing through the same, to open and shut the same.

Penalty for
injuring, &c.

Must be kept
in good repair
&c.

Passed at Dover, January 17, 1837.

—:00:—

CHAPTER L.

AN ACT to enable Caleb Ross, of Sussex county, to locate certain vacant lands situate in Broad Creek hundred, in said county, and to complete his title to the same.

Private act.

Passed at Dover, January 18, 1837.

CHAPTER LI.

AN ACT *for fixing the compensation of the members of the General Assembly and their officers.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That there shall be allowed, from and after the second Tuesday of November, eighteen hundred and thirty-eight, to each of the members of the General Assembly, three dollars; and to the Speaker of each House four dollars; to their clerks respectively, three dollars; and to their door-keepers each, one dollar and fifty cents, for each and every day they may, respectively, be in attendance, with an additional allowance of one day to each member, whose residence may be more than fifteen miles from the seat of Government of the State, for going to, and one day for returning from the place where the General Assembly may convene.

Members per
diem \$3.
Speakers \$4.
Clerks \$3.
Door-keepers
\$1,50.

SECTION 2. *And be it further enacted,* That there be allowed to each member, the sum of twelve and a half cents, for each and every mile he may be bound to travel, in going to and returning from, his place of residence, to the seat of Government.

Mileage.

Passed at Dover, January 18, 1837.

—:OO:—

CHAPTER LII.

AN ACT *to enable Charles Ralph, of Sussex county, to locate certain vacant lands, situate in Little-creek hundred in said county, and to complete his title to the same.*

Private act.

Passed at Dover, January 24, 1837.

—:OO:—

CHAPTER LIII.

AN ACT *to enable John Hosea, of Sussex county, to locate certain vacant lands, situate in Little-creek hundred, in said county, and to complete his title to the same.*

Private act.

Passed at Dover, January 24, 1837.

CHAPTER LIV.

AN ACT to confirm the title of the heirs of Colonel Armwell Long, late of Sussex county, deceased, to certain lands situate, lying and being in Baltimore hundred, in the said county, and releasing all the right, title, interest, claim and demand of this State, of, in and to the said lands, to the said heirs.

Private act.

Passed at Dover, January 24, 1837.

—:00:—

CHAPTER LV.*

AN ADDITIONAL SUPPLEMENT to the Act entitled "*An Act to extend the time for recording of Deeds.*" 8 vol. p. 19.
chap. xvii.

SECTION 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 January, one thousand eight hundred and thirty-seven, 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 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 situated, if lodged in such office, on or before the first day of January, in the year of our Lord, one thousand eight hundred and thirty-nine, and the said record or a copy thereof, shall be sufficient evidence: and from and after the first day of January in the year last aforesaid, no deed or letter of attorney, sealed and delivered before the said first day of January, in the year of our Lord, one thousand eight hundred and thirty-seven, shall be recorded.

Time for recording deeds extended to Jan. 1 1839.

SECTION 2. *And be it further enacted,* That it shall be the duty of the Secretary of State, and he is hereby required, to publish This act to be published. the space of two months, from the first day of March next, a copy of this Act in two newspapers printed in this State.

Passed at Dover, January 24, 1837.

LAWS OF THE STATE

CHAPTER LVI.

AN ACT to incorporate a Company to promote the culture of silk in New-Castle County.

SECTION 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 to form a Company, with a capital of one hundred thousand dollars, in five thousand shares, each of twenty dollars, to promote the culture of silk in New-Castle county, Edward Tattnal, James J. Brindley, Doct. James W. Thomson, Merritt Canby, James Delaplaine, Samuel Canby, Doct. William Gibbons, J. P. Gareche, Thomas Garrett and Philip Reybold, be commissioners to receive subscriptions of said shares. Any one or more of said commissioners shall have power to receive subscriptions. Subscriptions shall be received on the 22nd day of February next, from ten o'clock in the forenoon, till three o'clock in the afternoon, at the City Hall in Wilmington, and if all the shares be not taken at any time afterwards, at any place. Two dollars and fifty cents shall be paid on each share, at the time of subscribing.

Commissioners appointed, to receive subscriptions.

When and where.

Payment on subscribing.

As soon as two hundred and fifty shares are subscribed, the aforesaid commissioners, or a majority of them, shall have power to call a meeting of the subscribers, to be held at a day and hour to be appointed in the call, at the City Hall in Wilmington, giving at least ten days notice of the meeting by advertisement, in two papers printed in Wilmington. The subscribers assembled in this meeting, may proceed to elect the directors hereinafter mentioned, and to do any business, proper for the Company. They may adjourn the meeting, to hold the election on another day.

Meeting of subscribers, after subscription of 250 shares.

Directors to be elected, &c.

SECTION 2. *And be it further enacted by the authority aforesaid,* That as soon as directors shall be elected, according to the preceding section, the share-holders of the capital stock aforesaid, shall be incorporated by the name of the "New-Castle county Silk Company," and shall enjoy all the franchises, incident to a corporation. Provided, that the said corporation shall not exercise any banking powers: and that this act of incorporation shall continue in force twenty years and no longer, without re-enactment of the Legislature; and that power is reserved to revoke this Act, by the Legislature.

Subscribers incorporated.

Name of company.

Banking powers prohibited.

Continuance.

This act may be repealed.

The following shall be fundamental articles of this corporation:

Fundamental articles.

Directors.

FIRST, The business and concerns of the corporation, shall be managed by nine directors, chosen by the share-holders, voting by ballot and having one vote for every share. The first election shall be held as aforesaid; and the subsequent elections shall be held at an annual meeting of the share-holders, the time and place of which shall be appointed by the by-laws. The directors shall continue in office until the annual meeting, next succeeding their election and until successors are chosen.

A vacancy, happening in the interim between the elections, shall be filled by the remaining directors. A director must be a share-

holder, and his office shall cease on his ceasing to be a shareholder. Any five directors shall form a board, competent to transact business.

SECOND, The directors shall choose one of their number to be President. president; in his absence, an appointment may be made pro tem. They shall choose their secretary and treasurer, and appoint such officers and agents as they shall deem necessary. They shall have power to make by-laws. They may require any officer or agent to give security, for the faithful performance of his duties and his good behaviour. They shall hold meetings, according to the by-laws. They shall have the superintendence, ordering and control of all the affairs and concerns of the corporation. They may purchase or rent lands and tenements, direct the culture, and carry into effect the object of the company, according to their judgment.

Secretary,
Treasurer,
&c. powers of
Directors.
By-laws.

THIRD, No director shall be entitled to any emolument, unless allowed by the stockholders at a regular meeting.

FOURTH, The shares of the capital stock shall be personal property, and shall be assignable according to the by-laws.

Shares may
be assigned.

FIFTH, The directors shall at the annual meeting, and previous to going into an election, lay before the stockholders a general account of the stock, funds, debts, credits, and profit and loss of the corporation: and they shall make annual dividends of the clear profits, or such part as may be deemed advisable.

Accounts to
be laid before
stockholders.

And dividends
to be made.

SECTION 3. *And be it further enacted,* That the board of directors shall have authority to call the balance, remaining due on every share, in instalments of two dollars and fifty cents, on each share, giving thirty days notice of every call, until the full amount of each share shall be paid in. If any shareholder shall neglect to pay according to such call, the share may, in thirty days after the expiration of the call, be declared forfeited. If the sum called shall not be paid at the day, interest shall be chargeable from that day. Every subscriber shall be liable by virtue of his subscription, to pay the full amount of every call that shall be made, as aforesaid, upon every share by him subscribed, and the corporation shall have an action therefor.

Payment of
the balance of
subscription
money.

SECTION 4. The board of directors shall have power to dispose of all the shares, that shall not have been subscribed, when the shareholders shall become incorporated as aforesaid, and of all the shares that shall be forfeited. For this purpose they may receive subscriptions of shares and appoint any agent, or agents, to receive such subscriptions, or take any other measure for disposing of said shares, which they shall deem expedient. Any member of the board shall have power to receive such subscriptions. The board may direct the manner in which the amount of the shares, so to be subscribed or disposed of, shall be paid and the subscribers, or persons taking the shares, shall be bound by such directions.

Disposition of
shares, not
subscribed or
forfeited.

Public act.

SECTION 5. *And be it further enacted*, That this act shall be a public act.

Passed at Dover, January 25, 1837.

—:00:—

CHAPTER LVII.

AN ACT to authorize Joseph Scott, the administrator and Sally C. Thomas, the widow of Doctor Joseph Thomas, late of the city of Wilmington, deceased, to make sale of all the real estate of the said Doctor Joseph Thomas, deceased, in manner and form as therein prescribed.

Private act.

Passed at Dover, January 25, 1837.

—:00:—

CHAPTER LVIII.

8 vol. p. 242.
chap. ccxlvi.

AN ACT to amend the Act entitled "*A further supplement to the Act entitled An Act, respecting the partition of lands and tenements, among joint tenants, and tenants in common.*"

Sect. 1 amended by striking out and inserting.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the act entitled "*A further supplement to the Act entitled 'An Act, respecting the partition of lands and tenements, among joint tenants and tenants in common,' be, and the same is hereby amended, by striking out the proviso, at the end of the first section thereof, and inserting* the following: 'Provided always that if any one or more of the joint tenants, or tenants in common, when a valuation has been or hereafter may be made and returned, will take the said property at the valuation thereof, and either pay to the other parties entitled, their just and proportionable shares respectively, of said value, or with sufficient surety or sureties, to be approved by the Chancellor, enter into a recognizance, to be taken and acknowledged in the Court of Chancery, to the State, in a penal sum, to be determined, by the Chancellor, with condition to pay to the other parties entitled severally, or their executors, administrators, or assigns respectively, their respective, just and proportionable shares of the said value, with interest from such time, as the said Chancellor shall determine, in such manner and at such time, as may, by the direction of the said Chancellor, be prescribed and appointed in said condition, then no order of sale shall be made, but the Chancellor shall make a decree or order accordingly, 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*

* "*Insert*," in the original.

claim, by, from, through, or under them, or any of them: *And provided further*, that in case of conflicting claims to an assignment, by any two or more of the said joint tenants and tenants in common, then and in that case no assignment shall be made but it shall and may be lawful for the Chancellor, to make an order of sale, of the said real estate, as is directed in the act entitled "A further supplement to the act entitled "An Act respecting the partition of lands and tenements among joint tenants and tenants in common," passed at Dover, the fourth day of February, in the year of our Lord, one thousand eight hundred and thirty-three; 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 entitled "An Act respecting the partition of lands and tenements among joint tenants and tenants in common," shall be varied by the Chancellor, so as to conform to the provisions of this act.

SECTION 2. *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 to be printed.

Passed at Dover, January 25, 1837.

—:00:—

CHAPTER LIX.

AN ACT *authorizing the Register of the Court of Chancery, of New-Castle County, to procure a new seal of office.*

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Register of the Court of Chancery of this State, in New-Castle county be and he is hereby required and authorized, to procure a new seal for said office, of the same device and materials, but of larger dimensions than the present seal; and he shall deliver the present seal whenever the new one shall be obtained, to the sheriff of New-Castle county, who shall cause it to be destroyed in such mode or manner as the said court shall direct. Register in Chancery of N. C. county, to procure a new seal.
The old seal to be destroyed.

SECTION 2. *And be it further enacted*, That the Levy court of New-Castle county, is hereby directed to pay the cost of said new seal. L. Court of N. C. county, to pay for new seal.

Passed at Dover, January 26, 1837.

—:00:—

CHAPTER LX.

AN ACT *to incorporate the Franklin Beneficial Society of Wilmington Delaware, for the relief of the members thereof, their widows and orphan children.*

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

Lewis V. Crips, John Guyer, William Simmons, (B'k Layer,) John M. Turner, Jesse Rogers, James Hunter, Charles Devoc, George Zenor, John Quimby, Philip Stotsenburg, Christian Hyland, John Simmons, Samuel E. Knight, David Dingee, Thomas Allen, Thomas Wollaston, James Jones and Peter Carr, and such other persons as are, or hereafter shall become members of "The Franklin Beneficial Society of Wilmington." be, and for twenty years hereafter shall be by virtue of this act, one body politic and corporate, in fact and in law, and shall have continuance and succession for twenty years, by the name, style and title, of "The Franklin Beneficial Society of Wilmington."

SECTION 2. *And be it enacted,* That the said corporation and their successors shall for twenty years 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, devised or conveyed to them, and also to grant, let, sell, or assign the same, and to do all other matters, touching the same, by the name and title aforesaid; and they shall have a common seal; may sue and be sued, plead and be impleaded, in any court of law or equity in this State, in all manner of actions, suits, complaints, pleas, causes and matters whatsoever, and of what nature and kind, soever.

SECTION 3. *And be it enacted,* That the members of this Society shall have power to appoint such officers, as they may deem necessary or proper, to conduct the affairs of the Society, and from time to time, to make and establish such by-laws, rules, and ordinances, not contrary or repugnant to the laws and constitution of this State or of the United States, as they shall deem necessary and proper, for the good government of the Society.

SECTION 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, lands or tenements, or property of any kind, the clear yearly income or revenue of which shall exceed five thousand dollars.

And provided also, That nothing in this act shall be construed or taken to authorize the said corporation, holding real estate, the yearly income or rental value whereof shall exceed five hundred dollars, for a longer period than one year.

Passed at Dover, January 30, 1837.

—:00:—

CHAPTER LXI.

AN ACT for the payment of certain claims, therein mentioned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be, and he is hereby directed, to pay out of any

State Treasurer to pay certain claims.

money in the treasury, not otherwise appropriated, the following claims against this State; that is to say, to the Farmers' Bank of the State of Delaware, the amount and expenses of a draft for five hundred and four dollars, and sixty-one cents, drawn by the Engineer of the Delaware Rail Road, on the Commissioners of said road, bearing date, November the twenty-ninth, Anno Domini, one thousand eight hundred and thirty-six. And also to Henry Todd, surveyor, two hundred and eighty-nine dollars and sixty cents; being the amount of a certificate of the said engineer in his favor, bearing date November the fourteenth, in the year aforesaid.

To the Farmers' Bank.

And H. Todd.

Passed at Dover, January 31, 1837.

—:00:—

CHAPTER LXII.

AN ACT to vest in Joseph C. Griffith, of the village of Cantwell's Bridge, in New-Castle county, the title of this State, in and to a lot of land, in said village.

Private act.

Passed at Dover, February 1, 1837.

—:00:—

CHAPTER LXIII.

AN ACT for the relief of William Lee Graham, Laura Graham, and Henry Yeatman Graham, minors, of the city of Cincinnati, in the State of Ohio.

Private act.

Passed at Dover, February 1, 1837.

—:00:—

CHAPTER LXIV.

A SUPPLEMENT to the Act entitled "An Act to enable the owners and possessors, of the meadow, marsh and cripple lying on both sides of Silver run, and fronting the river Delaware, effectually to embank and drain the same, and keep the banks, dams, sluices, canals and drains in repair, and to raise a fund to defray the expense thereof." Chap. ccviii. b. 2 vol. p. 970.

Private act.

Passed at Dover, February 1, 1837.

LAWS OF THE STATE

CHAPTER LXV.

Chap. viii. 9. AN ACT to revive and continue in force an Act entitled "*An Act*
vol. p. 10. *to incorporate the owners of the Beaver Gut Marsh, for the better*
securing and improving the same."

Private act.

Passed at Dover, February 1, 1837.

—:00:—

CHAPTER LXVI.

Digest, 433. AN ADDITIONAL SUPPLEMENT to the Act entitled "*An*
Act for the relief of distressed and decayed pilots, their widows
and children."

Half pilotage SECTION 1. *Be it enacted by the Senate and House of Represen-*
not be charg- *tatives of the State of Delaware in General Assembly met, That*
ed on vessels, *from and after the passage of this Act, no half-pilotage shall*
except engag- *be imposed upon any vessel or vessels, arriving in or departing*
ed in foreign *from this State, except such vessels as are engaged in foreign*
trade. *trade.*

Passed at Dover, February 1, 1837.

—:00:—

CHAPTER LXVII.

AN ACT for the protection of the fisheries on Broadkilm Creek.

Preamble. *Whereas, it hath been represented to this General Assembly, that*
divers persons when fishing in Broadkilm Creek, to the disturbance
of other persons, who fish in the said creek, use improper means
therefor, by threshing and beating the waters of said creek, there-
by preventing the fish from passing up and down the said creek,
as they otherwise would do.

Penalty for threshing wa- SECTION 1. *Be it enacted by the Senate and House of Representa-*
ters of Broad- *tives of the State of Delaware in General Assembly met, That if*
kilm creek. *any person or persons, after the passing of this Act, shall be dis-*
covered whipping, threshing, beating, or otherwise disturbing the
waters of Broadkilm Creek, with a view to divert or drive the fish
into his, her or their nets, seines or wears, he, she or they, for
every such offence thereof convicted, by the view of any one Jus-
justice of the Peace, or by the testimony of one credible witness, shall
forfeit and pay to any person or persons, who may sue for the same,
the sum of ten dollars, with costs of suit, to be recovered by com-
plaint made to any one Justice of the Peace, for the county of Sus-
sex, as other debts under fifty dollars, are recoverable, by the laws
of this State.

How recover-
ed.

Passed at Dover, February 2, 1837.

OF DELAWARE.

77

CHAPTER LXVIII.

AN ACT for the payment of the debts of the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in general Assembly met,* That the State Treasurer be, and he is hereby directed, to pay out of any money in the treasury not otherwise appropriated, all such sums of money as have been heretofore borrowed, by this State, and are now due from it, on account of loans to any person or persons whatsoever, and to make report of the sums so paid, and the persons to whom the same shall be so payable, to the General Assembly at its present session.

State Treas'r.
to pay sums
that have been
borrowed by
the State and
are now due
from it; and
make report.

Passed at Dover, February 2, 1837.

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CHAPTER LXIX.

A SUPPLEMENT to an Act entitled "*An Act concerning the sales of real estates, made by the Sheriff, in and for New-Castle county.*" Digest 211.

SECTION 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 Sheriffs of New-Castle county, to make all sales of real estate, on the premises to be sold, or at some public house either in the hundred in which the premises are situate, or in the adjoining hundred, at the discretion of the sheriff, selling the same; any thing contained in the act to which this is a supplement, to the contrary notwithstanding.

Sale in N. C.
county on the
premises, or
at a public
house in same
hundred or
adjoining
hundred.

Passed at Dover, February 2, 1837.

—:00:—

CHAPTER LXX.

A SUPPLEMENT to the Act entitled "*An Act to regulate certain public buildings in the town of Dover, in Kent county, and in Georgetown, in Sussex county.*" Digest, 640.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the whipping-post and pillory in Kent county, may be put up and erected, at any place on the court house lot, or gaol lot in the town of Dover, which the Levy Court and Court of Appeal of Kent county, shall direct; any thing in the act, to which this is a supplement, to the contrary notwithstanding.

Whipping
post and pil-
lory in Kent
county may
be placed
where L. C't.
shall direct.

Passed at Dover, February 2, 1837.

LAWS OF THE STATE

CHAPTER LXXI.

AN ACT for the protection of the Pivot Bridge, over Murderkill Creek below Frederica, in Kent county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That if any person or persons whatsoever, shall wilfully cause or permit any injury or damage to be done to the Pivot Bridge, over Murderkill Creek, below the town of Frederica, in Kent county, every such person or persons so offending, shall be deemed guilty of a misdemeanor, and, for every such offence upon conviction thereof, before any Justice of the Peace, for Kent county aforesaid, shall forfeit and pay all the actual damages so done to the 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 Kent county aforesaid, 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 Kent county aforesaid, for the use of the said county.

For any injury to.

Penalty.

Now applied.

SECTION 2. *And be it further enacted by the authority aforesaid,* That if the overseer of the said Pivot Bridge, for the time being, shall knowingly permit any person or persons to commit any damage or injury to the said bridge, or knowing of such damage and injury, shall neglect and fail to prosecute the person or persons so offending, within the space of one month, after the committing of such damage or injury, or from the time of such knowledge of such damage or injury, agreeably to the provisions of the first section of this Act, then and in every such case, the said overseer so permitting the said injury or damage, or so knowing thereof, neglecting or failing to prosecute as aforesaid, the person or persons so offending, shall be deemed guilty of a misdemeanor, and for every such offence, upon conviction thereof, before any Justice of the Peace for Kent county aforesaid, shall forfeit and pay all the actual damage, so done to the 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 for Kent 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 the said overseer for the same, and the other half thereof, together with all damages, to be paid to the Treasurer of Kent county aforesaid, for the use of the said county: *Provided always*, that in every case of prosecution by any person other than the said overseer, agreeably to the provisions of the first section hereof, then and in

Overseer knowingly permitting injury, or knowing of it, failing to prosecute.

Penalty.

Now applied.

Proviso.

* "Proceed," in the original.

such case, the said overseer shall not be required to prosecute for the same and he shall not be answerable in such case, for any damage or injury done or committed to the said bridge.

Passed at Dover, February 2, 1837.

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CHAPTER LXXII.

A FURTHER SUPPLEMENT to the Act entitled "*An Act to authorize 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.*" Digest 158.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That whenever, in the opinion of the freeholders, appointed to lay out, extend or alter any ditch or drain, under the act to which this is a further supplement, it is impracticable or unnecessary to locate the boundaries of the swamp or low grounds, through which said ditch or drain shall run, or to ascertain, by survey, the boundaries of the respective lots contained within the limits of said swamp or low grounds, and the quantity and quality thereof, belonging to each holder, or to make a correct and accurate description on the plot to be returned by them, of the said boundary lines, division lines, quantity of acres and quality of soil, the said freeholders be, and they are hereby authorized, to make a general delineation (without survey,) of the boundaries of such swamps or low grounds, with an estimated quantity of the acres contained therein: and also a general delineation of the division lines and boundaries of the several holders, with an estimated quantity of acres belonging to each: any thing in the act to which this is a further supplement or in the first section of the supplement to said act, passed at Dover, 6th February, 1819, to the contrary notwithstanding. Freeholders app'd to lay out ditches, &c. under former act may, in certain cases make a gen'l. delineation of boundaries, &c., without survey. Dig. 161.

SECTION 2. *And be it enacted,* That it shall be lawful for any person, being taxed for any ditch or drain which does not pass through or upon his lands, to open ditches or drains through the intervening land, into such main ditch or drain, and to keep the same open, at his proper costs and charges and without cost, charge or hindrance to the owner of the intervening lands: *Provided,* that no such cross-ditch or drain shall be cut upon or through the intervening land of any other person, without the consent of the owner of such intervening land: or unless the said cross-ditch or drain shall be laid out and approved, and the damages accruing thereon to the owner of the land, assessed by at least two of the freeholders, appointed to lay out the main ditch or drain, or by three other persons, to be appointed by the Superior Court, for the purpose of assessing such damages. The person applying for such cross-ditch or drain, shall pay all the costs of laying out and opening the same, and shall before opening the same, pay all damages assessed to such persons as may be injured thereby, or deposit the A person taxed for ditch not on his land may open ditches thro' intervening lands. Proviso. Person applying for cross ditch to pay costs of laying out, &c.

Proviso.

same in the Superior Court aforesaid, for the use of such persons. *Provided always, nevertheless,* that whenever in the opinion of the said commissioners, the owner or owners of the intervening land will derive any benefit by the cutting of such ditches or drains through such intervening land; then, and in that case, the said owner or owners of said intervening land, shall contribute and pay such sum as said commissioners consider said owner or owners proportional part of the cost and expenses of said ditches or drains.

Passed at Dover, February 2, 1837.

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CHAPTER LXXIII.

AN ACT to enable Daniel Cannon, of Sussex county, to locate certain vacant lands, situate in North-west Fork hundred, in said county and to complete his title to the same.

Private act.

Passed at Dover, February 3, 1837.

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CHAPTER LXXIV.

AN ACT for the relief of Garrett Barcus.

Private act.

Passed at Dover, February 3, 1837.

—:00:—

CHAPTER LXXV.

AN ACT to enable Lemuel A. Hall, of Sussex county, to locate certain lands, situate in Baltimore hundred in said county, and to complete his title to the same.

Private act.

Passed at Dover, February 3, 1837.

CHAPTER LXXVI,

AN ACT to revive and continue in force An Act entitled "An Act for the relief of Charlotte Harker."

Private act.

Passed at Dover, February 4, 1837.

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CHAPTER LXXVII.

AN ACT to enable Elizabeth Caroline Whiteley, a minor, to sell and convey a certain tract of land therein mentioned.

Private act.

Passed at Dover, February 7, 1837.

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CHAPTER LXXVIII.

A FURTHER SUPPLEMENT to the Act entitled "An Act to incorporate the Cherry Island Marsh Company." chap. ci. 4 vol. p. 295.

Private act.

Passed at Dover, February 7, 1837.

—:00:—

CHAPTER LXXIX.

A SUPPLEMENT to the Act entitled "An Act, supplementary to the act entitled 'An Act for the establishment of free schools.'" 8 vol. 277. chap. cclxix.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the school committee of every united School District, shall have power to provide for such district, two or more schools, and to employ female teachers in like manner as male teachers, and to make such regulations as shall be requisite for the orderly and useful conducting of the schools. A proposal to have several school houses, in a united School District, may be brought before a regular meeting of the school voters, by inserting it in the due notice of that meeting. And if such proposal shall be carried in the meeting, the school committee shall have power to execute it. Upon such a proposal being brought before a meeting, as a preparatory step, the chairman and secretary shall ascertain the time and places of posting the advertisements of the meeting, and the substance of any proposal inserted in them, and enter the facts in the proceedings of the meeting. Every meeting of school voters in an united School committee, in a united s. district, may provide 2 or more schools, &c. And (on power given at a regular meeting,) may provide several school houses.

Meeting of

school voters, where to be held. district, having several school houses, shall be held in the school house appointed in the notice of the meeting: but this notice shall conform to any standing order of the school voters in regular meeting, determining in which of several school houses, the meetings shall be held. The proceedings of a meeting of school voters, in of a meeting, an united School District, inquiring concerning the union of the inquiring, &c. several school districts, composing such united School District, and conclusive. the determination of such meeting thereupon, are, and shall be received as conclusive. The school voters and school committee respectively, of an united School District, possess the power of taxation in like manner as it is possessed in other school districts; and the limit of this power in every united School District shall be, that a greater sum shall not be raised by way of tax, in an united School District, than the amount of the several sums that could lawfully be raised by way of tax, in the several districts composing such united school district, if acting separately.

SECTION 2. *And whereas*, the school committee of united school district, numbers 10, 11, 12, 13, 14, 15, 16, 17 and 18, in New-Castle county, pursuant to a resolution passed at the stated meeting in said district, on Saturday the first day of October last, have applied to this General Assembly, for power to mortgage the lot and school house of said district, to raise the sum of fourteen hundred and seventy dollars, to discharge the debts against said district, the balance of expenditures in the purchase of the lot and building, and furnishing of the house; and this subject being inquired into and considered: *Thereupon be it enacted and declared*, that the school districts number ten, number eleven, number twelve, School dis- tricts num- bers 10, 11, 12, 13, 14, 15, 16, 17, and 18 in N. C. county, united. number thirteen, number fourteen, number fifteen, number sixteen, number seventeen and number eighteen, in New-Castle county, have been duly united and compose an United School District, by the name of United School District, numbers 10, 11, 12, 13, 14, 15, 16, 17 and 18, in New-Castle county, according to the form of the Act, to which this is a supplement, and shall be deemed and held to be an United School District, to all intents and purposes, whatsoever.

Said united district au- thorized to mortgage lot and school house. SECTION 3. *And be it further enacted*, That the said United School District shall have power to grant and convey, to any person or corporation, in fee simple, by way of mortgage, for securing the payment of the sum aforesaid with interest, the aforesaid lot and school house of the said United District: and the deed or deeds of the said united district, made in the name of the said united district, and sealed with a seal adopted by the school committee of the said united district, as the common seal of said united district, and acknowledged by any member of said school committee, before any person or persons, authorized to take the acknowledgment of deeds, to secure the payment of the sum aforesaid with interest, shall be valid and effectual and admitted to record.

To be a public act.

SECTION 4. *And be it further enacted*, That as well the second

and third sections of this Act, as the first section, shall be a public Act.

Passed at Dover, February 8, 1837:

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CHAPTER LXXX.

AN ACT to improve the navigation of Broadkill creek.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Matthew Rensch, Philip Short, Joshua S. Layton, George R. Fisher and James Anderson be, and they are hereby appointed commissioners, with full power and authority to view and examine, whether the navigation of Broadkill creek cannot be greatly improved by the cutting of a canal or canals, and upon viewing the grounds and marsh through which it is proposed to cut and make a canal or canals, if the said commissioners or a majority of them shall be of the opinion that it is convenient and necessary, then they are hereby ordered to lay out the same, in such manner as they, or a majority of them, shall judge most proper.

Commissioners appointed.
Their powers and duties.

SECTION 2. *And be it enacted,* That the said commissioners are further directed and required, to assess and to allow to the person or persons, through whose lands and marsh the said canal may pass, such damages, as they shall think such person or persons may be entitled to, in consequence of the cutting and making of the said canal, which damages shall be paid or tendered before the said improvement is commenced and undertaken.

Assessment of damages to such as may be injured by canals, &c.

SECTION 3. *And be it enacted,* That in case any person or persons, through whose lands or marsh the said canal or canals may pass, shall be dissatisfied with the damages which shall be assessed by the said commissioners, or with their decision, if no damages are assessed, it shall and may be lawful for him, her or them, to appeal from the determination of the said commissioners, to the Superior Court, held in and for the county of Sussex, who are hereby authorized and required to appoint five substantial and disinterested freeholders, to go upon and view the said lands or marsh, whose duty it shall be to assess such damages as they shall deem proper and right: which assessment, when made and returned under their hands and seals, or the hands and seals of a majority of them, shall be final and conclusive: *Provided,* the said appeal be made within six months after the damages assessed by the said commissioners shall be made known to the persons respectively, in whose favor they are so assessed.

Appeal.
Provided.

SECTION 4. *And be it enacted,* That Aaron Marshall, James Parker, John Ponder, Peter S. Parker, William V. Coulter, John P. Paynter and John Craig be and they are hereby appointed managers for cutting and making such canal or canals; also full power

Managers appointed for cutting canals, &c.

and authority is hereby vested in the said managers to make, or cause to be made, in the navigation of said creek, all such other improvements as they shall deem necessary to be made, by scouring out, excavating, and the removal of all such obstructions from the channel of said creek, that now impede or obstruct its navigation.

SECTION 5. *And be it enacted,* That if either of the said commissioners, or either of the said managers shall die, resign, or refuse or neglect to act, it shall and may be lawful for the Governor of this State, for the time being, to appoint others in their place or stead.

SECTION 6. *And be it enacted,* That every commissioner and manager, before acting under this act, shall take an oath or affirmation before a Justice of the Peace in and for Sussex county, to perform all the duties required of him by this act, with impartiality and fidelity.

SECTION 7. *And be it enacted,* That, until the amount expended in cutting and making the said canal or canals and other improvements, with all costs attending the same, with legal interest, shall be fully satisfied and paid, it shall and may be lawful for the managers aforesaid or any person authorized by them, to demand and receive from the master or commander of every vessel, navigating said creek, the sum of two cents per ton, for every time such vessel shall pass up the said creek, above any improvement that may be made in the navigation of said creek, or shall pass down the said creek from above any improvement that the managers may make in the navigation of said creek; and in case the master or commander of any vessel, as aforesaid, shall neglect or refuse to pay the said sum of two cents per ton, for every ton she may measure, to the said managers, or to any person authorized by them to demand and receive the same as aforesaid, then and in every such case, it shall and may be lawful for the said managers, and they are hereby authorized and empowered, to issue a warrant, in the name of the State of Delaware, directed to any constable in and for Sussex county, commanding him to levy the said sum by distress and sale of any part of the rigging, tackle or furniture, belonging to such vessel, and after retaining the sum or sums which may be due, and the costs which have accrued on sale of said rigging, tackle or furniture, to return the balance of proceeds of such sale to the said master or commander of such vessel or to the owner or owners thereof.

SECTION 8. *And be it enacted,* That the managers aforesaid are hereby authorized and empowered, as soon as any canal may be completed, so that a vessel drawing five and a half feet water may pass through the same at a common tide, to stop or dam up said creek at each extremity of the said canal, so as to turn the waters of said creek through the same.

SECTION 9. *And be it enacted,* That it shall be the duty of the managers aforesaid to keep a book, and have entered therein all

monies received by them, and from whom; and also the monies ^{book the} expended by them, in the improvement of the navigation of said ^{monies re-} creek, and to whom paid, which book shall be open to the inspection of all who may have any interest in the navigation of said ^{ceiv'd and ex-} creek. ^{pended.}

SECTION 10. *And be it enacted*, That the managers aforesaid, before entering upon the duties required by this Act, shall give ^{To give bond.} bond, jointly and severally, to the Governor of the State of Delaware, in the sum of two thousand dollars, conditioned for the faithful discharge of the trust reposed in them.

SECTION 11. *And be it enacted*, That every commissioner and ^{Their com-} manager shall, for every day's service under this Act, receive one ^{pensation.} dollar.

SECTION 12. *And be it further enacted*, That for the purpose of ^{Rate of toll} ascertaining the amount or rate of toll, each and every vessel may ^{how ascer-} be liable to pay, under the provisions of this Act, that it shall be ^{tained.} the duty of each and every captain or commanding officer of any such vessel, to produce to the treasurer, or other officer authorized to collect any such toll, the register or license of every such vessel, when demanded, under the penalty of five dollars, with costs of ^{Penalty for} suit to be recovered before any Justice of the Peace, in and for ^{not producing} Sussex county, to be applied to the use and benefit of the improve- ^{register or li-} ment of the navigation of said creek. ^{cence.}

Passed at Dover, February 8, 1837.

—:00:—

CHAPTER LXXXI.

AN ACT to enable Solomon Boston, to erect a mill-dam across *Heiring Creek, in North-west Fork Hundred, in Sussex County, at the place therein mentioned, and to construct a grist mill and saw mill, and other machinery thereon.*

Private act.

Passed at Dover, February 8, 1837.

—:00:—

CHAPTER LXXXII.

AN ACT for the relief of *Margaret Morgan of Pencader Hundred, in New-Castle County.*

Private act.

Passed at Dover, February 9, 1837.

LAWS OF THE STATE

CHAPTER LXXXIII.

8 vol. p. 46. chap. lvi. *AN ACT to revive and continue in force the Act entitled "An Act to authorize John Stradly to erect a gate across a public road therein mentioned," and to extend the provisions of the same to John Stradly, a minor, son and devisee of the said John Stradly, or the purchaser or purchasers of the said John Stradly, minor.*

Former act revived. *SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the provisions of the Act entitled "An Act to authorize John Stradly to erect a gate across a public road therein mentioned," be, and the same are hereby revived and continued in force, so as to enable the said John Stradly, a minor son of the said John Stradly, deceased, or his guardian, or the purchaser or purchasers of the said John Stradly, minor, to erect the said gate.*

To be a public act. *SECTION 2. And be it enacted, That this Act shall be construed and taken to be a public Act.*

Passed at Dover, February 9, 1837.

—:00:—

CHAPTER LXXXIV.

AN ACT for the relief of John Wilson, a minor.

Private act.

Passed at Dover, February 13, 1837.

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CHAPTER LXXXV.

AN ACT authorizing the Coroner, in each of the Counties of this State, to appoint a deputy.

Coroners authorized to appoint deputies. *SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Coroners, in the respective counties of this State, are hereby authorized and empowered to appoint, if they think fit, a deputy Coroner for their respective counties; and that the acts of the said deputy, under this Act, shall have the same force and effect, as if performed by the Coroner himself; any law or usage, to the contrary notwithstanding.*

Passed at Dover, February 10, 1837.

CHAPTER LXXXVI.

AN ACT to establish a company under the name of "The Murderkill Navigation Company."

SECTION 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 a Company shall be established for the improvement of the navigation of Murderkill-creek; the capital stock of this Company shall not exceed thirty thousand dollars, divided into fifteen hundred shares, each of twenty dollars: and the said Company shall go into operation—and their incorporation, as hereinafter provided, shall take effect, whenever fifty shares shall be subscribed, and not otherwise. When to go into operation.

SECTION 2. *And be it further enacted,* That Solomon Townsend, Paris T. Carlisle, Caleb Smithers, Robert J. Lowber and Thomas Lockwood, shall be commissioners; and they, or any two of them, are authorized to receive subscriptions to the said capital stock, and for that purpose, to open books at such time and at such place in Frederica, as the said commissioners, or any two of them, may appoint: and such books shall continue open there, at least two days, and afterwards, until the said commissioners, or a majority of them, shall deem it proper to close the same: at least ten days notice of the time and place of opening such books shall be given by advertisements in one of the newspapers published in this State. If more than thirty thousand dollars shall be subscribed, on the two days aforesaid, the commissioners, or a majority of them, shall apportion the same amongst the subscribers, but shall deduct the excess from the largest subscriptions, so that no share shall be reduced while one remains larger: and if the whole amount shall not be subscribed at Frederica, the commissioners, or a majority of them, may direct books to be opened, at such time and such place as they may think proper, giving the notice required in this section: and the said books shall continue open at said place, as the said commissioners or a majority of them shall direct; subscriptions may be made by proxy, as well as in person, and the amount subscribed shall be paid as hereinafter prescribed. Commissioners appointed. Their powers and duties.

SECTION 3. *And be it further enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns, shall be, and they are hereby created, a corporation, by the name of "The Murderkill Navigation Company," and shall continue until the amount of capital stock subscribed and paid in, together with all costs and charges accruing in carrying the provisions of this Act into effect, shall have been paid, as is hereinafter provided and by that name shall have power and capacity to sue and be sued in courts of law and equity, to purchase, take, enjoy, sell and alien, lands, tenements, hereditaments, goods, chattels, rights, credits and effects, 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 Subscribers incorporated. Name. Powers.

constitution or laws of this State, or of the United States, and to enjoy the franchises incident to a corporation: but it shall not be lawful for said corporation and they shall not have power to discount notes or bills, or to loan money on interest, or to exercise any banking powers whatever: the business and concerns of said corporation shall be managed by five directors; the directors shall be elected by the stockholders; the first election shall be held as hereinafter appointed: all the subsequent elections shall be held at the annual meeting of the stockholders: the directors shall continue in office till the annual meeting of the stockholders next succeeding their election, and until successors to them shall be duly chosen: but a vacancy occasioned by death, resignation or inability to serve, in the office of a director, may be filled by appointment, made by a majority of a board of directors; the office of a director shall be vacated by his ceasing to be a stockholder: the directors shall choose one of their number to be president; they shall meet according to the by-laws of the corporation: any three of them shall form a board to do business, and if the president be absent, a president may be appointed *pro tem.*; the directors shall have power to employ engineers and labourers, and agree upon and pay their wages; to appoint officers and agents, and agree upon and pay their salaries or compensation; to take bond from any officer or agent, as the by-laws shall require, or as may be deemed expedient with or without surety; to make or cut such canal or canals for the improvement of said Murderkill creek, as may be deemed necessary to shorten the course or deepen the waters of the same, or to make or cut a new mouth at such place as the directors may select, or to connect the waters of the Murderkill and St. Jones' creeks, and to do all other such matters and things, as they, or a majority of them, may consider necessary to the improvement of said Murderkill creek; and to do all acts requisite to affect and carry on the purpose for which the company is established: and to this end, to use and employ the capital stock and funds of the company under such regulations as the by-laws may prescribe, and to bind by their contracts, deeds, or writings, under the seal of the corporation and the hand of the president, all the property and estate, common stock and joint funds of the corporation aforesaid, but not the persons or separate property of themselves, or any of the stockholders; and further, the directors shall have power to make by-laws, for the government of said corporation, and regulating the management of the business and concerns thereof, and to revise, repeal and amend the same, subject always to the control of the stockholders, in regular meeting; the by-laws shall prescribe the officers of the corporation, other than those of president and directors, the bonds to be taken from officers, the place of holding the meetings of the stockholders, the manner of calling the meetings, and the mode and regulations of assigning the shares of the capital stock. *Provided*, that all meetings of the stockholders and directors, shall be held at some place in the town of Frederica, where all the capital stock of said company, shall be assigned, either in person or by proxy. There shall be an annual meeting of the stockholders on the first Monday of May, in every year during the continuance of the corporation; if any election

Not to exercise banking powers.

Directors.

And president; their meetings and powers.

Engineers and laborers.

By-laws.

Meetings to be held in Frederica.

Annual meeting.

shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed in any year, the corporation shall not for that cause be dissolved; but in such case, directors may be chosen at an occasional meeting, regularly held. The first annual meeting shall be held on the first Monday in May, in the year of our Lord, one thousand eight hundred and thirty-seven, or at such other day as the stockholders shall appoint. In all meetings of the stockholders, regularly held, those assembled may proceed to business; all elections of directors shall be by ballot, one vote for every share; absent stockholders may vote by proxy; a majority of votes given shall determine all questions; no director shall be entitled to receive or demand compensation for services, except the same shall be allowed by the stockholders, at a regular meeting. The shares of the capital stock shall be personal property, and shall be assignable, subject to the regulation of by-laws; the directors shall make yearly dividends of the clear profits of the business of the corporation, or such part of the clear profits as may be deemed advisable; the directors shall lay before the stockholders every year, at their yearly meeting, a general account of the stocks, funds, debts and credits of the corporation, and any by-laws by them made, shall be open to the inspection of every stockholder.

Elections of directors.

Shares to be personal property and assignable.

Dividends.

Directors to lay accounts before stockholders.

SECTION 4. *And be it enacted,* That the subscribers respectively, shall pay one half part of the amount payable, upon all the shares which they shall respectively subscribe to the capital stock aforesaid, on the day of the first meeting of the subscribers, to be held as herein provided, to the directors, who shall then be chosen, and the other half part of said amount, in such manner and at such time, as the president and directors shall appoint, and either at one time, or in instalments, as may be deemed expedient by the president and directors; and the president and directors shall give public notice of the manner and time, which they shall appoint for paying such other half part of said amount, by advertisements in one of the newspapers published in this State, at least thirty days before the time appointed for such payment, to be continued in such newspapers for at least three weeks, and if such subscriber, or any or either of them, shall neglect to make payment of the sum payable by him, her or them, for the space of thirty days after due notice as above, the president and directors, may either declare the share or shares of any delinquent subscriber or subscribers forfeited, or may proceed to sue for and recover, upon each and every share or shares, as like sums are recoverable at law.

Subscription money, how paid.

SECTION 5. *And be it enacted,* That as soon as the capital stock aforesaid, or one thousand dollars thereof, shall be subscribed, the commissioners aforesaid, or a majority of them, shall call a general meeting of the stockholders, to be held at Frederica, on a day in such call to be appointed, and shall give notice of such call, and the time and place of such meeting, by advertisements, to be inserted in at least one newspaper, published in this State, and such notice shall also give information that one half of the sum subscribed, is, on the day of such meeting to be paid; and the sub-

When general meeting to elect directors, make by-laws, &c, shall be held

scribers who shall assemble at such meeting, shall have power to proceed to business, to elect directors, to make by-laws, and to do all acts which the stockholders can do according to this charter.

Loan. SECTION 6. *And be it enacted,* That the directors, be, and they are hereby authorized to contract for any loan or sum of money, not to exceed the balance of unsold stock (should there be any,) in such manner as they may deem meet for the benefit of the corporation.

Assessment of damages to such as may be injured by canals, &c. SECTION 7. *And be it enacted,* That the commissioners, or a majority of them, named in section two of this act, have full power and authority to view the grounds and marsh, through which the said canal or canals shall have been laid off; and to assess and allow to the person or persons, through whose lands or marsh the said canal or canals may pass, such damages as they shall think such person or persons may be entitled to, in consequence of the cutting and making of the said canal or canals; which damages shall be paid or tendered, before the said improvement shall be commenced and undertaken. *Provided always,* that in case any person or persons; through whose lands or marsh the said canal or canals may pass, shall be dissatisfied with the damages which shall be assessed by said commissioners, or with their decision if no damages are assessed, it shall and may be lawful for him, her, or them, to appeal from the determination of the said commissioners to the Superior Court, held in and for the county of Kent, who are hereby authorized and required to appoint five substantial and disinterested freeholders, to go upon and view the said lands and marsh, whose duty it shall be to assess such damages as they shall deem proper and right, which assessment, when made and returned under their hands, or the hands of a majority of them, shall be final and conclusive. *Provided* the said appeal be made within six months after the damages assessed by the said commissioners shall be made known to the persons, respectively, in whose favor they are so assessed.

Appeal.

Proviso.

When and how the creek may be stopped. SECTION 8. *And be it enacted,* That it shall be the duty of the directors aforesaid, and they are hereby authorized and empowered, as soon as the said canal or canals shall be completed so that a vessel drawing five feet water may pass through the same, at a common tide, to stop or dam up said creek, at such place or places as they may deem expedient, so as to turn the waters of said creek through said canal or canals.

Penalty for injury to navigation. SECTION 9. *And be it enacted,* That if any person or persons shall designedly fill up or obstruct the said canal or canals, when cut and made, or shall injure or obstruct the navigation of said creek, he, she or they so offending, shall incur a penalty of any sum not exceeding five hundred dollars, with full costs of prosecution: to be recovered by indictment in any Court of General Sessions of the Peace for Kent county.

SECTION 10. *And be it enacted,* That until the amount of the

capital stock, or the actual amount expended in cutting and making the said canal or canals, with all costs attending the same, with legal interest, shall be fully satisfied and paid, it shall and may be lawful for the directors aforesaid, or any person authorized by them, to demand and receive from the master or commander of every vessel navigating said creek, a sum not exceeding six cents per ton, for every time such vessel shall pass up the said creek, above the said canal or canals, or shall pass down the said creek, from above the said canal or canals; and in case the master or commander of any vessel as aforesaid, shall neglect or refuse to pay the said sum of six cents per ton, for every ton she may measure, to the said directors, or to any person authorized by them to demand and receive the same as aforesaid; then and in every such case, it shall and may be lawful for the said directors, or their agent, and they or their agent, are hereby authorized to issue a warrant, in the name of the State of Delaware, directed to any constable in Kent county, commanding him to levy the said sum, by distress and sale of any part of the rigging, tackle or furniture belonging to such vessel; and after retaining the sum or sums which may be due, and the costs which have occurred on the sale of said rigging, tackle or furniture, to return the balance of proceeds of such sale to the said master or commander of such vessel, or the owner or owners thereof: *Provided nevertheless*, that no toll shall be demanded from any flat, lighter or open boat, passing or repassing the same, except the passing or repassing of the same, shall be to freight or load vessels, at or beyond the eastern or northern end of said canal or canals.

Toll to be paid by vessels passing the canals.

How collected.

Proviso.

SECTION 11. *And be it enacted*, That for the purpose of ascertaining the amount or rate of toll each and every vessel may be liable to pay, under the provisions of this act, that it shall be the duty of each and every captain or commanding officer of any such vessel to produce to the treasurer, or other officer authorized to collect any such toll, the register or license of every such vessel, when demanded, under the penalty of five dollars, with costs of suit, to be recovered before any Justice of the Peace in and for Kent county, to be applied to the use and benefit of the canal or canals as aforesaid; and should there be no license or register of any such flat, lighter or open boat, which come within the provisions of this act, it shall and may be lawful for the directors or their agent, to call upon some skilful person to measure the burthen thereof; and the said flat, lighter or open boat, when so measured, shall come within the provisions of this act, and be liable for the amount of tolls so rated.

Rate of toll, how ascertained.

Penalty for not producing the register or license.

SECTION 12. *And be it enacted*, That every commissioner shall, for each and every day's service under the provisions of this act, receive one dollar.

Compensation of commissioners.

SECTION 13. *And be enacted*, That every commissioner and director as aforesaid, before entering upon the duties of their respective offices, shall be sworn or affirmed before some Judge or Justice.

Commissioners and directors to be sworn or affirmed.

Power of re-
vocation re-
served.

tice of the Peace, faithfully and impartially to perform the duties required of them by this act.

The constitutional power of revocation is hereby reserved to the Legislature.

Passed at Dover, February 10, 1837.

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CHAPTER LXXXVII.

Digest p. 294. **A SUPPLEMENT** to the act entitled "*An Act for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That whenever any person shall be imprisoned by any Justice or Justices of the Peace or by the Mayor or any Alderman of the city of Wilmington, for a contempt of their said courts respectively, of such person on complaint made to the Chancellor or any Judge of the Superior Court in vacation, or to the Court of Chancery or the Superior Court in session, stating such commitment and the cause thereof, shall be entitled to the writ of *habeas corpus*, which shall be granted in manner and form, and under the provisions and penalties of the act to which this is a supplement; and the said courts, chancellor or judge, shall have power to examine into the cause of such imprisonment, and into the nature and character of the alleged contempt, and may thereupon remand or discharge the prisoner, as to the said court, chancellor or judge shall seem just and right.

Notice to
committing
magistrate.

SECTION 2. *And be it enacted,* That on the granting of such *habeas corpus*, notice shall be given to the committing magistrate, of the time and place of the return thereof.

Prisoner may
deny the al-
leged con-
tempt under
oath or affir-
mation.

SECTION 3. *And be it enacted,* That it shall be lawful for the prisoner to deny the alleged contempt, under oath or affirmation: and the court or judge shall give to such denial, such credit, as under the circumstances of the case, he may consider it entitled to.

Passed at Dover, February 10, 1837.

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CHAPTER LXXXVIII.

7 vol. p. 147. **AN ACT** to amend the act entitled "*An Act to authorize the cutting a ditch or drain from Baucumbrig into Murderkill creek.*"

Amended by
striking out
&c.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the act entitled "*An Act to authorize the cutting a ditch or drain*"

from Baucumbrig into Murderkill creek," passed at Dover, February 8, 1827 be, and the same is hereby amended as follows, to wit: by striking out from the title of said act, the words "into Murderkill creek," and inserting in lieu thereof, the words "into the Delaware bay;" also, by striking out all the first section of the said act, after the enacting clause and the word "that," and inserting the words "Elias Fleming, William T. Masten, John Thompson, James Cullen and Curtis B. Beswick be, and they are hereby appointed commissioners, to go upon and view the marshes and low grounds on a creek or gut called Baucumbrig; and after viewing the same, they, or a majority of them, shall ascertain and determine what owner or owners of said marshes and low grounds will be benefitted by cutting a canal and opening a new mouth for Baucumbrig creek into the Delaware bay, from the nearest point on said creek, to the beach at or near the upper Conch Bar, and shall appraise all such marshes and low grounds, which, in their opinion or the opinion of a majority of them, will be benefitted by such canal or new mouth to said creek, by fixing the value thereof per acre, according to situation, and upon such principles as will do equal justice to all parties; which said appraisement shall be the rate of assessment for all taxes to be laid under this act: and the said commissioners, or a majority of them, shall estimate the sum of money requisite to cut and make said canal or new mouth, and shall apportion, lay and assess the same upon the said value so fixed, according to a certain rate for every dollar of said value, and so *pro rata*, and shall apportion the same sum of money among the respective owners accordingly. And the said commissioners shall make two certificates, to be signed by them or a majority of them, describing the canal as laid out, and containing the names of the owners of the said marshes and low grounds, and the quantities thereof, held by them respectively, the appraisement or valuation and the taxes laid. One of the said certificates shall be deposited in the office for recording of deeds in and for Kent county, and shall there be recorded by the Recorder of Deeds for said county, and a copy of said record, under the hand and seal of office of said recorder, shall be competent evidence; and the other of said certificates to the treasurer of the company for the time being; and the said certificates shall be final and conclusive upon all parties. And the company, by the said act created, shall have full power and authority to stop up the mouth of a canal where it intersects Baucumbrig creek, and cut and open a new canal from said Baucumbrig creek into the Delaware bay as aforesaid." And further, the said act shall be, and the same is hereby amended by striking out, in the said act, the words "*ditch or drain*" wherever they occur, and inserting in lieu thereof, the word "*canal*;" also by striking out, wherever they occur in said act, the words "*ditch or ditches*," "*drain or drains*," and inserting, in lieu thereof, the word "*canal*."

Title

Sect. 1.

Other parts
of said act.

Passed at Dover, February 10, 1837.

CHAPTER LXXXIX.

AN ACT to authorize and empower Joseph B. Ford, of the city of Washington, to export a certain slave therein mentioned.

Private act.

Passed at Dover, February 11, 1837.

—:00:—

CHAPTER XC.

AN ACT to establish a company under the name of the Camden Navigation Company.

SECTION 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 a Company shall be established for the improvement of the navigation of St. Jones' creek; the capital stock of this company shall not exceed twenty thousand dollars, divided into one thousand shares of twenty dollars each; and the said company shall go into operation and their incorporation, as hereinafter provided, shall take effect whenever fifty shares shall be subscribed, and not otherwise.*

Company established. cs.

When to go into operation.

SECTION 2. *And be it further enacted, That Thomas Wainwright, James Lord, Garrett Luff, Thomas Mifflin and Hunn Jenkins shall be commissioners, and they, or any two of them, are authorized to receive subscriptions to the said capital stock, and for that purpose to open books, at such time and at such place, in Camden, as the said commissioners, or any two of them may appoint; and such books shall continue open there, at least two days, and afterwards until the said commissioners or a majority of them shall deem it proper to close the same: at least ten days notice of the time and place of opening such books shall be given, by advertisement in one of the newspapers published in this State. If more than twenty thousand dollars shall be subscribed, on the two days aforesaid, the commissioners or a majority of them, shall apportion the same amongst the subscribers, but shall deduct the excess from the largest subscriptions, so that no share be reduced while one remains larger; and if the whole amount shall not be subscribed at Camden, the commissioners, or a majority of them, may direct books to be opened at such time and such place as they may think proper, giving the notice required in this section; and the said books shall continue open at said place, as the commissioners or a majority of them shall direct; subscriptions may be made by proxy, as well as in person, and the amount subscribed shall be paid as hereinafter prescribed.*

Commissioners appointed.

Their powers and duties.

SECTION 3. *And be it further enacted, That the subscribers to the capital stock aforesaid, their successors and assigns shall be,*

Incorporation.

and they are hereby created, a corporation, by the name of "The Camden Navigation Company," and shall continue until the amount of capital stock subscribed and paid in, together with all costs and charges accruing in carrying the provisions of this Act into effect, shall have been paid, as is hereinafter provided and by that name shall have power and capacity to sue and be sued in courts of law and equity, to purchase, take, enjoy, sell and alien, lands, tenements, hereditaments, goods, chattels, rights, credits and effects, 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 this State, or of the United States, and to enjoy the franchises incident to a corporation: but it shall not be lawful for said corporation and they shall not have power to discount notes or bills, or to loan money on interest, or to exercise any banking powers whatever: the business and concerns of said corporation shall be managed by five directors; or if at any time the number of stockholders shall be less than five, then a less number than five directors shall be competent to transact the business and concerns of said corporation at the discretion of the stockholders: the directors shall be elected by the stockholders; the first election shall be held as hereinafter appointed: all the subsequent elections shall be held at the annual meeting of the stockholders: the directors shall continue in office till the annual meeting of the stockholders next succeeding their election, and until successors to them shall be duly chosen: but a vacancy occasioned by death, resignation or inability to serve, in the office of a director, may be filled by appointment, made by a majority of a board of directors; 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: a majority of them shall form a board to do business, and if the president be absent, a president may be appointed *pro tem.*; the directors shall have power to employ engineers and labourers, and agree upon and pay their wages; to appoint officers and agents, and agree upon and pay their salaries and compensation; to take bond from any officer or agent, as the by-laws shall require, or as may be deemed expedient with or without surety; to make or cut such canal or canals for the improvement of said St. Jones' creek, as may be deemed necessary to shorten the course or deepen the waters of the same, and to do all other such matters and things, as they, or a majority of them, may consider necessary to the improvement of said St. Jones' creek; and to do all acts requisite to affect and carry on the purpose for which the company is established: and to this end, to use and employ the capital stock and funds of the company under such regulations as the by-laws may prescribe, and to bind by their contracts, deed or writings, under the seal of the corporation and the hand of the president, all the property and estate, common stock and joint funds of the corporation aforesaid, but not the persons or separate property of themselves, or any of the stockholders; and further, the directors shall have power to make by-laws, for the government of the said corporation,

Powers:

Not to exercise any banking powers.

Directors and president.

Their meetings duties and powers.

Engineers and laborers.

By-laws.

and regulating the management of the business and concerns thereof, and to revise, repeal and amend the same, subject always to the control of the stockholders, in regular meeting; the by-laws shall prescribe the officers of the corporation, other than those of president and directors, the bonds to be taken from officers, the place of holding the meetings of the stockholders, the manner of calling meetings, and the mode and regulations of assigning the shares of the capital stock. *Provided*, that all meetings of the stockholders and directors, shall be held at some place in the town of Camden, where all the capital stock of said company, shall be assigned, either in person or by proxy. There shall be an annual meeting of the stockholders on the first Monday of April, in every year during the continuance of the corporation; if any election shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed in any year, the corporation shall not for that cause be dissolved; but in such case, directors may be chosen at an occasional meeting, regularly held. The first annual meeting shall be held on the first Monday in April, in the year of our Lord, one thousand eight hundred and thirty-seven, or at such other day as the stockholders shall appoint. In all meetings of the stockholders, regularly assembled or held, those assembled may proceed to business; all elections of directors shall be by ballot, one vote for every share; absent stockholders may vote by proxy; a majority of votes given shall determine all questions; no director shall be entitled to receive or demand compensation for services, except the same shall be allowed by the stockholders, at a regular meeting. The shares of the capital stock shall be personal property, and shall be assignable, subject to the regulation of by-laws; the directors shall make yearly dividends of the clear profits of the business of the corporation, or such part of the clear profits as may be deemed advisable; the directors shall lay before the stockholders every year, at their yearly meeting, a general account of the stock, funds, debts and credits of the corporation, and any by-laws by them made, shall be open to the inspection of every stockholder.

Meetings to be held in Camden.

Annual meetings.

Elections of directors.

Shares to be personal property and assignable.

Dividends.

Directors to lay accounts before stockholders.

SECTION 4. *And be it enacted*, That the subscribers respectively, shall pay five dollars upon each and every share, by them subscribed to the capital stock aforesaid, on the day of the first meeting of the subscribers, to be held as herein provided, to the directors, who shall then be chosen, and the other three-fourth parts of said shares, in such manner and at such time, as the president and directors shall appoint, and either at one time, or in instalments, as may be deemed expedient by the president and directors; and the president and directors shall give public notice of the manner and time, which they shall appoint for paying such other three-fourth parts of said amount or shares by advertisement in one of the newspapers published in this State, at least twenty days before the time appointed for such payment, to be continued in such newspaper at least two weeks, and if such subscriber, or any or either of them, shall neglect to make payment of the sum payable by him, her or them, for the space of thirty days after due notice as above, the president and directors, may either declare the

Subscription money, how paid.

share or shares of any delinquent subscriber or subscribers forfeited, or may proceed to sue for and recover, upon each and every share or shares, as like sums are recoverable at law.

SECTION 5. *And be it enacted*, That as soon as the capital stock aforesaid, or one thousand dollars thereof, shall be subscribed, the commissioners aforesaid, or a majority of them, shall call a general meeting of the stockholders, to be held at Camden, on a day in such call to be appointed, and shall give notice of such call, and the time and place of such meeting, by advertisement, to be inserted in one of the newspapers published in this State, and such notice shall also give information that five dollars on each share is, on the day of such meeting to be paid; and the subscribers who shall assemble at such meeting, shall have power to proceed to business, to elect directors, to make by-laws, and to do all acts which the stockholders can do according to this charter.

When general meeting to elect directors, make by-laws, &c. shall be held,

SECTION 6. *And be it enacted*, That the directors, be, and they are hereby authorized to contract for any loan or sum of money, not exceeding the balance of unsold stock (should there be any,) in such manner as they may deem meet for the benefit of the corporation.

Loan.

SECTION 7. *And be it enacted*, That the commissioners, or a majority of them, named in section two of this act, have full power and authority to go upon and view the grounds and marsh, for the purpose of surveying, locating and staking off the contemplated canal or canals, and when so surveyed, located and staked off as aforesaid, by said commissioners or a majority of them, then three judicious and impartial citizens of Murderkill hundred in Kent county, who shall have been appointed by one of the judges of the Superior Court of this State, residing in Kent county aforesaid, and who is hereby authorized and required to make said appointment of commissioners, on application from the president and directors of said "Camden Navigation Company," they, the said three commissioners so appointed as aforesaid, are hereby authorized and required to go upon and view said grounds and marsh through which said canal or canals shall have been surveyed, located and staked off, in company with the aforesaid five commissioners, or a majority of them as named in section two of this act, and to assess and allow to the person or persons, through whose lands or marsh the said canal or canals may pass, such damages as they shall think such person or persons may be entitled to, in consequence of the cutting and making of the said canal or canals; which damages shall be paid or tendered, before the said improvement shall be commenced or undertaken. *Provided always*, that in case any person or persons, through whose lands or marsh the said canal or canals may pass, shall be dissatisfied with the damages which shall be assessed by said commissioners, or a majority of them, or with their decision, if no damages are assessed, it shall and may be lawful for him, her, or them, so dissatisfied, to make the same known to the said president and directors, in writing within thirty days after being informed of such decision by said commissioners;

Special power of commissioners.

Assessment of damages to such as may be injured by canals, &c.

Appeal, by
either party.

or if the said president and directors are dissatisfied with the damages which shall be assessed by said commissioners, or a majority of them, in either case, the party or parties so dissatisfied shall give the other written notice thereof, within thirty days after being informed of such decision by said commissioners, (who shall report their decision within five days after viewing said grounds and marsh, one copy thereof to the Judge aforesaid, and one copy to said president and directors aforesaid,) of their dissatisfaction aforesaid, then said party or parties, so dissatisfied, may and it shall and may be lawful for them, or either of them, within five days after the expiration of said thirty days, to appeal from the determination of said commissioners, or a majority of them, to the said Judge as aforesaid, who is hereby authorized and required to appoint three other judicious and impartial citizens of Murderkill hundred aforesaid, to go upon and view the said lands and marsh, whose duty it shall be to assess such damages as they shall deem proper and right, which assessment, when made and returned under their hands, or a majority of them, shall be final and conclusive; which return shall be made in writing within five days after the day of meeting and assessing said damages aforesaid, one copy thereof to be returned to the president and directors aforesaid, and one copy to the Judge aforesaid, who shall have the same recorded in the office for recording of deeds, at Dover, in and for Kent county, at the proper charge and expense of said president and directors aforesaid.

When and
how the creek
may be stop-
ped.

SECTION 8. *And be it enacted*, That it shall be the duty of the directors aforesaid, and they are hereby authorized and empowered, as soon as the said canal or canals shall be completed so that a vessel drawing five feet six inches water may pass through the same, at a common tide, to stop or dam up or otherwise obstruct said creek, at such place or places as they may deem expedient, so as to turn the waters of said creek through said canal or canals.

Penalty for
injury to nav-
igation.

SECTION 9. *And be it enacted*, That if any person or persons shall designedly fill up or obstruct the said canal or canals, when cut and made, or when cutting and making or shall injure or obstruct the navigation of said creek, he, she or they offending, shall incur a penalty of any sum not exceeding five hundred dollars, with costs of prosecution: to be recovered by indictment in any Court of General Sessions of the Peace for Kent county.

Toll to be
paid by ves-
sels passing
through the
canals.

SECTION 10. *And be it enacted*, That until the amount of capital stock, or the actual amount expended in cutting and making said canal or canals, with all costs attending the same, with legal interest, shall be fully satisfied and paid, it shall and may be lawful for the directors of said company aforesaid, or any person or persons authorized by them, to demand and receive from the master or commander of every vessel above twenty tons burthen, navigating said canal or canals, the sum of seventy-five cents for every time such vessel shall pass through any one of said canals, provided, not more than fifty cents for passing each canal shall be charged and collected from any vessel, if such vessel shall pass through all

of said canals on said creek: and all vessels, under twenty tons, shall pay half the price of those above that size, with the same provisions and under the same circumstances as above stated: and in case the master or commander of any vessel as aforesaid, shall neglect or refuse to pay the said sum or toll to the said directors, or to any person authorized by them to demand and receive the same as aforesaid, then and in every such case, it shall and may be lawful for the said directors, or their agent, and they or their agent, are hereby authorized to issue a warrant, in the name of the State of Delaware, directed to any constable in Kent county, commanding him to levy the said sum, by distress and sale of any part of the rigging, tackle or furniture belonging to such vessel; and after retaining the sum or sums which may be due, and the costs which have accrued on the sale of said rigging, tackle or furniture, to return the balance of proceeds of such sale to the said master or commander of such vessel, or the owner or owners thereof: *Provided nevertheless*, that no toll shall be demanded from any scow, lighter or open boat, passing or repassing the same, except the passing or repassing of the same, shall be to freight or load vessels, at or beyond the eastern or northern end of said canal or canals.

How collect-
ed.
Proviso.

SECTION 11. *And be it enacted*, That for the purpose of ascertaining the amount or rate of toll each and every vessel may be liable to pay, under the provisions of this act, that it shall be the duty of each and every captain or commanding officer of any such vessel to produce to the treasurer, or other officer authorized to collect any such toll, the register or license of every such vessel, when demanded, under the penalty of five dollars, with costs of suit, to be recovered before any Justice of the Peace in and for Kent county, to be applied to the use and benefit of the canal or canals as aforesaid; and should there be no license or register of any such scow, lighter or open boat, which come within the provisions of this act, it shall and may be lawful for the directors or their agent, to call upon some skilful person to measure the burthen thereof; and the said scow, lighter or open boat, when so measured, shall come within the provisions of this act, and be liable for amount of tolls so rated.

Rate of toll,
how ascer-
tained.
Penalty for
not producing
the register
or license.

SECTION 12. *And be it enacted*, That every commissioner shall, for each and every day's service under the provisions of this act, receive one dollar.

Compensa-
tion of com-
missioners.

SECTION 13. *And be it enacted*, That every commissioner and director as aforesaid, before entering upon the duties of their respective offices, shall be sworn or affirmed before some Judge or Justice of the Peace, faithfully and impartially to perform the duties required of them by this act.

Commission-
ers and direc-
tors to be
sworn or af-
firmed.

The constitutional power of revocation is hereby reserved to the Legislature.

Power of re-
vocation re-
served.

SECTION 14. *And be it further enacted by the authority aforesaid*, That the said company shall be obliged, notwithstanding any of Company to

leave passage open, to certain landings on the creek. the former provisions of this act, to leave the passage open and unobstructed to certain landings upon the said creek, known by the name of "Barker's Landing," "The Cherry Tree Landing" and "Luff's Landing," which last mentioned landing is situated upon that tract of land now in the tenure of Asa Löffland. And it shall not be lawful for the said company to cut any canal or canals which will divert the water of said creek from its accustomed passage, through that portion of the said creek, upon which either of the before mentioned landings is situated.

Passed at Dover, February 11, 1837.

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CHAPTER XCI.

Digest p. 682. **A SUPPLEMENT** to the act entitled "*An Act for the better regulating the wharves, public streets, buildings, party-walls and partition-fences in the borough of Wilmington, in the county of New-Castle, upon Delaware, and for raising money on the inhabitants of the said borough, for the public use and benefit thereof.*"

Section 12, **SECTION 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the twelfth section of the act to which this is a supplement be amended, by inserting in the fourth line, after the words "to extend those streets," the words "or widen the same;" by inserting, in the seventh line, the words "or widened," after the words "laid out," and also, by striking out, in the ninth line, the words "general consent," and inserting, in their place and stead, the words "consent of a majority." *Provided always,* that the damages, consequent upon widening any street, shall be ascertained and assessed in the mode and manner as is already provided for, in the case of extending and laying out new streets.

How to be read and construed. **SECTION 2.** *And be it further enacted,* That the section before mentioned shall be read and construed according to the amendments heretofore 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.

And printed.

Passed at Dover, February 11, 1837.

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CHAPTER XCII.

Digest p. 675. **AN ADDITIONAL SUPPLEMENT** to the act entitled "*An Act to alter and re-establish the charter of the borough of Wilmington.*"

Sec. 2 amended by striking **SECTION 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the

second section of the act entitled "An Act to alter and re-establish out and in, the charter of the borough of Wilmington," be amended by striking ^{acting.} out, in the eleventh and twelfth lines, the words "until southwest of the lower point of the mouth of the Brandywine, thence north-east to the place of beginning," and inserting, in lieu thereof, the words "to the river Delaware, thence crossing to the northern

point of the Christiana at its mouth, thence up that side to the place of beginning."

SECTION 2. *And be it further enacted*, That the section before mentioned shall be read and construed according to the amend- ^{How to be read and con-} ment heretofore prescribed, and in any edition of the laws of this ^{strued,} State, hereafter to be published, the act aforesaid shall be printed ^{And printed.} as amended by this Act.

Passed at Dover, February 11, 1837.

—:00:—

CHAPTER XCIII.

A SUPPLEMENT to the act entitled "*An Act to establish a Company under the name of the Mispillion Navigation Company.*" ^{7 vol. p. 52. chap. xxx.}

SECTION 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 of the Legislature,)* That the said act to which this is a supplement, is hereby revived and ^{Original act revived.} continued in force, except as the same is hereinafter amended.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the capital stock of said company, may amount to, but shall not exceed the sum of fifty thousand dollars, divided into two thou- ^{Capital stock.} sand shares, each of twenty-five dollars.

SECTION 3. *And be it further enacted by the authority aforesaid,* That Louder Layton, Peter F. Causey, Truston P. McColley, John M. Darby, John R. Draper, James P. Lofland, Beniah Watson, ^{Commissioners appointed in lieu of former commis's.} John R. Potter and Liston A. Houston, be and they are hereby appointed commissioners, in lieu of the commissioners named in the act to which this is a supplement, for the purposes therein mentioned, and they or any three or more of them may, at any time hereafter, open books for receiving subscriptions to the said capital stock, in like manner as the original commissioners were authorized to do, and with like powers to reduce and apportion subscriptions among the subscribers, in case the said subscriptions shall exceed the said sum of fifty thousand dollars: and every subscriber shall, at the time of subscribing, pay to the managers receiving said sub- ^{Payment on subscribing.} scriptions, five dollars on each and every share so by him or her subscribed for, which shall be deemed and taken as part of the share or shares subscribed for: which sums so received, shall be deposi-

ted in the office of deposite at Milford, or in the Farmers' Bank at Dover, for the use of said company.

Continuance
of corpora-
tion.

SECTION 4. *And be it further enacted by the authority aforesaid,* That the subscribers to the capital stock aforesaid, their successors and assigns, incorporated as aforesaid by the name of "The Mississippi Navigation Company" may and shall continue and have perpetual succession, and shall have and enjoy all the powers, rights and privileges secured to them, by this act and by the act to which this is a supplement.

When general
meeting, to
elect direc-
tors, make
by-laws, &c.,
shall be held.

SECTION 5. *And be it further enacted by the authority aforesaid,* That as soon as the capital stock aforesaid, or ten thousand dollars thereof, shall be subscribed, the commissioners hereinbefore appointed or a majority of them, shall call a general meeting of the stockholders, to be held at Milford, on a day in such call to be appointed, and shall give notice of such call, and the time and place of such meeting, by advertisements to be inserted in two newspapers published in this State, and the subscribers who shall assemble at such meeting, shall have power to proceed to business, to elect directors, two-thirds of whom shall reside in the town of Milford and its vicinity, to make by-laws, and to do all acts which the said stockholders can lawfully do, according to their charter.

Residue of
subscription
money, how
paid.

SECTION 6. *And be it further enacted by the authority aforesaid,* That the subscribers respectively, shall pay the residue of the amount payable upon all shares which they shall have respectively subscribed to the capital stock aforesaid, in such manner and proportions, and at such times, as the president and directors shall appoint: and the president and directors shall give public notice of the manner and time, which they shall appoint for paying the said residue, in two of the newspapers published in this State, at least thirty days before the time appointed for such payment, to be continued in such newspapers for at least three weeks: and if such subscribers, or any or either of them, shall neglect or refuse to make payment of the sum payable by him, her or them, for the space of thirty days after due notice as above, the president and directors may either declare the share or shares of any delinquent subscriber or subscribers forfeited, or may proceed to sue for and recover upon each and every share or shares, as like sums are recoverable by the laws of this State.

When and
how the creek
may be stop-
ped.

SECTION 7. *And be it further enacted by the authority aforesaid,* That in case the said directors shall deem it advisable to make a new mouth by cutting a canal or canals, they are hereby authorized, as soon as said canal or canals shall be completed, so that a vessel drawing six feet water may pass through the same, at a common tide, to stop or dam up said creek at such place or places, as they may deem expedient, so as to turn the waters of the said creek through said canal or canals. *Provided* always, that for the preservation of the oysters in said creek, that no new mouth thereto shall be made, by way of canal or otherwise, which shall diverge from said creek at any point above the lower end of the oyster

Proviso.

beds or rocks in the same, any thing in this supplement, or the original act of incorporation to the contrary notwithstanding.

SECTION 8. *And be it further enacted by the authority aforesaid,* ^{Toll to be paid by vessels navigating the creek;} that as soon as the present mouth and creek shall be improved, or the said canal or canals, in case it be deemed advisable to make such as aforesaid, be completed, so that a vessel drawing six feet water may pass through the same and up said creek, at a common tide, as far as Hammersley's shoal, and from thence to Milford bridge with five feet six inches of water, at a common tide, it shall and may be lawful for the directors aforesaid, or any person or persons authorized by them, to demand and receive from the master or commander of every vessel navigating said creek or any part thereof, such rate and amount of tolls, as they may deem reasonable, and the directors aforesaid are hereby authorized to regulate, apportion, increase and diminish the rates of toll, as the circumstances and the distances to be navigated may require: *Provided,* ^{Proviso,} said tolls shall not exceed six cents per ton for each vessel passing, making twelve cents per ton for each trip, up and down, from Milford to the mouth of said creek or canal.

SECTION 9. *And be it further enacted by the authority aforesaid,* That in addition to the provisions contained in the ninth section of the act to which this is a supplement, for securing the said company from any wilful injury or obstruction to the navigation of said creek, if the navigation of said creek should be injured or any shoal or shoals, obstruction or obstructions, formed by the breaking of any mill-dam or by the decay of any wharf on said creek, or by the wilful neglect of any mill-owner or owners, or the owner or owners of any wharf or wharves, that the person or persons respectively owning said mill or mills, wharf or wharves, and liable in damages for such injury or obstruction, shall at the reasonable request of the said company, remove and clear out such shoal or shoals, obstruction or obstructions, or in case of his, her or their neglect or refusal so to do for the space of thirty days from the day of said notice, the said company may proceed forthwith to remove and clear out the same respectively, and recover the amount ^{Remedy given.} so expended, with damages, from the said owner or owners, as debts of a like grade are recoverable by the existing laws of this State.

SECTION 10. *And be it further enacted by the authority aforesaid,* ^{This and the original act to be construed favourably for the company.} That the provisions of this act, and of the act to which this is a supplement, shall be construed and taken most favorably for the interests of said company.

SECTION 11. *And be it further enacted by the authority aforesaid,* ^{Repeal of parts of the original act.} That the several provisions of the act to which this is a supplement, which have been by this act altered, or amended, and are repugnant to this act be, and the same are hereby repealed, made null and void.

Passed at Dover, February 11, 1837.

CHAPTER XCIV.

AN ACT to enable the owners and possessors of marsh and low grounds, on both sides of Drawyer's creek in St. George's hundred, New-Castle county, to embank, drain and improve the same.

Commissioners appointed: their duties and powers.

SECTION 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 Townsend, John M. Woods, Christopher Vandegrift, William Cleaver, Jr., and William Bennett, be and they are hereby appointed commissioners of the Drawyer's Creek Marsh Company, whose duty it shall be, when called upon by the managers of the said company for the time being, after being sworn or affirmed, faithfully and impartially to execute the duties hereinafter required of them, (if to them it be deemed necessary and to the interest of the said company,) to enter upon the marsh and low grounds, on both sides of said Drawyer's creek, or such parts thereof, as to them may be deemed susceptible of improvement, within the limits hereinafter described, and take with them a skilful and impartial surveyor, who shall also be sworn or affirmed, and who shall ascertain the quantity of marsh, meadow and cripple of each and every owner, and make a true plot of the same, under the direction of the said commissioners, or a majority of them: and it shall also be the duty of the said commissioners, after a plot has been made as aforesaid, to proceed to assess and rate the value of each and every owner's part of marsh, meadow or cripple, agreeably to quantity, quality, situation, &c., and when the aforesaid rate or assessment, is made out by the commissioners, they shall return the same with the plot aforesaid, to the Recorder's office, for the county of New-Castle, Delaware, and have the same recorded there: it shall also be the duty of the said commissioners, at the request of the managers of the said company, (on a day by them to be appointed, within one month after such request, and notice given by the managers aforesaid to the owners and possessors of said marsh and low grounds, by advertisements affixed at three public places in said hundred,) for them, or a majority of them, to enter upon and lay out a bank for the purpose of protecting and improving the said marsh and low grounds, the dimensions thereof to be directed by said commissioners; the said bank to commence at a point of upland on the farm now occupied by Jacob Vandegrift, adjoining said marsh where it connects with the said upland, by a bank through said marsh (known by the name of "Return bank,") thence on said bank, under the direction aforesaid, to or near the margin of Appoquinimink creek, thence up said creek, on the site deemed most eligible to the said commissioners, to or near the mouth of said Drawyer's creek, thence crossing the same, and running a course deemed, by said commissioners, most advantageous to the interest of said owners, to a point of upland on the farm of James Rogers, Esquire, adjoining said marsh: and the commissioners are also hereby authorized and empowered to order the construction of such sluice or sluices, drains or canals as to them, or a majority of them, may be deemed ne-*

cessary for draining and improving said marsh and low grounds; and also at any future time, at the request of one or more of the owners of said marsh and low grounds, the said commissioners are hereby authorized to lay out or vacate any such sluice, canals or drains, as by them may be deemed advantageous or prejudicial to the interest of said owners or possessors, and also, to condemn any such marsh or low grounds as may be necessary for the construction or preservation of such banks, sluices, canals or drains, assessing therefor the value to be paid to the owners thereof, out of the treasury of the said company.

SECTION 2. *And be it further enacted*, That the said commissioners shall be allowed the sum of one dollar for each and every day they attend on the service of the company, to be paid out of the common stock or fund, together with the costs and expenses of procuring this act, by the treasurer, to such owner or owners, as shall advance the same.

Compensation of commissioners.

SECTION 3. *And be it further enacted*, That all and every of the present owners or possessors of the said marsh or low grounds within the limits before described, or so many of them as shall think proper, shall assemble at the hotel, now kept by Alderman Lord, in the village of Cantwell's Bridge, on the first Monday in March next, and then and there, by a majority of votes of those assembled, choose by ballot, from among the owners or possessors, three suitable persons to be managers, and from among the owners, one suitable person to be treasurer, who shall continue in office, until the first stated annual meeting under this act, as hereinafter provided.

First meeting of marsh owners for election of managers and treasurer.

SECTION 4. (a)* *And be it further enacted*, That the owners and possessors of said marsh and low grounds, shall hold a stated meeting, on the first Monday of March in each and every year after the passing of this act, at the said hotel in the village aforesaid; the first-stated meeting to be held on the first Monday of March, in the year one thousand eight hundred and thirty-seven; and the said owners and possessors, then and there, by a majority of votes of those assembled, shall choose by ballot from among the owners or possessors, three suitable persons to be managers, and from among the owners one suitable person to be treasurer, who shall continue in office, until the next stated annual meeting, or until successors to them shall be duly chosen. At such stated meetings each owner or possessor paying tax, shall be allowed one vote: each owner or possessor whose customary tax, when laid agreeably to the rate of assessment, shall amount to twenty dollars, shall be entitled to two votes; and so on, one additional vote for every ten dollars tax, until it shall arrive to fifty dollars; and when it exceeds fifty dollars, one additional vote for every twenty dollars; which privilege, if objected to by any voter, shall be ascertained by a reference to the treasurer's book, or to a receipt for the last tax paid. If

Stated meeting when and where to be held.

Manner of voting.

* The original contains two sections-4; which the Secretary of State, for distinction, has marked a and b.

Vacancy
among com-
missioners
how supplied.

Duty of trea-
surer.

any owner or possessor neglects or refuses paying his proportion of taxes, for one year after the same becomes due, he shall be debarred the privilege of voting in the affairs of the company, until the same be paid. At such stated meetings the said owners or possessors shall, in the same manner, elect by ballot some proper person or persons to fill any vacancy or vacancies that may occur among the said commissioners, by death, removal from the State, resignation or otherwise. No owner or possessor shall be a commissioner. It shall be the duty of the treasurer to give ten days notice of each stated meeting, by advertisements set up in at least three of the most public places in the county, nearest the said marsh and low grounds, and also to give notice in writing to each manager of his election within ten days after.

Penalty on
manager re-
fusing to act.

The rest may
act without
him or choose
another.

If treasurer
do not act,
managers
may choose
another, &c.

SECTION 4. *(b) And be it further enacted,* That if any owner, elected manager, having received notice thereof as aforesaid, shall refuse or neglect to serve as such, he shall forfeit and pay to the treasurer, the sum of twelve dollars to be added to the common stock, unless he shall have served three years next before the election. The said sum of twelve dollars shall be recovered in the manner hereinafter directed, for the recovery of moneys payable to the treasurer. The other managers may proceed in their duty, without the person elected as aforesaid, who shall have refused or neglected to serve; or they may choose another of the owners or possessors to supply the place of the person so refusing or neglecting, until the next stated meeting or next election. And if any person elected treasurer, shall refuse or neglect to take upon himself the duties, or give the securities required, or shall afterwards misbehave himself, or be incapable of performing the duties of his office, in any such case, the managers for the time being, shall choose another person to be treasurer, until the next stated meeting or next election. And if at any time or times, it shall so happen, that all the managers or treasurer, shall refuse to act, the managers and treasurer for the preceding year, shall continue in office until successors shall be duly elected.

Treasurer to
give bond.

SECTION 5. *And be it enacted,* That the treasurer, before he enters upon the duties of his office, shall give bond to the company by their corporate name, with at least one sufficient surety, to be approved by the managers, in such penalty as they may prescribe, conditioned that he will, once in every three months, well and faithfully account to them for all moneys that shall come to his hands by virtue of this act, and pay the balance, appearing on such settlement, to be in his hands, to such person or persons, as the managers or any two of them, shall order and direct and not otherwise; and shall and will deliver all books, accounts and papers, belonging to the said company, and pay over all moneys in his hands, when he ceases to be treasurer, to his successor in office; and shall and will in all things, faithfully perform the duties of his said office of treasurer, according to the true meaning of this act.

SECTION 6. *And be it enacted,* That the owners and possessors

sors of the said marsh and low grounds, within the limits before described, are hereby constituted and declared to be a body politic and corporate, by the name and style of "The Drawyer's Creek Marsh Company," and by that name shall have all the incidents of a corporation. Incorporation.
Name.

SECTION 7. *And be it further enacted,* That the costs, charges and expenses of making and supporting the banks, sluices and public drains, which the commissioners, or a majority shall direct, and all other costs, charges and expenses shall be paid by the said owners and possessors, in proportion to the number of acres they severally hold and occupy, according to the rate of assessment to be made by the said commissioners or a majority of them; respect being had to quality as well as quantity. Costs of making banks, &c. how paid.

SECTION 8. *And be it enacted,* That the managers shall have power, as often as they shall see occasion, to lay such tax or taxes on every acre of marsh, meadow and cripple, within the limits aforesaid, according to the general rate of assessment to be made as aforesaid, as they shall deem proper or necessary, for making, supporting, repairing and keeping in good order and substantial repair, the banks, dams, sluices and public drains, and all other works and conveniences of the said company. All taxes laid by the managers under this act, shall be paid by the respective owners or possessors, according to the several rates of assessment as aforesaid, to the treasurer of the company, within three calendar months from the time of laying the same. Public notice shall be given by the managers, within one calendar month after laying said taxes, by advertisements put up in two or more public places in St. George's hundred: which advertisements shall specify the sum laid, what it will amount to in the dollar, according to the general rule aforesaid, and the time when the same shall become due. Managers, their powers and duties.

SECTION 9. *And be it enacted,* That the treasurer shall, in books to be provided at the expense of the company, keep just, distinct and accurate accounts of all taxes and other monies coming into his hands, and pay the same upon the orders of the managers, or any two of them, and not otherwise. The managers, or some two of them, shall furnish the treasurer with a list of the names of the several owners and possessors, and of each owner's and possessor's rate or dollarage, noting from time to time the several changes, alterations, transfers and alienations of right in the several parts and parcels thereof as may come to their knowledge; and shall give notice to the treasurer of every tax laid, within one calendar month after the time of laying the same, specifying the amount thereof, and when the same will become due. Treasurer's duty.
Managers to furnish him with list of owners, &c.

SECTION 10. *And be it enacted,* That after having received notice as aforesaid, of each owner's and possessor's proportion of taxes laid as aforesaid, the treasurer shall demand payment of the same from each owner and possessor; and, in case of neglect or refusal Taxes.

How collect-
ed.

on the part of such owner or possessor, the treasurer is hereby authorized and required to levy the same by distress and sale of the personal property of such owner or possessor so neglecting or refusing, which may be found upon said marshes and low grounds, and also of the grass or timber which may be there growing or being thereon; but before such sale shall be made, at least ten days notice thereof shall be given by advertisements, set up in four of the most public places in St. George's hundred and a copy of the advertisements to be given to the delinquent owner or possessor. And in case the proceeds of said sale shall not be sufficient to pay said taxes, it shall be lawful for the treasurer to levy the residue thereof, by distress and sale of the marsh, meadow and cripple of said delinquent owner or possessor, notice of such sale to be given in manner aforesaid; and if there be any overplus on any such sale as aforesaid, it shall be paid over to such delinquent.

Fees of treas-
urer upon
sale.

SECTION 11. *And be it enacted,* That the fees of the treasurer, upon such sale as aforesaid, shall be the same which a constable may be entitled to, by law, for like services: and in case any delinquent shall discharge his taxes before the day of sale, the treasurer shall receive one half of the fees, which he would be entitled to, in case of a sale, and no more.

Managers to
dispose of
money rec'd.
by treas'r &c.

SECTION 12. *And be it enacted,* That the managers or a majority of them, shall have the power to dispose of the monies received by the treasurer; and the orders signed by any two of the managers, shall be sufficient vouchers for the treasurer, and shall indemnify him for the payment of such monies and effects, as shall come to his hands by virtue of this act.

Line-drains,
how to be
cut, &c.

SECTION 13. *And be it enacted,* That all the line-drains and water-courses, between different owners and possessors, shall be cut at least eight feet wide and three feet deep, if the nature of the land will permit, and shall be made and scoured by equal proportions of labor and expense of adjoining owners or possessors, and, if any of the said owners or possessors, upon reasonable notice, shall neglect or refuse to open and scour their, or any of their parts of such line-drains, or water-courses, it shall and may be lawful for the managers, or any two of them, and they are hereby required to cause the same to be opened and scoured, and to adjust and pay the expense thereof, out of the common stock, and charge that expense to that delinquent owner or possessor; and if, within five days afterwards, the same be not paid, it shall and may be lawful for the treasurer to recover the same in the manner monies assessed are recoverable by this act.

Managers,
their further
powers and
duties.

SECTION 14. *And be it enacted,* That it shall be lawful for the managers, and they are hereby authorized and required, to enter upon the said marshes and low grounds, with such workmen, horses, carts, barrows and tools, as they may think proper, and as soon as conveniently may be, after the passing of this act, and the return of the commissioners aforesaid, and then and there lay such sluice or sluices as they may deem necessary for draining said

marshes and low grounds, and may dig and carry mud and earth from the most convenient places, for keeping the said banks, dams and sluices, in good and sufficient repair: *Provided*, that they shall, on no occasion, cut mud within less than twenty feet of the tide-bank. And the managers for the time being, shall purchase such suitable materials for the banks and sluices, and for opening and scouring such canal or canals as shall be recommended and directed by the said commissioners. And the managers are hereby further required to enter upon and inspect, at least eight times in each year, the condition of the banks, dams, sluices and public drains; and shall cause the same with such other works and conveniences, as they shall think necessary, to be kept in good order and sufficient repair; and may from time to time, add as much to the size of the bank as they may think necessary to keep out all tides.

SECTION 15. *And be it enacted*, That all and every of the said owners and possessors shall be permitted to discharge the waters of their respective lands through their natural channels, or by direct courses, across the lands of any others of the said owners or possessors, as the respective managers from time to time shall judge convenient, into the public drains or canals. And it is hereby required, that all such owners or possessors, through whose lands it is necessary to discharge such waters, shall open and scour the same as often as is necessary, to keep them in good order, for draining off the waters from the aforesaid marshes and low grounds. And in case of neglect or refusal of any of the owners or possessors thro' whose lands the aforesaid waters are to pass, to cut and scour said drains and ditches, for the benefit of the owners or possessors so requiring a passage for their waters, it shall and may be lawful for the parties so aggrieved to proceed in the same manner, as specified in the thirteenth section of this act: and the managers are hereby required to proceed and act in the manner therein directed.

Courses for
discharging
waters.

SECTION 16. *And be it enacted*, That the managers shall be allowed by the company, the sum of one dollar each, for every day they shall attend upon the public work or service of the company, and the treasurer shall have and receive at the rate of five per centum, for all monies received and paid away under the directions of this act. And the managers, for the more orderly execution of their duties, are hereby required to meet at least once in every six calendar months and consult concerning the matters hereby committed to their care; and shall cause just and fair minutes of their proceedings, to be kept in a book to be provided at the expense of the company for that purpose; and the resolutions of the managers or any two of them, shall be entered on the minutes and taken as the resolutions of the whole; to which minutes, and also to the treasurer's books, all persons concerned shall have free access at all seasonable times. And at the expiration of each year, the managers and treasurer respectively shall adjust and settle their accounts with the owners and possessors, or such of them as shall attend the annual stated meeting, on the first Monday of March, in

Allowance to
managers
and treasurer.

Meeting of
managers &c.

order to ascertain what sum or sums of money are due to, and from the company.

Forfeiture for
damaging
banks, &c.

SECTION 17. *And be it enacted*, That if any person or persons shall wilfully cut through, break down, or damage said bank or banks, sluice or sluices, public drains or canals or any of them, or shall let in any tide-water, to annoy or injure any part or parts of the said marshes and low grounds—such person or persons shall forfeit and pay treble damages, to be recovered by suit or action in the name of the company: which damages, when recovered, shall be added to the common stock, for the benefit of the company.

Repeal
of parts of
former laws.

SECTION 18. *And be it enacted*, That all or any laws, which may have been heretofore passed, respecting said marshes and low grounds inconsistent with this act, be and they are hereby repealed, made null and void.

To be a public
act.
Power of re-
vocation re-
served.

SECTION 19. *And be it enacted*, That this act of incorporation shall be deemed and taken to be a public act, in all courts of law and equity in this State; and the power to revoke this act is heretofore reserved by the Legislature.

Passed at Dover, February 13, 1837.

—:00:—

CHAPTER XCV.

AN ACT to incorporate *The Delaware Academy of Natural Sciences.*

Preamble.

WHEREAS, it is represented to the Legislature, that a number of persons have formed a society in Wilmington, for the encouragement and cultivation of the sciences, by the name of "The Delaware Academy of Natural Sciences," the society being devoted entirely to the diffusion of useful knowledge, in order that the purposes thereof may be carried into better effect: Therefore,

Incorporation.

SECTION 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 Gibbons, Willard Hall, Eli Hilles, E. W. Gilbert, Edw'd. Tatnall, Alfred Dupont, Ziba Ferris, Henry Gibbons, Benjamin Webb, Wm. W. Baker, James S. Naudain, Jacob Alrichs, and all other persons who are now members of said society, or who may become members hereafter, agreeably to its rules and regulations, be and they are hereby incorporated into a society, by the name of "The Delaware Academy of Natural Sciences," and by that name shall have succession for and during the period of twenty years, from the time of passing this act, with power to have a common seal, and to change the same at pleasure, to make contracts relative to the said institution, to sue and be sued, and by that name and style be capable

Name.

Continuance.

Powers.

in law, of purchasing, taking, holding and conveying any estate, real or personal, for the use of said corporation: *Provided*, that the annual income of such estate shall not exceed in value, five thousand dollars, nor be applied for any other purposes than those for which this corporation is formed.

SECTION 2. *And be it further enacted*, That the society may establish by-laws and orders for its government and regulation, and By-laws. for the preservation and application of the funds thereof: *Provided*, the same be not repugnant to the constitution and laws of the United States, or of the State of Delaware.

SECTION 3. *And be it further enacted*, That the officers of this society, shall be a President, a Vice-president, a corresponding Secretary, a recording Secretary, a Treasurer and four Curators, or such other officer or number of officers, as said society may deem expedient, whose respective duties shall be assigned by its by-laws, and who shall be elected at the annual meeting of said society in June in each year; and if any office should become vacant, it may be supplied by a special election, until the next annual meeting; and the present officers are hereby vested with power to perform the duties prescribed by the existing rules of the society, until the annual election in June, one thousand eight hundred and thirty-seven. Officers.

SECTION 4. *And be it further enacted*, That if the annual election for officers shall not be held at the stated day, the said corporation shall not be thereby dissolved, but the officers shall continue in office until a new election.

SECTION 5. *And be it further enacted*, That this shall be a public act. To be a public act.

Passed at Dover, February 13, 1837.

—:00:—

CHAPTER XCVI.

A FURTHER SUPPLEMENT to an act entitled "*An Act to prevent the exportation of flour not merchantable.*" Digest 276;

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the provisions of the act entitled "*An Act to prevent the exportation of flour not merchantable,*" and also that the provisions of the act entitled "*A supplement to an act entitled 'An Act to prevent the exportation of flour not merchantable'*" be, and the same are hereby extended, and shall be construed to be extended to the transportation or exportation of flour made of rye or Indian corn, from the village of Middleford or Seaford, in Sussex county, to all ports or places, other than the cities of New-York, Philadelphia and Baltimore, any thing in the said acts to the contrary notwithstanding. Digest 280.
Provisions of former acts extended; how.

SECTION 2. *And be it further enacted,* That the Governor shall appoint in-
 spector of flour; to re-
 side where. side where. **SECTION 2.** *And be it further enacted,* That the Governor shall appoint some suitable person as inspector of flour, who shall reside in or near the said village of Middleford or Seaford, in Sussex county, who shall from time to time, and at all times, when occasion shall so require, appoint one or more deputies: and in case of the death, resignation or removal out of said village of Middleford or Seaford or its vicinity, of any flour inspector, the Governor shall appoint some other fit person as flour inspector in his stead; but before any inspector or deputy inspector of flour shall act in his said office, he shall take an oath or affirmation, before some Judge or Justice of the Peace in this State, faithfully and impartially to perform the trust reposed in him, as flour inspector, or deputy flour inspector, as the case may be, agreeable to the directions of this act, to the best of his skill and knowledge.

SECTION 3. *And be it further enacted,* That all and every the Regulations, fines, &c. of former acts adopted. **SECTION 3.** *And be it further enacted,* That all and every the regulations, fines, penalties and forfeitures, in and by the acts to which this is a further supplement, made, imposed and inflicted on any person or persons, who shall grind, bolt, make casks for, pack, brand, after the same shall have left the mill or bolting-house, transport, export, or otherwise have any thing to do with flour or meal, made of rye or Indian corn in Middleford or Seaford, in Sussex county, shall extend to, and shall be construed to extend to such person, and offences in the case of flour, or meal made of rye or Indian corn, in Middleford or Seaford, in Sussex county, as fully and effectually as if the said Middleford or Seaford in Sussex county, came within the purview of the said acts, to which this is a further supplement, or as if the said regulations, penalties and forfeitures, were herein repeated: and all and singular the said fines, forfeitures and penalties imposed and directed by the said acts to which this is a further supplement, and from thence adopted into this, to be levied as prescribed in said acts, shall be sued for, recovered and applied in the same manner by the same persons, and to and for the same uses, as directed in and by the acts to which this is a further supplement, any thing in the said acts to the contrary notwithstanding.

Passed at Dover, February 13, 1837.

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CHAPTER XCVII.

AN ACT *to incorporate a company by the name and title of the White Marsh Company, for the purpose of draining and reclaiming certain marshes, low grounds and cripple in Murderkill and Mispillion hundreds in Kent county.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the owners of the marsh, low grounds and cripple, commonly called and known by the name of White Marsh, situate and being in the hundreds of Murderkill and Mispillion, Kent county and State of
 Company est-
 ablished.

Delaware, shall compose a company to be called the "White Marsh Company," and shall hold a meeting on the first Monday of May next, in the present year, and in every year hereafter, at the school-house near Andrew Green's, in Kent county aforesaid, or at such other place as the said company shall determine, by resolution, at any annual or occasional meeting; at which said 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 said marsh, low grounds and cripple; and such annual meetings may be adjourned from time to time by said company and occasional or stated meetings, called from time to time by the managers for the time being or a majority of them, by giving ten days public notice by advertisements set up in at least five of the most public places in the neighbourhood of said White Marsh. And if the said treasurer, secretary and managers shall not all or any of them be chosen at the meeting of the said company in the current year, the vacancy or vacancies thereby occasioned, may be filled at any annual or occasional meeting of said company by ballot and plurality of votes. And if any treasurer, secretary or manager shall die, resign, remove from the neighbourhood, or refuse or neglect to act, the said company may, at any of their meetings, declare the place of such officer vacant, and elect another in his place. At all meetings of the said "White Marsh Company" every owner of any marsh, cripple or low grounds may vote if present, or by proxy, duly attested under his hand and seal.

meeting, when and where.

Officers.

Vacancies, how filled.

Voting.

SECTION 2. *And be it enacted,* That every treasurer, secretary and manager chosen in pursuance of this act, shall continue in office for the term of one year and until a successor shall be duly appointed by ballot as aforesaid.

Officers to continue in office one year.

SECTION 3. *And be it enacted,* That the said White Marsh Company shall, at the first meeting of the said company, choose by ballot and a plurality of votes, three commissioners, who shall be freeholders of said county of Kent, and not members of said company, whose duty it shall be, to make a valuation of all the said marsh, low grounds and cripple: and the said commissioners or a majority of them are hereby authorized and empowered to go upon the said marsh, low grounds and cripple, and lay out, describe and determine the number and location of any number of ditches and drains necessary to be cut and opened for the purposes of this act, to ascertain the owners of said marsh, cripple and low grounds, and determine who will be benefitted by such ditches and drains, and the quantity held by each owner, or joint owners if any is held undivided, and appraise all the benefits, profits and advantages of all the said marsh and low grounds and cripple, which will be benefitted or improved by said ditches and drains, having regard to the unimproved value of the separate quantities held by each owner, and the improved value of the same, in consequence of the same being drained and reclaimed by the said ditches and drains: so that equal justice may be done among all the owners of the said

Commissioners to be chosen.

Their duties and powers.

marsh, cripple and low grounds; and the said commissioners, or a majority of them, shall make two certificates under their hands or under the hands of a majority of them, containing the names of the respective owners of the said marsh, low grounds and cripple, the quantity held by each owner, and by joint owners if any should be held undivided, and the appraisement of the said benefits, profits and advantages of the said several quantities, and shall return one of the said certificates into the office of the Prothonotary for Kent county, and the other of said certificates to the secretary of the said company, which said certificates shall be final and conclusive upon all parties, and shall be and remain the true appraisement and valuation upon which all and every the tax and taxes, necessary for the purposes of this act, shall be assessed, levied and raised.

Comm'rs. to
take oath or
affirmation.

Each commissioner before he enters upon the duties required of him under this act, shall take and subscribe before some Judge or Justice of the Peace of Kent county aforesaid, an oath or affirmation, to discharge the duties hereby enjoined upon him, faithfully and impartially according to the best of his skill and judgment. If the commissibners or either of them, shall not be chosen at the first meeting of the company as aforesaid, or either of them shall die, resign or refuse to act before all the duties of said commissioners shall have been completed, then and in that case, the said White Marsh Company may at any annual, adjourned or occasional meeting, choose a commissioner or commissioners to supply such vacancy, and so on until the said commissioners shall have fully ended the duties assigned them under the provisions of this act.

Vacancies,
how supplied.

SECTION 4. *And be it enacted,* That for the purpose of raising the necessary sums of money for the draining and reclaiming the said marsh, low grounds and cripple aforesaid, it shall and may be lawful for the managers for the time being, or a majority of them, and they are hereby authorized and required, after the appraisements and valuations aforesaid, shall be made and returned as aforesaid, and the certificate of the valuations and appraisements of the marsh and low grounds to be drained and reclaimed by said ditches and drains as aforesaid, shall be made and certified to the secretary as aforesaid, to lay and assess upon the value of the benefit and advantage to be derived by said ditches and drains, to said marsh, low grounds and cripple, all such sum or sums of money, as the said commissioners or a majority of them, shall deem proper and necessary for effecting the improvements intended by this act; so that equal justice shall be done in the levying and assessing said taxes among all the owners of said marsh, low grounds and cripple, according to the benefit and advantage derived by each respective owner thereof: said tax and taxes shall be levied and made at a certain rate upon each and every dollar of benefit, profit and advantage accruing to the respective owners of the said marsh, low grounds and cripple. And the said managers or a majority of them shall from time to time, and at all times, under the direction of the said company, at any annual or occasional meeting determine what additional sum or sums of money shall be raised for the purpose of keeping open, and in good repair, the said ditches and drains, to be apportioned among the several owners as aforesaid,

Assessment
of taxes; how
levied and
made.

Assessment
lists.

and levied, assessed and collected as aforesaid. And the said managers or a majority of them, shall from time to time make out duplicate lists under their hands, of all the assessments and taxes by them levied and made as aforesaid, which lists shall contain a minute of all changes of ownership and transfers of any part of said marsh, low grounds and cripple—one of the said lists shall be delivered to the treasurer for the time being, and the other of said lists shall be delivered to the secretary; 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 and his successor in office, for levying and collecting all and every the sum and sums of money and taxes in said list mentioned. For the purpose of cutting, keeping open and in repair the said ditches and drains hereby authorized to be cut and opened, and fully to carry into effect the directions of the said company, the said managers shall have power to employ such workmen as may be necessary for completing the work assigned them, at the common expense of the said company, and all hire and 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 sum and the service, 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 particularly specify the services and expenses for which the same is drawn: and said accounts shall be laid before the annual meetings, or other meetings of said company, as they may direct. Each manager before he enters upon the duties of his office, shall be sworn or affirmed before some Judge or Justice of the Peace for Kent county, to perform the duties assigned him by this act, faithfully and impartially, according to the best of his skill and judgment; which said oath or affirmation shall be subscribed by the person making the same, and delivered to the secretary, to be by him recorded in the books of the said company.

To be conclusive.

Managers empowered to employ workmen &c.

Accounts to be kept, &c.

Managers to be sworn or affirmed.

SECTION 5. *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 one or more sureties, to be approved by the managers or a majority of them, to and in the name of the said company, 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, so far as he shall have funds in his hands 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 order and 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 order and direct, and shall perform all the duties of his office with fidelity.

Treasurer to give bond.

SECTION 6. *And be it enacted*, That the managers laying the taxes shall appoint the time for the payment of the same, and it shall be the duty of the owners respectively to pay to the treasurer the taxes.

Time for paying taxes.

marsh, cripple and low grounds, and the said commissioners, or a majority of them, shall make two certificates under their hands or under the hands of a majority of them, containing the names of the respective owners of the said marsh, low grounds and cripple, the quantity held by each owner, and by joint owners if any should be held undivided, and the appraisement of the said benefits, profits and advantages of the said several quantities, and shall return one of the said certificates into the office of the Prothonotary for Kent county, and the other of said certificates to the secretary of the said company, which said certificates shall be final and conclusive upon all parties, and shall be and remain the true appraisement and valuation upon which all and every the tax and taxes, necessary for the purposes of this act, shall be assessed, levied and raised. Each commissioner before he enters upon the duties required of him under this act, shall take and subscribe before some Judge or Justice of the Peace of Kent county aforesaid, an oath or affirmation, to discharge the duties hereby enjoined upon him, faithfully and impartially according to the best of his skill and judgment. If the commissibners or either of them, shall not be chosen at the first meeting of the company as aforesaid, or either of them shall die, resign or refuse to act before all the duties of said commissioners shall have been completed, then and in that case, the said White Marsh Company may at any annual, adjourned or occasional meeting, choose a commissioner or commissioners to supply such vacancy, and so on until the said commissioners shall have fully ended the duties assigned them under the provisions of this act.

Comm'rs. to
take oath or
affirmation.

Vacancies,
how supplied.

Assessment
of taxes; how
levied and
made.

Assessment
lists.

SECTION 4. *And be it enacted*, That for the purpose of raising the necessary sums of money for the draining and reclaiming the said marsh, low grounds and cripple aforesaid, it shall and may be lawful for the managers for the time being, or a majority of them, and they are hereby authorized and required, after the appraisements and valuations aforesaid, shall be made and returned as aforesaid, and the certificate of the valuations and appraisements of the marsh and low grounds to be drained and reclaimed by said ditches and drains as aforesaid, shall be made and certified to the secretary as aforesaid, to lay and assess upon the value of the benefit and advantage to be derived by said ditches and drains, to said marsh, low grounds and cripple, all such sum or sums of money, as the said commissioners or a majority of them, shall deem proper and necessary for effecting the improvements intended by this act; so that equal justice shall be done in the levying and assessing said taxes among all the owners of said marsh, low grounds and cripple, according to the benefit and advantage derived by each respective owner thereof: said tax and taxes shall be levied and made at a certain rate upon each and every dollar of benefit, profit and advantage accruing to the respective owners of the said marsh, low grounds and cripple. And the said managers or a majority of them shall from time to time, and at all times, under the direction of the said company, at any annual or occasional meeting determine what additional sum or sums of money shall be raised for the purpose of keeping open, and in good repair, the said ditches and drains, to be apportioned among the several owners as aforesaid,

and levied, assessed and collected as aforesaid. And the said managers or a majority of them, shall from time to time make out duplicate lists under their hands, of all the assessments and taxes by them levied and made as aforesaid, which lists shall contain a minute of all changes of ownership and transfers of any part of said marsh, low grounds and cripple—one of the said lists shall be delivered to the treasurer for the time being, and the other of said lists shall be delivered to the secretary; 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 and his successor in office, for levying and collecting all and every the sum and sums of money and taxes in said list mentioned. For the purpose of cutting, keeping open and in repair the said ditches and drains hereby authorized to be cut and opened, and fully to carry into effect the directions of the said company, the said managers shall have power to employ such workmen as may be necessary for completing the work assigned them, at the common expense of the said company, and all hire and 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 sum and the service, 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 particularly specify the services and expenses for which the same is drawn: and said accounts shall be laid before the annual meetings, or other meetings of said company, as they may direct. Each manager before he enters upon the duties of his office, shall be sworn or affirmed before some Judge or Justice of the Peace for Kent county, to perform the duties assigned him by this act, faithfully and impartially, according to the best of his skill and judgment; which said oath or affirmation shall be subscribed by the person making the same, and delivered to the secretary, to be by him recorded in the books of the said company.

To be conclusive.

Managers empowered to employ workmen &c.

Accounts to be kept, &c.

Managers to be sworn or affirmed.

SECTION 5. *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 one or more sureties, to be approved by the managers or a majority of them, to and in the name of the said company, 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, so far as he shall have funds in his hands 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 order and 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 order and direct, and shall perform all the duties of his office with fidelity.

Treasurer to give bond.

SECTION 6. *And be it enacted*, That the managers laying the taxes shall appoint the time for the payment of the same, and it shall be the duty of the owners respectively to pay to the treasurer at the time for paying taxes.

Time for paying taxes.

rer the tax or taxes, which according to the lists aforesaid they shall be liable to pay at the time appointed by the managers for their payment.

Treasurer
empowered to
collect taxes.

SECTION 7. *And be it enacted,* That the treasurer for the time being and every treasurer to be chosen as aforesaid during his continuance in office 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 to be delivered to the said 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 same is due and payable, the treasurer for the time being, may and shall proceed to levy and make all such taxes so remaining unpaid, in the same manner, and by the same means as is provided by the law for the recovery of the county taxes; and every treasurer for the time being shall have power to levy and collect all taxes due upon lists delivered to his predecessors in office, and in the same manner as herein provided.

Duty of
secretary.

SECTION 8. *And be it enacted,* That the secretary shall procure a copy of this act, and have the same recorded in the office for recording of deeds, in and for Kent county, within one year from the passage thereof, and record the same among the records of the company. He shall record the certificates to be delivered to him by the commissioners, and the lists delivered to him from time to time by the managers, and all other proceedings of the said company, and take good care of all the papers, books and records of the said company, and the same shall be a public record, and may be examined at any time by the said company or any member thereof, and by the officers and committees of said company; and the said secretary shall deliver all the papers, books and records in his hands to his successor in office when demanded.

His compen-
sation.

SECTION 9. *And be it enacted,* That the secretary shall receive from the company all the costs and charges he may pay, in procuring a copy as aforesaid, of this act to be recorded, and a reasonable compensation for his trouble in and about the same; and every secretary, for the time being, shall receive from the said company one cent for every twelve words by him recorded for said company. And every commissioner and manager for each and every day they shall be employed about the business of the said company under this act shall receive the sum of one dollar; and every treasurer shall be allowed a commission of five per centum on all monies by him received, except monies paid into his hands by his predecessor in office.

Compensa-
tion of com-
missioners,
managers and
treasurer.

SECTION 10. *And be it enacted,* That suits may be brought and prosecuted in the name of the said company, upon any bond given to the said company, or for any damages done to any of the said marsh, low grounds and cripple, or the ditches, drains and banks of the same.

Suits may be
brought in
name of com-
pany, &c.

SECTION 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 ditches or drains, every person so offending shall forfeit and pay to the treasurer of the said "White Marsh Company," or his successor, in office for the use of the company, the sum of twenty dollars, to be recovered before any justice of the peace in 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. Forfeiture for obstructing ditches, &c.

SECTION 12. *And be it enacted,* That every owner of any marsh or low grounds, rateable and assessed by virtue of this act, shall have the right and privilege to discharge the waters from their respective lands, into the ditches and drains of the company, by a ditch or ditches to be cut and opened through the marsh and low grounds of other owners, in such place or places, and of such width and depth as the managers or a majority of them, shall lay out and prescribe. If the cutting and opening the said ditch or ditches will be advantageous to the marsh or low grounds of other owners, such owners 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 determine; 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 owners as shall cut, open and keep open said ditch or ditches. And the managers so laying out and prescribing such ditch or ditches, shall make return of their proceedings to the secretary of said company, to be by him recorded as aforesaid. And such owners, to whom such ditch or ditches will be advantageous, shall pay to each manager the sum of one dollar, for each and every day they may be employed in laying out said ditch or ditches, and to the secretary, the sum of one cent for every twelve words, for recording the said return. Every owner shall have free privilege to cut, open and keep in repair, any ditch or ditches through his, her or their own lands, into any of the ditches or drains of the said company. Waters may be discharged through the grounds of other owners, &c.

SECTION 13. *And be it enacted,* That the treasurer chosen at the first meeting of the company, or any treasurer to be hereafter chosen by the said company for the time being, shall have full power and authority by virtue of this act to demand, receive, levy and make all taxes remaining unpaid or any part thereof, upon any list delivered to any former treasurer within six years from the time the same become due and in arrear, and shall pay all orders drawn upon any former treasurer within six years, by the managers or a majority of them, so far forth as he shall have funds in his hands for such purpose, according to the tenor of his bond to the said company. Further pow. or of treasurer.

Passed at Dover, February 13, 1837.

CHAPTER XCVIII.

Digest p. 465, 480. **AN ACT** amending the acts concerning roads and bridges and the discharging of road taxes in Sussex county, by work or materials.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the Levy c't. in Sussex co., empowered to levy additional rates to pay overseers &c. **Proviso.** Amount. Minute to be made on the docket, &c. Levy-court of Sussex county, shall have power to levy such additional rates upon the regular county rates and levies, as they may from time to time, deem necessary to pay the overseers of roads, and any deficiency that may arise in the road taxes of the several hundreds, and to repair such bridges and causeways, as may be destroyed or injured by any flood, freshet or other accident; *Provided*, the amount so levied additionally, shall not exceed twenty cents in the hundred dollars rates in any one year; and whenever any such additional sum shall be levied for the purposes aforesaid, a minute thereof shall be made upon the docket or journal of their proceedings, and they may draw orders for the same on the county treasurer, in favour of such overseer or other person, as necessity may require, to be entered on the record of the Levy-court.

SECTION 2. *And be it further enacted,* That the Levy-court commissioners of said county shall, after the final adjustment of the assessment lists, at their session in March, and before the first day of May in each and every year, appear before the clerk of the peace, at such times as may be most convenient to them respectively, and then and there cause to be made and certified by the clerk of the peace, under his hand and seal of office, two lists of the persons liable to pay road taxes within the district or limits of each overseer, and perform the several other duties relating to said lists, as prescribed by the first section of said "Act concerning the discharging of road taxes, &c." And if any taxable shall have been improperly or inconveniently assigned on said lists, to any overseer, the said Levy-court commissioners in their several hundreds, may correct said lists, and transfer said taxable, to the list of such overseer as they may deem fit and convenient—of which transfer the taxable so transferred shall have due notice, by the overseer to whom he may have been so transferred.

SECTION 3. *And be it further enacted,* That the said Levy-court commissioners respectively, shall have power to administer the oaths required by the first and second sections of the act last aforesaid, to the overseers in their respective hundreds, and it shall be the duty of the said Levy-court commissioners to superintend the repairs upon the roads and bridges in their respective hundreds, and to examine and correct the lists and accounts of the overseers previous to the return thereof in November: and for such superintendence and service, the said Levy-court commissioners shall be allowed one dollar and eighty cents per day, for each and every day they may be so engaged respectively, to be paid as other county charges are paid. *Provided*, that no commissioner shall receive more than twelve dollars per annum, for such superintendence and service.

SECTION 4. *And be it further enacted,* That the overseers respectively, shall make a return of their work copied in a fair hand, in a list to be filed among the records and papers of the Levy-court, in the office of the clerk of the Peace of said county, to the Levy-court commissioner of their hundred, on or before the fifteenth day of September, which list, after being duly examined, shall be endorsed by said Levy-court commissioner as examined and allowed and signed by him, and shall be returned to the board of the Levy-court on the first Tuesday of November, in every year, and all orders for work or materials, shall be attested by the clerk of the peace, and entered on the proceedings of said court.

Overseer to make a return of work to L. C. comm'r. of his hundred.

Duty of commiss'r to examine list &c.

SECTION 5. *And be it further enacted,* That in case of any accident to any bridge requiring repair, or any public road within said county, after the lists shall be returned by the overseers to the Levy-court commissioner, and previous to issuing the lists for the succeeding year, the Levy-court commissioner of each hundred shall have power to cause the same to be repaired, and he shall draw orders on the county treasurer for such repairs, payable out of any money in the hands of said treasurer, belonging to said hundred, and the said Levy-court commissioner, shall at the next meeting of the Levy-court, file a list with the clerk of the Peace, of such orders which shall be entered, among the proceedings of said court.

Accident to road or bridge after return of list, how repaired, &c.

SECTION 6. *And be it further enacted,* That the bridge at Dagsborough, in Dagsborough hundred in said county, which is on the State road, be, from and after the passing of this act, a county charge, and repaired and kept up at the expense of said county of Sussex.

Bridge at Dagsboro' a co'y charge.

SECTION 7. *And be it further enacted,* That the provisions of the act to which this is a supplement, which have been amended by, or are repugnant to this act, be and the same are hereby repealed.

Repeal of parts of former act.

Passed at Dover, February 13, 1837.

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CHAPTER XCIX.

AN ACT to protect the navigation of Lewes creek.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That any and all vessels coming into Lewes creek and anchoring above the mouth or intersection of the back channel opposite to the old fort, shall be compelled to moor parallel to the channel of the creek, so as to leave a free passage up and down said creek, unless such vessel be engaged in loading or undergoing repairs so as to render it necessary to be otherwise moored: and in case any vessel shall be lightened by discharging stone or ballast into the said creek in any part thereof, from the entrance at the bar and upwards, the cap-

Vessels in Lewes creek must moor parallel to the channel.

Unless, &c.

Fine for discharging stone, &c. into the creek.

tain or owner or owners of said vessel shall be fined a sum not exceeding fifty nor less than ten dollars.

Duty of trustees of Lewes. **SECTION 2.** *Be it further enacted,* That the trustees of the town of Lewes, shall have authority, and are hereby required to cause any vessel to be moored according to the provisions of this act, and upon the refusal of any master or owner or other person having charge of said vessel, to comply with the requirements of this act, in the mooring of his vessel, or the one in his charge, he or they shall be fined the sum of ten dollars, and all the costs incurred in mooring the said vessel by the said trustees, to be recovered together with the fines, by the first section of this act, imposed for throwing over ballast, before any justice of the peace in Sussex county, in like manner as other debts under fifty dollars are recoverable, one half of said fine going to the person suing for the same, and the other to the said trustees for the improvement of said creek.

Fine for refusing to comply with the requirements of this act.

Passed at Dover, February 13, 1837.

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CHAPTER C.

AN ACT to incorporate the Gravelly Run Marsh Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the owners and possessors of the marsh and low grounds situate, lying and being on or near Gravelly-run, in the hundreds of Dover, Duck-creek and Little-creek, Kent county and State of Delaware, shall compose a company to be called the "Gravelly-run Marsh Company," and shall hold a meeting on the second Saturday of May next, and on the second Saturday of May in every year hereafter, at the school-house, number eight in Kent county, or at such other place as the said company shall determine by a resolution to be adopted at any annual meeting of said company, at which annual meeting, the said company shall choose by ballot and 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 meeting 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, at such times and places as the said managers or a majority of them may appoint, by giving ten days public notice, by advertisements put up in at least five of the most public places in the immediate neighbourhood of said marsh and low grounds; and if the treasurer, secretary or managers, shall not all or any of them, be chosen at the stated or 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

Company established.

Name.

Meetings, when and where.

Election of officers, &c.

Occasional meetings.

Vacancies.

occasional meeting of said company, by ballot and plurality of votes: and if any treasurer, secretary or manager, shall remove from the neighbourhood of said marsh and low grounds, the said company may at any meeting, declare the place of such officer vacant, and elect another in his place. At all meetings of the said company, every owner of any marsh or low grounds, rateable and assessed by virtue of this act, may vote if present, or by proxy duly attested, under their hand and seal. Voting.

SECTION 2. *And be it enacted*, That the treasurer, secretary and managers chosen in pursuance of this act, at the first meeting of said company, shall continue in office for the term of one year from the time, they shall be so chosen, and until successors to them shall be elected. Officers, their continuance in office.

SECTION 3. *And be it enacted*, That the said "Gravelly-run Marsh Company," shall at the meeting of said company to be held on the second Saturday of May, in the present year, choose by ballot and a plurality of votes, *three commissioners*, who shall be free-holders 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 authorized and empowered to enter upon all the marshes and low-grounds belonging to the said company, and view, examine, ascertain and determine the number of ditches and drains, the width and depth and location thereof, and to describe and lay out the same as they or a majority of them may deem necessary, fit and proper, for draining and reclaiming the said marshes and low grounds, and shall ascertain all the owners of said marsh and low grounds, the quantity held by each owner or joint owners, if any be held undivided, and shall appraise and determine the benefit and advantage, which each owner or joint owner as aforesaid, will derive and receive, by reason of the cutting and making such ditches and drains, having regard to the original or unimproved value of the said marsh and low grounds, and the value of the same, after the same shall be ditched and drained, by the ditches and drains of the said company, so that the said appraisement and valuation may 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 make two certificates under their hands or the hands of a majority of them, containing the names of the respective owners of said marsh and low grounds, the quantity held by each owner or joint owners if any be held undivided, and the appraisement of the benefit, profits and advantages to be derived to each owner as aforesaid, of said marsh and low grounds, so by the said commissioners to be made as aforesaid, and shall return one of the said certificates into the office of the Prothonotary for Kent county, to be by him filed and kept, and shall deliver the other of said certificates 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 which all and every the tax or taxes which may be necessary to effect the purposes of this act, shall be Commissioners to be chosen.
Their duties, &c.
To view the marsh, &c.
Appraisement.
Certificates.
To be returned, where.
Taxes, how ascertained.

Comm'rs. to be sworn or affirmed. or assessed levied and raised. Each commissioner before he enters upon the duties required of him by this act, shall be sworn or affirmed before some judge or justice of the peace, in and for Kent county, to exercise the duties assigned them by this act, faithfully and impartially, according to the best of their skill and judgment. If either of the said commissioners shall die, resign or refuse to act, before all the duties assigned the commissioners under this act are performed, the said company at any annual or occasional meeting may elect another to supply his place, and so as often as it may be necessary, until all the duties of the commissioners under this act shall be completed.

Vacancies.

Taxes to be laid and assessed. SECTION 4. *And be it enacted*, That for the purpose of raising the sum of money necessary to carry into execution 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 authorized and required, after the appraisement and valuation aforesaid shall be made and returned to the secretary and prothonotary as aforesaid, to lay and assess upon the value of the marsh and low grounds benefited by said ditches and drains, and mentioned in said certificates, according to and upon the value of the benefits, profits and advantages of the respective quantities or parcels of the low grounds and marshes, held by the several owners thereof, a certain rate upon each and every dollar of said value, so as to raise a sum of money sufficient to cut and make all the ditches and drains necessary and proper to drain and reclaim all the said marshes and low grounds intended to be drained and reclaimed by virtue of this act. And at any annual meeting of the company, after the said ditches and drains have been cut and made as aforesaid, the said company by a plurality of votes may determine by resolution, what additional sum or sums of money ought to be raised, by way of tax as aforesaid, for the purpose of keeping all the said ditches and drains in good and sufficient repair, which said additional sum of money shall be levied and assessed according to the provisions hereinbefore mentioned. And the said managers or a majority of them, shall from time to time, make out duplicate lists under their hands of all the assessments and taxes by them made, and levied 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 of the said lists shall be delivered to the secretary, and such assessment and lists shall be final and conclusive upon all the parties, and the said lists so delivered to the treasurer, shall be a sufficient warrant for him or his successor in office, for levying and collecting all and every the sums of money and taxes in said lists mentioned. It shall be the duty of the managers for the time being, at all times, to scour and keep open and in good repair the ditches and drains aforesaid, and whenever it may be deemed necessary to open new ones, for the effectual draining and reclaiming the said marsh and low grounds, and generally the managers shall carry into full effect all the directions of the company which shall from time to time be given them; for which purpose the said managers shall have power and

Duplicate lists of assessment.

To be final; treasurer, warrant to collect.

Duty of managers to scour ditches, &c.

To employ workmen.

authority to employ all such workmen as may be necessary for completing the work assigned them at the common expense of the said company, and all sums due for 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 particularly specify the service or expense for which said orders are drawn; and said account shall be laid before the annual meetings of the 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 take an oath or affirmation before some judge or justice of the peace in and for Kent county, to perform the same faithfully and impartially according to the best of his skill and judgment, of which oath or affirmation a certificate under the hands of the persons making the same, shall be made and returned to the secretary, to be by him recorded in the books of the said company.

Expenses,
how paid.

Account of
kept.

Managers to
take oath or
affirmation.

SECTION 5. *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 sufficient surety or sureties to be approved by the managers or a majority of them, to and for the use of said company by name, 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, so far as he shall have funds in his hands for that purpose, and shall well and truly account for all monies that may come to his hands as such treasurer, at any annual or other meeting of the said company, or otherwise, as the said company may order and direct, and shall pay over any balance or sum that shall be due, to his successor in office, or otherwise, as the company shall order and direct, and shall perform all the duties of his office with fidelity.

Treasurer to
give bond.

Condition of.

SECTION 6. *And be it enacted*, That the managers when they lay and assess taxes under this act, shall appoint the time for the payment of the same, and it shall be the duty of the owners respectively to pay to the treasurer for the time being, the sum levied and assessed as aforesaid at the time appointed by the managers as aforesaid for said payment.

Time of pay
ment of taxes.

SECTION 7. *And be it enacted*, That every treasurer for the time being, shall have full power and authority, to demand and receive, levy and make, all and every the tax and taxes, which shall be levied and assessed in pursuance of this act, by the managers or a majority of them, according to the lists of assessment delivered to such treasurer. And in case such tax or taxes so laid and assessed, or any part thereof shall remain unpaid, for the space of thirty days, after the same shall be due and payable, the treasurer for the time being may and shall proceed to levy and make all such taxes so remaining unpaid, or any part thereof in the same manner,

Treasurer;
powers of, in
collecting
taxes.

and by the same means as is provided by law for the recovery of the county taxes; and every treasurer for the time being, shall have power to levy and collect all taxes upon any list delivered to a former treasurer, which have not been paid to said former treasurer.

Secretary
his duty.

SECTION 8. *And be it enacted*, That the secretary shall cause a certified copy of this act to be recorded by the recorder of deeds of Kent county, within twelve months from the passage of the same, and shall record the same among the records of the said company: and shall record the two certificates to be delivered to him by the commissioners as 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, which 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 time: and the said secretary shall deliver all the papers and records of the said company which may be in his hands, to his successor in office when demanded.

His compensation.

Compensation of commissioners, managers and treasurer.

SECTION 9. *And be it enacted*, That the secretary shall receive from the company, the amount of all fees that he shall have to pay in procuring the aforesaid copy of this act, and a reasonable compensation for his trouble in procuring the same, 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 days service in and about the business of the company, receive from 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 paid over to him by his predecessor in office.

Suits, how to be instituted.

SECTION 10. *And be it enacted*, That suits may be brought and prosecuted in the name of the said *Gravelly-run Marsh Company*, upon any bond given to said company, or for any damages done to any of the ditches or drains, bank or banks, of said company.

Penalty for obstructing ditches.

SECTION 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 ditches or any of them drain or drains, every person so offending shall be liable to pay to the treasurer of the said company or his successor in office, for the use of said company, the sum of twenty dollars, to be recovered before any justice of the peace in and for Kent county, in the same manner and by the same means as debts of like amount are recoverable by the laws of this State.

Right of owner to discharge his waters, &c.

SECTION 12. *And be it enacted*, That every owner and possessor of any marsh and low grounds, rateable and assessed by virtue of this act, shall from time to time, have the right and privilege, to discharge the waters from their respective lands, into the ditches

or drains of the company, by ditches or drains 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. Such owners or possessors shall contribute such portion 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 recovered in the same manner and by the same means as debts under fifty dollars are recoverable by the laws of this State: and the managers so laying out and prescribing any such ditch or ditches, shall make return of all their proceedings, in and about the said service, to the secretary of said company, to be by him recorded; and such owners and possessors to whom such ditch or ditches will be advantageous, shall pay to each manager so employed, 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, for recording the said return. Every owner shall have free privilege to cut, open and keep in repair, any ditch or ditches through his, her or their own marsh or low grounds, into any ditch or ditches, drain or drains of said company.

Managers to lay out ditch.

And make return to secretary.

Pay of managers and secretary.

SECTION 13. *And be it enacted*, That the treasurer chosen by the "Gravelly-run Marsh Company," at the first meeting of the said company, or any treasurer for the time being, shall have full power and authority by virtue of this act to demand, receive, levy and make, all taxes remaining unpaid, or any part thereof, upon any list delivered to the said treasurer or any treasurer for the time being, at any time within six years after the same shall be due and payable: and shall be liable to pay all orders drawn upon him by the managers aforesaid, or a majority of them, at any time within six years from the date of said orders, or the orders drawn as aforesaid upon any former treasurer, so far forth as the said treasurer shall have in his hands, funds belonging to said company, according to the tenor of his bond given to and in the name of said company.

Treasurer to collect taxes unpaid with in six years after they are due. &c.

Passed at Dover, February 14, 1837.

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CHAPTER CI.

AN ACT to authorize Thomas Fisher to erect a gate across a public road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That it shall and may be lawful for Thomas Fisher to erect and place a gate across the public road, in Little-creek neck, in Kent county, leading from Cowgill's corner to Simons' ditch creek, late the road.

Gate may be erected across a certain road.

Steam-boat landing, on the Delaware bay, at or near the place where Thomas Dean formerly resided.

Forfeiture for
injuring or
leaving it
open.

Must be kept
in good re-
pair.

SECTION 2. *And be it further enacted*, That if any person or persons shall destroy or injure the said gate, or pass through and leave it the same open, he, she or they so offending, shall for every such offence, forfeit and pay a sum of money not exceeding five 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*, it shall be the duty of the said Thomas Fisher, his heirs, devisees and assignees of the said lands, 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 repassing through the same, to open and shut the same.

Passed at Dover, February 14, 1837.

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CHAPTER CII.

AN ACT to enable the owners and possessors of the marsh and low grounds, situate upon and contiguous to Green Branch, in Mispillion hundred, Kent county, to drain and improve the same.

Company es-
tablished.

Name.

Time of meet-
ing.

Elections of
officers, &c.

Occasional
meetings.

SECTION 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 the power of revoking this act by the Legislature being expressly reserved,)* That the owners and possessors of the marshes and low grounds, situate upon and contiguous to Green Branch, in Mispillion hundred Kent county, shall compose a company to be called, the "Green Branch Improvement Company," and shall hold a meeting on the second Tuesday of March in the present year, and on the second Tuesday in March in each and every year hereafter, at which annual meeting, the said company shall choose by ballot and by a plurality 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 marsh and low grounds, either by clearing out and scouring such ditch or ditches as has or have already been cut, or by enlarging or extending the same, or by cutting new ones or otherwise, and such annual meeting may be adjourned from time to time, and occasional meetings of the company may be called by the managers for the time being, or by a majority of them or by the survivor or survivors of them, may appoint by giving ten days public notice by advertisement, put up at three of the most public places in the neighbourhood of said marshes and low grounds and five days written notice to such persons as reside in Kent county, and to such persons as shall be tenants in possession of the said marshes and low grounds respectively; and if the managers and treasurer shall not all or any of them be chosen, at the stated an-

nual meetings 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, in the same manner that the officers of the said company are elected at the regular annual meetings thereof, and if any manager or treasurer, shall remove from the neighbourhood of the said marshes or low grounds, the said company at any of its meetings may declare the place of such manager or treasurer vacant, and elect another to supply his place; *And further*, the said company at an adjourned or occasional meeting, may do all such acts as may or might be done at an annual meeting, and at all meetings of the said Green Branch Improvement Company, every white owner of any marsh or low ground within the company's boundaries, and every guardian to an infant owner may vote if present; and every female owner, and every owner residing out of Kent county may vote by proxy, regularly constituted by a note in writing, signed by such female or non-resident owner.

Vacancy in
case of death,
&c. how fill-
ed.

Voting.

SECTION 2. *And be it enacted*, That every manager or treasurer chosen in pursuance of this act, shall continue in office until the second Tuesday of the month of March next ensuing his election, and until successors shall be duly chosen.

Officers, their
continuance
in office.

SECTION 3. *And be it enacted*, That the said company shall at the first meeting thereof or some other meeting to be holden prior to the first day of May next, choose by ballot three substantial freeholders of Kent county aforesaid, (having no interest in any of the aforesaid marshes or low grounds,) as commissioners to make a valuation of the said marshes and low grounds; and the said commissioners or a majority of them, are hereby authorized to go upon and view the said marshes or low grounds, and shall ascertain all the owners, and determine who will be benefited by any ditch or ditches heretofore opened or to be opened by authority of this act, 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 ditch or ditches, and shall determine the value of the said marshes and low grounds according to the situation thereof, and upon such principles as will do equal justice to all the owners thereof, which said appraisement shall be the rate of assessment, for all the taxes levied under this act, except so far as the provision in the fourth section contains an exception, and the said commissioners or a majority of them, shall make a certificate under their hands or the hands of a majority of them, containing the names of the respective owners of the said marshes and low grounds, the quantity held by each owner, and by joint owners if any be held undivided, and the appraisement of the said several quantities or parcels (by the said commissioners to be made as aforesaid,) and shall deliver said certificate into the recorder's office in and for Kent county aforesaid, to be there recorded by the recorder of deeds for said county: which certificate shall be final and conclusive upon all parties; and a copy of the record thereof certified by the said recorder under

Commission-
ers to be cho-
sen.

To make val-
uation, view
the marsh,
&c.

Appraise-
ment.

Certificate.

To be deliv-
ered where.

his hand and seal of office, shall be good and sufficient evidence, in all courts of justice, and before all justices of the peace in this State; and each commissioner before he enters upon the duties required of him by this act, shall be sworn or affirmed by some judge of the State or justice of the peace, in and for Kent county, to discharge the said duties faithfully and impartially, according to the best of their skill and judgment.

SECTION 4. *And be it enacted,* That the said commissioners or a majority of them, are hereby further authorized and required, to go upon the said marsh and low ground and to view and examine the same, and direct the extension of any ditch or ditches (already cut) in the length thereof, and their enlargement in depth and width, if they deem such enlargement and extension necessary,) so far as they may determine will be sufficient in that behalf, for the accomplishment of the objects of this act, and may extend the prongs of said ditch or ditches as far they may think proper, and may locate and lay out such other prong or prongs, to said ditch or ditches, and also such new ditch or ditches, and direct the same to be cut and opened of such width, depth and length, as they may determine will be requisite and proper for effectually draining and reclaiming the said marsh and low ground. *Provided,* that all and every such person and persons as are or will be particularly benefited by such new or additional ditch or ditches, prong or prongs or any of them, shall in addition to their several and respective shares and rates of the general taxes of said company, pay to the company such sum or sums as the commissioners or a majority of them shall estimate, will be sufficient to place them on an equal footing with such owners and possessors as have borne the expense of cutting and opening the ditch or ditches already cut and opened; and the said commissioners are hereby authorized and required to examine the premises and make such estimate and deliver to the treasurer, a list of the names of such persons, together with the sums they shall have estimated for each and every of them to pay, and the said treasurer is hereby authorized and required to collect the same forthwith, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes, to be levied and collected by said company, and the said new or additional ditch or ditches, prong or prongs, shall thereupon become and be a part of the improvement of the said "Green Branch Improvement Company," and shall be kept open and in good order at the common expense of the company, and such owners and possessors so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

Comm'rs. to be sworn or affirmed. his hand and seal of office, shall be good and sufficient evidence, in all courts of justice, and before all justices of the peace in this State; and each commissioner before he enters upon the duties required of him by this act, shall be sworn or affirmed by some judge of the State or justice of the peace, in and for Kent county, to discharge the said duties faithfully and impartially, according to the best of their skill and judgment.

Further duties of commissioners. a majority of them, are hereby further authorized and required, to go upon the said marsh and low ground and to view and examine the same, and direct the extension of any ditch or ditches (already cut) in the length thereof, and their enlargement in depth and width, if they deem such enlargement and extension necessary,) so far as they may determine will be sufficient in that behalf, for the accomplishment of the objects of this act, and may extend the prongs of said ditch or ditches as far they may think proper, and may locate and lay out such other prong or prongs, to said ditch or ditches, and also such new ditch or ditches, and direct the same to be cut and opened of such width, depth and length, as they may determine will be requisite and proper for effectually draining and reclaiming the said marsh and low ground. *Provided,* that all and every such person and persons as are or will be particularly benefited by such new or additional ditch or ditches, prong or prongs or any of them, shall in addition to their several and respective shares and rates of the general taxes of said company, pay to the company such sum or sums as the commissioners or a majority of them shall estimate, will be sufficient to place them on an equal footing with such owners and possessors as have borne the expense of cutting and opening the ditch or ditches already cut and opened; and the said commissioners are hereby authorized and required to examine the premises and make such estimate and deliver to the treasurer, a list of the names of such persons, together with the sums they shall have estimated for each and every of them to pay, and the said treasurer is hereby authorized and required to collect the same forthwith, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes, to be levied and collected by said company, and the said new or additional ditch or ditches, prong or prongs, shall thereupon become and be a part of the improvement of the said "Green Branch Improvement Company," and shall be kept open and in good order at the common expense of the company, and such owners and possessors so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

To extend ditches, etc. in the length thereof, and their enlargement in depth and width, if they deem such enlargement and extension necessary,) so far as they may determine will be sufficient in that behalf, for the accomplishment of the objects of this act, and may extend the prongs of said ditch or ditches as far they may think proper, and may locate and lay out such other prong or prongs, to said ditch or ditches, and also such new ditch or ditches, and direct the same to be cut and opened of such width, depth and length, as they may determine will be requisite and proper for effectually draining and reclaiming the said marsh and low ground. *Provided,* that all and every such person and persons as are or will be particularly benefited by such new or additional ditch or ditches, prong or prongs or any of them, shall in addition to their several and respective shares and rates of the general taxes of said company, pay to the company such sum or sums as the commissioners or a majority of them shall estimate, will be sufficient to place them on an equal footing with such owners and possessors as have borne the expense of cutting and opening the ditch or ditches already cut and opened; and the said commissioners are hereby authorized and required to examine the premises and make such estimate and deliver to the treasurer, a list of the names of such persons, together with the sums they shall have estimated for each and every of them to pay, and the said treasurer is hereby authorized and required to collect the same forthwith, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes, to be levied and collected by said company, and the said new or additional ditch or ditches, prong or prongs, shall thereupon become and be a part of the improvement of the said "Green Branch Improvement Company," and shall be kept open and in good order at the common expense of the company, and such owners and possessors so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

And locate new ones. and lay out such other prong or prongs, to said ditch or ditches, and also such new ditch or ditches, and direct the same to be cut and opened of such width, depth and length, as they may determine will be requisite and proper for effectually draining and reclaiming the said marsh and low ground. *Provided,* that all and every such person and persons as are or will be particularly benefited by such new or additional ditch or ditches, prong or prongs or any of them, shall in addition to their several and respective shares and rates of the general taxes of said company, pay to the company such sum or sums as the commissioners or a majority of them shall estimate, will be sufficient to place them on an equal footing with such owners and possessors as have borne the expense of cutting and opening the ditch or ditches already cut and opened; and the said commissioners are hereby authorized and required to examine the premises and make such estimate and deliver to the treasurer, a list of the names of such persons, together with the sums they shall have estimated for each and every of them to pay, and the said treasurer is hereby authorized and required to collect the same forthwith, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes, to be levied and collected by said company, and the said new or additional ditch or ditches, prong or prongs, shall thereupon become and be a part of the improvement of the said "Green Branch Improvement Company," and shall be kept open and in good order at the common expense of the company, and such owners and possessors so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

Persons benefited by new ditches to pay additionally. every such person and persons as are or will be particularly benefited by such new or additional ditch or ditches, prong or prongs or any of them, shall in addition to their several and respective shares and rates of the general taxes of said company, pay to the company such sum or sums as the commissioners or a majority of them shall estimate, will be sufficient to place them on an equal footing with such owners and possessors as have borne the expense of cutting and opening the ditch or ditches already cut and opened; and the said commissioners are hereby authorized and required to examine the premises and make such estimate and deliver to the treasurer, a list of the names of such persons, together with the sums they shall have estimated for each and every of them to pay, and the said treasurer is hereby authorized and required to collect the same forthwith, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes, to be levied and collected by said company, and the said new or additional ditch or ditches, prong or prongs, shall thereupon become and be a part of the improvement of the said "Green Branch Improvement Company," and shall be kept open and in good order at the common expense of the company, and such owners and possessors so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

Commissioners to deliver list to treas'r. examine the premises and make such estimate and deliver to the treasurer, a list of the names of such persons, together with the sums they shall have estimated for each and every of them to pay, and the said treasurer is hereby authorized and required to collect the same forthwith, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes, to be levied and collected by said company, and the said new or additional ditch or ditches, prong or prongs, shall thereupon become and be a part of the improvement of the said "Green Branch Improvement Company," and shall be kept open and in good order at the common expense of the company, and such owners and possessors so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

Treasurer to collect, etc. the same forthwith, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes, to be levied and collected by said company, and the said new or additional ditch or ditches, prong or prongs, shall thereupon become and be a part of the improvement of the said "Green Branch Improvement Company," and shall be kept open and in good order at the common expense of the company, and such owners and possessors so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

Owners benefited by new ditch, etc. to be members of company. so particularly benefited by such new ditch or ditches, prong or prongs, shall be members of said company.

SECTION 5. *And be it enacted,* That the said commissioners are hereby further authorized and empowered after viewing the ditch or ditches, prong or prongs already cut, and directing the enlargement and extension of such ditch or ditches, prong or prongs as they may think proper, and after locating and directing the opening and cutting of such ditch or ditches, prong or prongs, as they may deem fit and proper to estimate the expense of cutting and opening such ditch or ditches, prong or prongs, as they or a ma-

Commissioners to estimate the expense of cutting ditches, opening such ditch or ditches, prong or prongs, as they or a ma-

majority of them may direct to be cut and opened, of enlarging and extending such ditch or ditches, prong or prongs, as they may direct to be enlarged or extended, and the said commissioners or a majority of them, shall certify to the managers for the time being, the amount of such estimate or valuation. If 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 completed, then, and in that case, the said Green Branch Improvement 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 completed.

and certify
the amount to
managers.

Vacancy.

SECTION 6. *And be it enacted,* That for the purpose of raising the necessary sums of money and 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 authorized 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 marsh and low ground, mentioned in said return to the recorder, such sum of money as the said commissioners or a majority of them, shall have estimated as probable expense as aforesaid, or so much thereof, as be necessary for the completion of the improvements of the said marsh and low grounds, contemplated in this act, which sum shall be apportioned among the several owners of the said marsh and low grounds, which shall be mentioned in the return to the recorder's office aforesaid, 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 sums of money which may be necessary, either for the completion of the work, or to keep the said ditch or ditches, prong or prongs in good repair, it shall and may be lawful for the managers for the time being, or a majority of them, and they are hereby authorized and required to lay and assess upon the value of the said marshes or low grounds, mentioned in the return to the recorder aforesaid, all and every such sum and sums of money as the company at any of its meetings, shall by a majority of votes at any such meeting or meetings, from time to time determine, ought to be levied and raised: and all such sums of money or taxes shall be apportioned in the same manner as is herein directed, for the apportionment of the first tax to be levied and raised under this act; and the said managers or a majority of them, shall from time to time make out duplicate lists under their hands, of all the assessments and taxes by them to be made, and laid as aforesaid, which list shall also contain a minute of all changes of ownership and transfer (if any,) of the said marshes and low grounds, and one of the said lists shall be delivered to the treasurer for the time being, and the other shall be retained by the managers, and such assessments and lists shall be final and con-

Taxes to be
laid and as-
sessed.

Apportioned.

Further pow-
ers of mana-
gers in levy-
ing taxes.

Duplicate tax
lists.

How disposed
of.

To be final. Treasurer warrant to collect. Further power in extending ditches, etc.

To employ workmen.

Expenses, how paid.

Account to be kept.

clusive 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 list mentioned. *Furthermore*, it shall be the duty of the managers and they are hereby vested with full power and authority to enlarge, extend, cut and open all such ditch or ditches, prong or prongs, as the said commissioners by their return aforesaid, shall direct to be enlarged, extended, cut or opened, or cause the same to be done, and 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, from time to time given to them in relation to their said 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 works, 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 meeting or other meetings of said company, as said company may direct.

Time for payment of taxes.

SECTION 7. *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.

Treasurer; powers of, in collecting, &c.

SECTION 8. *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 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.

SECTION 9. *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 the said "Green Branch Improvement Company," in the penalty of two

thousand dollars, upon condition to be void if he shall pay all or- Condition of:
 ders drawn on him by the managers for the time being, or a ma-
 jority 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 com-
 pany, 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 the duties of his office with fidelity.

SECTION 10. *And be it enacted,* That any person holding any
 ground adjacent to the said ditch or ditches, prong or prongs, rate- Lands adja-
 able and liable to be assessed by this act, shall have full power cent to the
 and liberty without any interruption or hindrance to cut other ditch ditches, how
 or ditches into the said ditch or ditches already opened, or which drained.
 may be opened in pursuance of this act, in such place or places as
 the owner or owners of such adjacent grounds shall think most
 convenient and proper. *Provided,* that if the said ditch or ditches
 shall pass through the lands of any other person, the place for cut-
 ting the same shall be fixed by two disinterested freeholders to be
 chosen by any two of the managers aforesaid.

SECTION 11. *And be it enacted,* That if any person shall wilfully Penalty for
 fill up, or in any manner obstruct the ditch or ditches, prong or obstructing
 prongs aforesaid or any of them, or shall stop, obstruct or impede ditches, etc.
 the course of the water or waters from running down the said
 ditch or ditches, prong or prongs, every such obstructing or filling
 up the said ditch or ditches, prong or prongs, shall be an indicta-
 ble offence, and every person so obstructing or filling up any such
 ditch or ditches, prong or prongs shall be liable to be proceed-
 ed against in the court of General Sessions of the Peace and
 Jail delivery, in and for Kent county aforesaid, by indictment,
 and on conviction shall be fined in any sum not exceeding sixty
 dollars at the discretion of the court, and shall be sentenced to pay
 the said fine with all costs of prosecution, and such proceedings
 shall be had as in all other cases of misdemeanor, and one half of
 the said fine shall be paid to the treasurer of the said "Green
 Branch Improvement Company," for the time being, and the other
 moiety shall go to and be for the use of the State.

SECTION 12. *And be it enacted,* That suits may be brought and Suits, how to
 prosecuted in the name of the said Green Branch Improvement be instituted.
 Company upon any bond given to the said company.

SECTION 13. *And be it enacted,* That every commissioner and Compensation to com-
 manager shall, for each and every days service in and about the missioners,
 business of the said company, be entitled to receive of the com- managers and
 pany the sum of one dollar; and every treasurer shall be allowed treasurer.
 a commission of eight per centum on all monies by him collected.

Passed at Dover, February 15, 1837.

CHAPTER CIII.

AN ADDITIONAL SUPPLEMENT to an act entitled "*An Act to authorize the owners and possessors of the marsh or low grounds commonly called and known by the name of Meredith's Branch, in the forest of Murderkill and Mispillion hundreds, in Kent county, to cut a ditch or drain through the same.*"

Chap. cxlv. 3
vol. p. 327.

Company es-
tablished.

Name.

Time of meet-
ing.

Election of
officers.

Occasional
meetings.

Vacancies.

Officers, their
continuance
in office.

Voting.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the owners and possessors of the marsh and low grounds commonly called and known by the name of Meredith's branch, and mentioned in the act to which this is an additional supplement, and in the supplement to said act and situated in the forest of Murderkill and Mispillion hundreds, in Kent county, shall compose a company to be called the "Meredith's Branch Company," and shall hold a meeting on the second Monday in April of the present year, and on the second Monday in April of every year hereafter, at the house now occupied by William S. Killen, in Murderkill hundred aforesaid, or such other place as the said owners and possessors of said marsh and low ground shall have determined at any previous meeting, by a resolution adopted at such previous meeting, at which said annual meeting, the said company shall choose by ballot and by a plurality 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 marsh and low ground, situated upon and contiguous to Meredith's branch aforesaid, and such annual meeting of the said company may be adjourned from time to time, and occasional or stated meetings may from time to time be called by the managers for the time being, or the survivors of them if any be dead, at such times and places as the said managers or a majority of them, or the survivors of them may appoint by giving ten days public notice by advertisements, put up in at least five of the most public places in Murderkill hundred aforesaid. And if the managers and treasurer shall not all or any of them be chosen, at the stated annual meeting, in any year, or if any manager or treasurer, shall die, resign or refuse or neglect to act, vacancies thus happening may be filled at an adjourned or occasional meeting by ballot and plurality of votes as aforesaid, and all the managers and every treasurer elected under this act shall continue in office until the annual meeting next succeeding the election of them, and until successors be duly chosen; except that if any manager, or treasurer, shall after his election remove from the neighbourhood 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 said owners and possessors of the said marsh and low grounds, at an adjourned or an occasional meeting may do all such acts or things, as may or might be done at a stated meeting, and at all the meetings of the said "Meredith's Branch Company," every white owner of any marsh or low ground within the company's boundaries, or which pays a tax to said company, and the guardian of every infant owner may vote, and every female owner*

and every owner residing out of Kent county may vote by proxy, constituted by a note in writing, signed by such female or non-resident owner.

SECTION 2. *And be it further enacted,* That Samuel Thawley, John Gooden and Peter L. Cooper be, and they are hereby appointed commissioners to make a valuation of the said marsh and low grounds, and they are hereby authorized and required to go upon and view all the marsh and low grounds upon, or adjacent to, Meredith's branch aforesaid, and ascertain all the owners, and determine who are, or will be benefitted by the ditch or ditches already opened, or any ditch or ditches which they, or a majority of them, shall direct to be cut or opened under this act, and the quantity of marsh or low ground to be benefitted, held by each owner or by joint owners (if any be held undivided,) and shall appraise all the said marsh and low ground which, in their opinion, or the opinion of a majority of them are, or will be, benefitted by the said ditch or ditches, having regard to the original or unimproved value thereof, so that the said appraisement, may be made on such principles as will do equal justice to all the owners of the said marsh and low grounds, which said appraisement shall be the valuation upon which all taxes assessed and levied by virtue of this act, shall be assessed and levied, (except so far as the proviso in this section contained is an exception,) and the said commissioners, or a majority of them, are hereby further authorized and required to go upon the said marsh and low grounds, and view, examine and direct the extension and enlargement of the ditch or ditches, already cut or opened, (if they shall consider that such extension or enlargement would be beneficial to said owners and possessors,) in such manner and to such extent as they may deem necessary: and the said commissioners, or a majority of them, are hereby further authorized and required, after viewing the ditch or ditches already cut or opened, and directing such enlargement and extension thereof as they shall think proper, (if they think proper to make such directions,) to locate and lay out such new or additional prongs or lateral ditches communicating with, or emptying into the same, as the said commissioners or a majority of them, may deem proper and necessary, and of such length, depth and width as they may judge sufficient for effectually draining the said marsh and low grounds: *Provided*, that all and every such person and persons as are, or will be particularly benefitted by such new or additional prongs or lateral ditches, or any of them, shall (in addition to their several and respective shares or rates of the general taxes of said company,) pay to the company such sum or sums respectively, as the commissioners, or a majority of them, shall estimate will be sufficient to place them upon an equal footing with such of the said owners and possessors, as have borne the expense of cutting and opening the ditch or ditches, already cut and opened; and the said commissioners, or a majority of them, are hereby authorized and required to examine the premises and make such estimate, and deliver to the treasurer, a list of the names of such persons, together with the sums they shall have estimated for each and every of them to pay; and the said treasurer is hereby autho-

Commissioners appointed to make valuation, &c.

Appraisal.

Taxes, how ascertained.

Further duty of commissioners to extend ditches, etc.

And locate new ones.

Persons benefitted by new ditches to pay additionally.

Commissioners to deliver list to treasurer.

- Treasurer to collect.** rized and required forthwith to collect the same, in the same manner and by the same means as are prescribed in this act, for the collection of the general taxes to be levied and collected by said company: and the said new or additional prongs shall thereupon become and be a part of the improvements of the said Meredith's Branch Company under this act, and shall be kept open and in good repair at the common expense of the said company. And the said commissioners or a majority of them shall make a certificate under their hands, containing the name of the respective owners of the said marsh and low ground, and the quantity held by each owner and by joint owners, if any be held undivided, and of the appraisement of the said several quantities or parcels so by the said commissioners to be made as aforesaid, and containing also, a description of all the ditches and prongs of ditches, which they shall direct to be enlarged, extended, cut or opened under this act, (showing the enlargement and extension of such as they shall direct to be enlarged and extended,) and shall return said certificate into the office for recording deeds, in and for Kent county aforesaid, there to be recorded; which said certificate shall be final and conclusive, and the appraisement and valuation therein contained, shall be the true valuation said marsh and low grounds, according to which all the taxes necessary to carry into effect the purposes of this act, shall be assessed and raised, and a copy of the said certificate, under the hand of the said recorder and seal of his office, shall be good and competent evidence to all intents and purposes. *And further,* the said commissioners, or a majority of them, are hereby authorized and required to estimate the probable expense of extending and enlarging such ditch or ditches as they may direct to be extended or enlarged, and of cutting and opening such new prong or prongs, as they may direct to be cut or opened, and the said commissioners or a majority of them, shall certify under their hands, the said estimate of probable expense, and shall deliver the said certificate to the managers for the time being, to be by the said managers kept among the papers of said company.
- Certificate of appraisement.**
- To be returned, where.**
- Conclusive.**
- Copy thereof.**
- Commissioners to estimate expense of extending ditches, etc., and certify expense to managers.**
- Vacancy.** If any of the said commissioners shall die, resign, remove from Kent county, or refuse to act, before all the said duties of the said commissioners shall have been completed, then and in that case, the said Meredith's Branch 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 completed.

Taxes to be laid and assessed. **SECTION 3.** *And be it further enacted,* That, for the purpose of raising the money necessary for the effectual draining and reclaiming of the said marsh and low grounds, and the full accomplishment of the objects of this act, it shall and may be lawful for the managers of the said "Meredith's Branch Company," for the time being, or a majority of them, and they or a majority of them, are hereby authorized and required, (after the appraisement and valuation aforesaid, shall be made and returned as aforesaid, and the said estimate of probable cost shall have been certified to them as aforesaid,) to lay and assess upon the value of the said marsh and

low grounds, mentioned in said return of appraisement and valuation, so to be made, and returned as aforesaid, such money as the said commissioners, or a majority of them shall have certified to the said managers, as their estimate of the expense or probable cost of cutting, opening, extending and enlarging the said ditches and prongs as aforesaid, (or so much thereof, as may by the said managers be deemed necessary,) which said sum shall be apportioned among the said several owners of the said marsh and low grounds, mentioned in said return to the recorder's office, according to and upon the value of the respective quantities or parcels of marsh or low ground, 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 raising any further or other sum or sums of money for the completion of said improvement, or for keeping the said ditches or prongs open and in good repair, after they shall have been completed, it shall and may be lawful for the managers for the time being, or a majority of them, and it is hereby made their duty to lay and assess upon the value of said marsh and low grounds (ascertained as aforesaid,) every such sum or sums of money as the said company shall, at any of its meetings and by a plurality of the voters present, from time to time determine what ought to be levied and raised; and all such sums of money shall be apportioned as hereinbefore is directed for the apportionment of the first sum to be levied and raised under this act. And the said managers, or a majority of them, shall from time to time make out duplicate lists under their hands, of all the assessments and taxes by them to be made and levied as aforesaid, which list shall also contain a minute of all changes of ownership (if any) by transfers or otherwise, of the said marshes and low grounds, so far as the same is known to the said managers; one of which said lists shall be delivered to the treasurer for the time being, and the other shall be retained by the managers, and shall be copied into the book where the records of the other proceedings of said company are kept.

Apportioned.

Further powers of managers in levying taxes.

Duplicate tax lists.

How disposed of.

And the said lists shall be final and conclusive upon all parties, and the lists from time to time delivered to the treasurer, shall be a sufficient warrant to him, or his successor in office, for levying and collecting the sums of money or taxes in said lists mentioned. *And furthermore*, it shall be the duty of the managers and they, or a majority of them, are hereby authorized and required to cut and open such prongs or lateral ditches as the said commissioners shall, in and by their return as aforesaid, direct to be cut and opened (subject to the aforesaid proviso in that behalf in this act contained,) and to enlarge and extend the ditch or ditches, drain or drains already cut, if and so far as the commissioners, in and by their said return, shall direct the same to be done, and shall cause the same to be kept open and in good repair: and generally the managers shall carry into full effect, all the lawful directions of the company, which shall from time to time be given to them, in relation to their aforesaid trust, for which purpose, the said managers shall have power to employ such workmen and labourers, as may be necessary for completing the work assigned to them, at the common expense of the company. And all hire, wages and ex-

To be final. Treasurer, warrant to collect.

Further power in extending ditches, etc.

To employ workmen.

Expenses,
how paid.

Account to
be kept.

penses, in and about the said work, shall be paid by orders drawn by the managers or a majority of them, on the treasurer. Every order shall specify the service, 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 be particular, specifying the service or expenses for which each order is drawn; and said accounts shall be laid before the annual or other meetings of said company, as said company may direct.

SECTION 4. *And be it further 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 to be delivered to the 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.

Treasurer;
powers of, in
collecting,
&c.

SECTION 5. *And be it further 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 or 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 or assessed, or any part thereof, shall remain unpaid for the space of ten days after the time appointed for the payment thereof as aforesaid, 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, in the same manner and by the same means, as are provided by law for the recovery of county, road and poor taxes, except that the said treasurer shall advertise at least thirty days before the day of sale.

To give bond.

Condition of

Succeeding
treasurer to
collect on list
of preceding.
Proviso.

SECTION 6. *And be it further 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 security, to be approved by the managers, or a majority of them, to the said company, by their name aforesaid, in the penalty of two thousand dollars, upon condition to be void if the said treasurer shall pay all orders drawn on him, by the managers for the time being, or any two of them, so far as he shall have funds of the company for that purpose, and shall well and truly account for all monies which shall come to his hands, as such treasurer, at every annual meeting of the company or otherwise, as the company may direct; and shall pay any balance or sum that shall be due from him on such accounts, to his successor in office, or otherwise, as the company may direct; and shall perform all the duties of his office as such treasurer 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, as the treasurer had to whom the list was originally delivered: *Provided,* that no tax shall be demanded after the expiration of three years

from the time the same is made payable by the managers as aforesaid.

SECTION 7. *And be it further enacted*, That every person holding any ground adjacent to said ditches or prongs, or any of them, and rateable and liable to be assessed under this act, shall have full power and liberty, without any interruption or hindrance, to cut such other ditches or drains as may be necessary to drain such adjacent ground into the company's ditches or prongs, at such place or places as the owner or owners of such adjacent ground shall find most convenient and proper. *Provided nevertheless*, that if the said ditches or drains from such adjacent ground, shall run through the lands of any other person or persons, the place for cutting the same shall be fixed and determined by two disinterested freeholders, to be appointed by any two of the managers for the time being, and the place or places so fixed and determined by the said freeholders, shall be certified by them under their hands, to the managers for the time being, and the certificate entered upon the book of the company.

Lands adjacent to the ditches, how drained.

SECTION 8. *And be it further enacted*, That if any person shall willfully fill up, or in any manner obstruct or injure the ditches, or any ditch or prong of a ditch enlarged, extended, cut or opened by authority of this act, or the act to which this is an additional supplement, or the supplement to that act, or shall stop, obstruct or impede the course of the water running in said ditches or any of them, every person so offending shall pay to the said "Meredith's Branch Company," the sum of twenty dollars, and also the damages sustained by said company by reason of such filling up, obstructing, stopping or impeding, to be recovered before any justice of the peace, in and for Kent county aforesaid, in the same manner, and by the same proceedings, as debts under fifty dollars are by law recoverable, and the jurisdiction necessary for such recovery is hereby expressly given to all and every the justices of the peace in said county.

Penalty for obstructing ditches, etc.

SECTION 9. *And be it further enacted*, That each of the aforesaid commissioners, 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 discharge the said duties faithfully and impartially according to the best of his skill and judgment. And every commissioner and manager, shall, for each and every days service in and about the business of said company under this act, be entitled to receive of said company the sum of one dollar, and every treasurer shall be allowed a commission of six per centum on all monies by him collected.

Comm'rs. to be sworn or affirmed.

Compensation of commissioners, managers and treasurer.

SECTION 10. *And be it further enacted*, That suits may be brought and prosecuted in the name of the said "Meredith's Branch Company," upon any bond given to said company and for the recovery of the sum and damages mentioned in the eighth section of this act, and for all monies at any time due to said company.

Suits, how to be instituted.

Repeal of SECTION 11. *And be it further enacted*, That so much of the act parts of for- to which this is an additional supplement, and so much of the sup- inner act. plement to that act, as is hereby altered or supplied, be and the same is hereby repealed and made null and void.

Passed at Dover, February 15, 1837.

—:00:—

CHAPTER CIV.

4 vol. p. 495, AN ACT to amend the act entitled "*An Act to incorporate the trustees of the Georgetown School, in Georgetown, Sussex county.*" chap. clxxxiii.

Original act SECTION 1. *Be it enacted by the Senate and House of Representa-* amended, by *tives of the State of Delaware, in General Assembly met*, That when- ever in the original act, to which this is an amendment, the name changing "school" to of "the Georgetown School" shall appear, the same shall be and it "academy." is hereby changed and altered to the name of "The Georgetown Academy;" but this act shall not be deemed and taken to change, modify or alter the said act, or any provisions thereof, further than in the said name of the said school.

Passed at Dover, February 16, 1837.

—:00:—

CHAPTER CV.

Ante, p. 37. A SUPPLEMENT to the act entitled "*An Act to enable William Inskeep, of New-Castle county, to raise his mill-dum, and for chap. xix. other purposes therein mentioned.*"

Private act,

Passed at Dover, February 16, 1837.

—:00:—

CHAPTER CVI.

chap. xxx. 7 AN ADDITIONAL SUPPLEMENT to the act entitled "*An Act to establish a company under the name of the Mispillion Na-* vol. p. 52. *avigation Company.*"

SECTION 1. *Be it enacted by the Senate and House of Representa-* tives of the State of Delaware in General Assembly met, (with the concurrence of two-thirds of each branch of the Legislature,) That (to prevent any misconstruction and injurious operation of the eighth section of the supplement to the said act, passed at this present session of the General Assembly,) as soon as the mouth of said creek shall be improved, as therein specified, the directors of said company, or any person or persons legally authorized by

Sec. 8. chap. 93. ante, p. 101.
Toll may be received,

them, may demand and receive from the master or commander of every vessel passing into, or through said mouth, such rate of toll as they may deem reasonable, and the said directors may increase, collect and regulate the said rate of toll, as the improvement of the navigation of said creek shall progress and be completed. *Rate of may be regulated,* *Provided,* that tolls to and from said mouth to Hammersley's shoal, shall not exceed seven cents; and to and from Hammersley to the Fork landing shall not exceed two cents; and to and from the Fork landing to Milford, shall not exceed three cents per ton, on each and every vessel navigating the said creek. *Proviso.*

Passed at Dover, February 17, 1837.

—:00:—
CHAPTER CVII.

A FURTHER SUPPLEMENT to the act entitled "*An Act to incorporate the Bank of Wilmington and Brandywine, in the borough of Wilmington.*" *Dig. 69. 4 vol. 528. chap. excvii.*

SECTION 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 the power of revoking this act by the Legislature being hereby expressly reserved.)* That the charter of the Bank of Wilmington and Brandywine, with all its present powers, rights, privileges and immunities, is hereby extended and continued for the term of twenty years from the passing of this act, and that the capital stock of the said bank may be increased so as to consist of six thousand six hundred and sixty-seven shares, of thirty dollars each, so as to make the whole capital amount to two hundred thousand and ten dollars, and no more: *Charter extended for twenty years.* *Capital stock may be increased, how much.* *Bonus to the state.* *Provided,* that the said Bank of Wilmington and Brandywine shall pay into the treasury of this State, for the use of the State, within six months after the passing of this act, the sum of three thousand dollars as a consideration for the privileges hereby granted: *Acceptance, how certified.* *And provided further,* that the president and directors of the said bank, shall within six months from the passing of this act, certify to the Governor of this State, under the seal of the corporation, that this supplement has been submitted to a meeting of the stockholders of the said bank, regularly convened for the purpose, and that a majority in value of the said stockholders have approved and accepted of the same.

SECTION 2. *And be it further enacted,* That the said Bank of Wilmington and Brandywine shall, semi-annually pay into the treasury of this State, for the use of the State, a tax of one-fourth of one per centum per annum, on the said capital of two hundred thousand and ten dollars, or such proportion thereof as shall be actually paid in during the continuance of this act, and shall also be subject to the operation of the second section of the act entitled "*An Act securing payment by the banks of this State of their notes in specie,*" passed at Dover, the thirtieth day of January, in the year of our Lord one thousand eight hundred and twenty-four. *Tax.* *Bank to be subject to the operation of sec. 2 of act in dig. p. 67.*

Passed at Dover, February 17, 1837.

CHAPTER CVIII.

AN ACT to authorize the building of a Court-house and fire-proof offices at Georgetown, in Sussex county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That for the purpose of carrying into effect the objects of this act, George R. Fisher, William D. Waples and David Hazzard, are hereby appointed commissioners. And it shall be the duty of the said commissioners, or a majority of them, to cause to be built, erected and finished of the best materials and in a workmanlike manner, upon the public square in Georgetown, in the said county, a substantial brick building, of at least sixty feet front, and fifty feet deep, the walls of which shall be of a proper thickness. The said building shall be at least two stories high, and shall be so planned and arranged, as to contain a spacious court-room, for holding therein the several courts of this State; rooms for a grand jury and petit jury, and six offices, that is to say: one for the use of the prothonotary of the Superior Court, one for the register of wills and granting letters of administration, one for the register in Chancery, one for the clerk of the Peace, one for the recorder of Deeds, and one for the clerk of the Orphan's Court; which offices aforesaid, shall be fire-proof; and the general plan of said building, and the plan and arrangements of said court-room, jury-rooms and offices, shall be fixed and determined upon by the said commissioners, or a majority of them, who may alter and improve the same, during the progress of the work, if to them it shall seem expedient to do so. And the said commissioners, or a majority of them, are hereby authorized to make contracts, procure materials, employ workmen and labourers, and to do all other things which may be deemed by them necessary to effect the objects of this act.

Commissioners appointed
Duty in erecting and finishing court-house.
Material, size and arrangement.
Court-room.
Jury rooms.
Offices.
To be fire-proof.
Powers of commissioners.

SECTION 2. *And be it further enacted,* That when and as soon as the said building shall be completed and furnished, the same shall be forever thereafter for the use of the several courts of this State, to be held in and for Sussex county, and for the use of the several officers aforesaid, who are hereby required to occupy the respective offices before designated.

Building when completed to be for use of courts and offices.

SECTION 3. *Be it enacted by the authority aforesaid,* That the State treasurer be, and he is hereby directed to pay the said commissioners the sum of five thousand dollars, out of the surplus fund of this State, upon the order of the Levy-court of Sussex county, to be used and applied in the erection of said building, for which the said county of Sussex shall pay to the State, at the rate of six per cent per annum interest, to be deducted out of that portion of the interest of the surplus revenue, to be apportioned to said county; and he shall pay over to the said commissioners, or to the Levy-court of said county, the sum of five thousand dollars, as part of the money to be assigned to the use of the State, as the same may from time to time be received by virtue of an act, passed the eleventh day of February, in the year of our Lord, one

Appropriation of \$5000 of surplus fund.
For which interest shall be paid.
Appropriation of \$5000 from lottery, authorized by chap. 362, 8 vol.

thousand eight hundred and thirty-five, "authorizing a lottery for the benefit of Delaware college, and for other purposes therein mentioned."

SECTION 4. *And be it further enacted,* That in case of the death, removal from Sussex county or refusal to act, of any of the said commissioners, the associate judge of the State, residing in Sussex county aforesaid, shall from time to time, appoint one or more new commissioners to fill the vacancy occasioned by any such cause aforesaid. Vacancies:

SECTION 5. *And be it further enacted,* That the aforesaid sum of ten thousand dollars shall be drawn on the orders of the said commissioners, or a majority of them, at such time and in such sums as the progress of the work aforesaid shall require; and the said commissioners, or a majority of them, shall from time to time, and at least once at the end of each year, render a true and faithful account of their receipts and expenditures to the auditor of accounts of the State of Delaware. Sum to be drawn on order of com'rs &c.
Accounts be rendered to auditor.

SECTION 6. *And be it further enacted,* That if, in the opinion of the commissioners hereinbefore appointed, it shall be necessary to remove the old court-house, or any part thereof, for the purpose of building, erecting and finishing the said brick building, then, and in that case, it shall be the duty of the Levy-court of Sussex county aforesaid, to provide some suitable building for the purpose of holding therein the courts of this State, in and for said county, during the progress of the work aforesaid, and until the said brick building shall be finished. And it shall be further the duty of said Levy-court, to sell or otherwise dispose of the present court-house at Georgetown, for the benefit of said county, the proceeds arising from said sale or disposal to be paid over to the county treasurer. Commissioners may remove old c't. house.
Duty of L. court in such case.
L. court to sell present c't. h., &c.

SECTION 7. *And be it further enacted,* That in case the said sum of ten thousand dollars shall not be sufficient to carry into effect the objects of this act, the deficiency shall be paid by the said county of Sussex; such deficiency to be raised in the same manner as other county charges are raised, to wit: by county rates or levies of taxes. If \$10,000 not sufficient, &c. deficiency to be paid by S. county.

SECTION 8. *And be it further enacted,* That the said commissioners shall receive for their services in performing the duties required of them by this act, each, the sum of one dollar per day and mileage, at six cents per mile, for each mile travelled in going to and returning from Georgetown, which shall be paid by the said county of Sussex. Compensation of commissioners.

Passed at Dover, February 17, 1837.

CHAPTER CIX.

Dig. 69, chap. A FURTHER ADDITIONAL SUPPLEMENT to the act entitled "An Act to establish a bank and incorporate a company under the name of the Bank of Smyrna." 73, 6 vol. p. 97.

Original act and supplements extended to 16 Feb. 1857.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "An Act to establish a bank and incorporate a company under the name of the Bank of Smyrna," passed the fifth day of February, in the year of our Lord, one thousand eight hundred and twenty-one, and the act entitled "A supplement to the act entitled 'An Act to establish a bank and incorporate a company under the name of the Bank of Smyrna,'" passed the seventh day of February, in the year of our Lord, one thousand eight hundred and twenty-two, and the act entitled "An additional supplement to the 'Act to establish a bank and incorporate a company under the name of the Bank of Smyrna,'" passed the twenty-fifth day of January, in the year of our Lord, one thousand eight hundred and twenty-six, or so much of the said recited acts, and of each of them as is now in force, shall continue and be in full force, and the same is hereby extended until the sixteenth day of February, which shall be in the year of our Lord, one thousand eight hundred and fifty-seven.

Passed at Dover, February 17, 1837.

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CHAPTER CX.

AN ACT to incorporate the Jordan's Branch Marsh Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the owners and possessors of the marsh and low grounds commonly called and known by the name of the Jordan's Branch Marsh, situate in the forest of Duck-creek and Little-creek hundreds, in Kent county and State of Delaware shall compose a company to be called the "Jordan's Branch Marsh Company," and shall hold a meeting on the last Saturday in April in the present year, and in every year hereafter, at the district school-house in school district No. 8, in Kent county aforesaid, in Duck-creek hundred, 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 meeting 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

Company established.

Name.

Meetings, when and where.

Election of officers.

Occasional meetings.

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 Duck-creek and Little-creek hundreds 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, 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 neighbourhood of 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 "Jordan's Branch Marsh Company," every owner of any marsh or low ground, rateable and assessed by virtue of this act, may vote if present or by proxy, duly attested under their hand and seal.

SECTION 2. *And be it enacted*, That every treasurer, secretary and manager, chosen in pursuance of this act, shall continue in office until the last Saturday in April next ensuing his election, and until a successor to him shall be duly elected.

SECTION 3. *And be it enacted*, That the said "Jordan's Branch Marsh Company" shall, at the meeting of the said company to be held on the last Saturday 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 authorized and empowered to enter upon the said marsh and low grounds, and lay out such 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 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 by joint owners, if any be held undivided, and shall appraise all the benefits, profits and advantages of all the said marsh and low grounds which, in their opinion, are or will be benefited 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, unto the said company's ditch or ditches, drain or drains, so that the said appraisalment may be made on such principles as will do equal justice to all the owners and possessors of said marsh and low grounds; and the said commissioners, or a majority of them, when they shall have completed such valuation and appraisalment as aforesaid, shall cause to be put up in at least four of

the most public places in Duck-creek and Little-creek hundreds aforesaid, written or printed notice of such their completion of such valuation and appraisement of the said marsh and low grounds, and specifying and appointing a day, not less than fifteen nor more than thirty days after the day of advertizing, for a general meeting of the said company, at the school-house in school district No. 8, in Kent county aforesaid, or at some other place in the neighbourhood, and in said advertisements to be named, at which said meeting the said commissioners shall constitute a board of appeal, and shall hear and determine all and every the objections, grievances and complaints of all and every person or persons who may consider him, or herself or themselves, aggrieved by such appraisement or valuation as aforesaid; and the said commissioners, so sitting as a board of appeal as aforesaid, or any two of them, shall have power to make such alterations in such valuation and appraisement, as upon a full hearing and consideration of all the circumstances, they may deem just and equitable; and the said commissioners or a majority of them, after having as such board of appeal, settled and adjusted such valuations and appraisement of the said marshes and low grounds as aforesaid, shall make out under their hands, or the hands of a majority of them, two certificates, 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 several quantities held by each owner or by joint owners respectively, according as the same shall have been settled and adjusted by the said commissioners, so setting as a board of appeal as aforesaid, and the said commissioners shall deliver or cause to be delivered, one of the said certificates into the recorder's office, in and for Kent county aforesaid, to be there recorded by the recorder of deeds for said county, which said certificate shall be conclusive upon all parties; and a copy of the record thereof, certified by the said recorder under his hand and seal of office, shall be good and sufficient evidence in all courts of justice, and before all justices of the peace in this State; and the other of said certificates to the secretary of said company; and the said appraisement and valuation of the said marshes and low grounds, so as aforesaid to be made, shall be the rate of assessment for all taxes levied under this act, for and during the term of ten years next after the last Saturday in April next, and until commissioners shall again be chosen by the said company in the same manner, and shall in the same manner as prescribed in this section, complete and certify into the recorder's office aforesaid, another valuation and appraisement of the said marshes and low grounds, to be recorded as aforesaid: which said other appraisement and valuation of the said marshes and low grounds, being so completed, returned and recorded as herein directed for the first, shall be thenceforth the rate of assessment for all taxes levied under this act, and shall be binding and conclusive upon all parties; and a copy of the record thereof certified by the said recorder, under his hand and seal of office, shall be good and sufficient evidence in all courts of justice, and before all justices of the peace in this State, for and during the term of ten years, next after the last Saturday in April, of the year in which it shall be com-

Notice of completion of appraisement to be published.

Appeal.

Certificates.

to be delivered, where.

That is, how assessed.

pleted and until another valuation and appraisement shall, in like manner be made, and so *toties quoties* for every period of ten years, reckoning from the last Saturday in April of the year in which any valuation and appraisement of the said marshes and low grounds shall have been made: so that a new valuation and appraisement as aforesaid, may be had by the said company every ten years. And in any such other new valuation and appraisement, the commissioners shall not be confined to the same marshes and low grounds only, which shall have been included in any previous valuation or appraisement, but may include any other marshes and low grounds, which they may be of opinion are, or will be benefited or improved by any ditch or ditches, which shall have been or may be opened. Each commissioner before he enters upon the duties 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 recorder and secretary aforesaid, of the administering of said oaths and affirmations, under the hand or hands 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 commissioners shall have been completed, then, and in that case, the said "Jordan's Branch Marsh Company" may at any annual, adjourned or occasional 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.

Comm'rs. to
be sworn or
affirmed.

Vacancies.

SECTION 4. *And be it further 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 authorized and required, after the appraisements and valuations aforesaid shall be made and returned to the recorder and secretary as aforesaid, to lay and assess upon the value of the said marsh and low grounds, mentioned in said returns, made to the recorder and secretary aforesaid, all and every such sum and 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 cutting and opening and keeping all the said ditches and 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 recorder 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 said managers, or a majority of them, shall from time to time make out duplicate lists under their

Taxes to be
laid and as-
sessed.

Duplicate tax
lists.

To be final.

Treasurer, warrant to collect.

Duty of managers to cut ditches, &c.

To employ workmen.

Expenses, how paid.

Account of kept.

Managers to be sworn or affirmed.

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 of said lists shall be delivered to the secretary; 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 lists mentioned: *And further*, 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 ditch or ditches, which the commissioners or a majority of them, shall locate and lay out to be cut and opened, 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 managers shall have full 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 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.

Treasurer to give bond.

Condition of.

SECTION 5. *And be it enacted*, That the treasurer for the time being and every treasurer for the time being shall, before he enters upon the duties of his office, give bond with surety or sureties, to be approved by the managers, or a majority of them, to and in the name of the company aforesaid, in the penalty of two thousand dollars, upon condition to be void if he shall pay all orders drawn 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.

SECTION 6. *And be it enacted,* That the managers laying the taxes, shall appoint the time for the payment of them, and it shall be the duty of the owners respectively, to pay to the treasurer the 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. Time for pay-
ment of taxes.

SECTION 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 list which shall be delivered to such treasurer; and in case any tax or taxes so laid and assessed, or any part thereof, shall remain unpaid for the space of 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 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, which have not been paid to such former treasurer, as the treasurer had to whom the said list was originally delivered. Treasurer;
powers of, in
collecting,
&c.

SECTION 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 certificate to be delivered to him by the commissioners aforesaid, and the lists 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 his
duty.

SECTION 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 days service in and about the business of the said company under this act, receive of the company the sum of one dollar; and every treasurer shall be al- His compen-
sation.

Compensa-
tion of com-
missioners,
managers and
treasurer.

lowed a commission of five per centum on all monies by him collected, except monies collected by his predecessor in office.

Suits, how to be instituted. **SECTION 10.** *And be it enacted,* That suits may be brought and prosecuted in the name of the said "Jordan's Branch Marsh Company," upon any bond given to said company or for any damages done to any of the said Jordan's Branch Marsh ditches or drains.

Penalty for obstructing ditches, etc. **SECTION 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 "Jordan's Branch 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.

Right of owner to discharge waters, &c. **SECTION 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 ground 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 and 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 all 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 such ditch or ditches, and pay to the secretary the sum of one cent for every twelve words in recording 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.

Managers to lay out ditch.

And make return to secretary.

Pay of managers and secretary.

Treasurer to collect taxes unpaid, with- **SECTION 13.** *And be it enacted,* That the treasurer chosen by the "Jordan's Branch Marsh Company," on the last Saturday in April. in the year of our Lord one thousand eight hundred and

thirty-seven, or any treasurer to be chosen by the "Jordan's Branch Marsh Company," for the time being, shall have full power and authority by virtue of this act, to demand and receive, levy and make all taxes remaining unpaid, or any part thereof, upon any list delivered to any former treasurer of said company within six years, and shall pay all orders drawn within six years, on any former treasurer by the managers or a majority of them, according to the tenor of his bond, given to and in the name of said company.

Passed at Dover, February 17, 1837.

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CHAPTER CXI.

AN ACT to encourage the rearing of silk-worms within this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State treasurer of this State, shall pay out of any money in the treasury to any person, other than corporations, who shall produce satisfactory evidence that he or she have in possession the product of his or her silk-worms, one pound or more of silk cocoons, at the rate of ten cents for each and every pound which have been produced by his or their said worms; and that the proof required by the State treasurer, before the payment of such premium, may be by affidavit, taken before some judge or justice of the peace, in the county in which the applicant resides.

State treas'r. to pay a premium to producer of cocoons, &c.

SECTION 2. *And be it further enacted,* That this act shall continue in force for the space of ten years, from and after the first day of March next, and no longer.

Continuance of this act.

Passed at Dover, February 17, 1837.

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CHAPTER CXII.

A SUPPLEMENT to an act entitled "*An Act to restrain persons from suffering swine to go at large within certain limits.*" Digest 518.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the passing of this act, all the provisions, benefits and prohibitions of the act entitled "*An Act to restrain persons from suffering swine to go at large, within certain limits,*" be extended to that part of Lewes and Rehoboth hundreds in Sussex county, contained within and bounded by the following limits, to wit: beginning at a bridge in the road at the flat lands; thence down the said road to the Rehoboth school-house; thence down the line fence dividing the lands of the heirs of Daniel Wolfe, from those of the

Provisions, &c. of original act extended, to where.

heirs of Peter Robinson, deceased, to the branch called Tuckahoe; thence down the said branch to Lewes creek; thence down said creek to Pot-hooks' creek, where it forms the limit of the district of Lewes.

Passed at Dover, February 17, 1837.

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CHAPTER CXIII.

A FURTHER 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.*"

Dig. 68. 4 vol.
87.

SECTION 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 capital stock of the Farmers' Bank of the State of Delaware be, and the same is hereby authorized to be increased to a sum not exceeding one million of dollars, divided into shares of fifty dollars each, reserving to the State of Delaware, the right of subscribing to and for such number, not exceeding five thousand shares of the said increased stock, as the General Assembly of the said State shall, by a law for that purpose to be passed, order, direct and provide.*

Capital stock authorized to be increased, how much.
Right of subscribing not exceeding 5000 shares, reserved to the State.

SECTION 2. *And be it further enacted, That the residue of the said increased capital of the said Farmers' Bank of the State of Delaware, over and above the amount or number of shares of such increased capital, which the State shall or may subscribe for under the first section of this act, may be disposed of, for the benefit of the said bank, either at public or private sale from time to time, at not less than its par value per share, in such number of shares, and with instalments, payable in such amounts and at such time as may be directed by the general board of directors; and the purchaser of any such share or shares shall thereby become a stockholder in the said Farmers' Bank of the State of Delaware, to the extent of the shares held by him, her or them: *Provided*, that *pro rata* dividends shall be declared thereon, calculating from the time of the payment of the instalments on such shares and upon the amount so paid to the time of declaring the dividend.*

Residue of increased capital how to be disposed of.
Proviso.

SECTION 3. *And be it further enacted, That the Farmers' Bank of the State of Delaware, be and it is hereby authorized to issue for circulation notes under the denomination of five dollars, payable to bearer, when signed by the president and cashier of the branch bank at which such notes are made payable, without the signatures of the president and cashier of the principal bank, any thing in the act to which this is a further supplement to the contrary notwithstanding.*

Notes under \$5, may be signed by pr't and cash'r of br'h. b'k. at which they are payable.

SECTION 4. *And be it further enacted, That it shall be lawful for the president and directors of the Farmers' Bank of the State of Delaware, and they are hereby authorized, to institute and es-*

Branch may be established at Milford, &c.

establish a branch of the said bank or office of discount and deposit, at the town of Milford, in Kent county, and to continue the same for the purposes of discount and deposit, under and subject to like conditions and provisions with those made by the several acts in relation to the other branches of the said bank: and that the management of the said branch and the making of said discounts shall be committed to five directors, who shall be citizens of Kent and Sussex counties, three of whom shall be chosen by the stockholders, and two appointed by the General Assembly, in the manner prescribed by the several acts in relation to said bank, for the choice and appointment of directors of the other branches, which directors, so chosen and appointed, shall be vested with powers and privileges co-ordinate with those of the directors of either of the other branches of said bank. The capital of said branch shall not be less than fifty thousand dollars. The directors of said branch, on the part of said stockholders, may be by them chosen at their first adjourned meeting after the passing of this act, or at any other meeting, and the directors on the part of the State shall be appointed by the Governor, to serve until the next meeting of the legislature.

Directors of said branch, number of, &c.

Capital of said branch.

First appointment of directors.

SECTION 5. *And be it further enacted,* That the general board of directors, of the Farmers' Bank of the State of Delaware, be and they are hereby authorized to distribute, among the principal bank and the branches, the increased capital stock subscribed or disposed of under the provisions of this act, in such portion as they may from time to time, by resolution direct, so that the share of the county of Sussex may not be less than one hundred thousand dollars; and the said general board is also hereby further authorized to establish offices, for the transfer of the stock of the Farmers' Bank of the State of Delaware, at the principal bank and each of the branches and in the city of Philadelphia, or any of those places, and the said general board may direct that books shall be kept in the offices by it established, upon which the stock of the said bank may be transferred by any stockholder, or by his or her attorney authorized; in such manner as may be prescribed by the general board of directors, without regard to the manner and amount in which the capital stock is apportioned among the principal bank and its branches.

Gen'l board of directors to distribute increased capital.

Share of Sussex county.

Transfer offices.

SECTION 6. *And be it further enacted and it is hereby provided,* That the President, Directors and Company of the Farmers' Bank of the State of Delaware, shall, semi-annually pay to the State treasurer of this State, for the use of the State, at the rate of one-fourth of one per centum per annum, on the whole capital stock actually paid in under the provisions of this act: the first payment to be made at the end of six months from the date of their acceptance of this act, and thereafter half yearly, for and during the full time and period of its continuance.

Tax to the State.

SECTION 7. *And be it further enacted,* That the acceptance of this act must be made by the stockholders of the Farmers' Bank of the State of Delaware, at any adjourned meeting or general meeting to be held at Dover, in the year of our Lord one thousand

Acceptance of this act to be certified, &c.

eight hundred and thirty-seven, and the acceptance certified under the hand of the president or chairman and secretary of such meeting, to the Governor of this State, on or before the first Tuesday of April next.

To be a public act. SECTION 8. *And be it further enacted,* That this act shall be deemed, adjudged and taken to be a public act, and shall be judicially taken notice of as such.

Power of revocation reserved. SECTION 9. *And be it further enacted,* That the power be, and the same is hereby reserved to the Legislature, to revoke this act and any of the provisions thereof.

Original charter, &c., extended years, &c. SECTION 10. *And be it further enacted,* That so much of the original charter, or act of incorporation, of the said Farmers' Bank of the State of Delaware, and so much and such parts of all, and every, the acts of the General Assembly of this State, supplemental to the said charter or act of incorporation, as well all and every the provisions of all and every the acts of the General Assembly of this State, as are now in force, whereby any right, power, franchise, privilege or immunity is granted to or vested in the said corporation, or Farmers' Bank of the State of Delaware, be and the same are hereby extended and continued in force the space of twenty years, from and after the passage of this act, and that the said corporation shall have, hold, enjoy and possess all and every the franchises, powers, rights, privileges and immunities which are now vested in said corporation by any law of this State.

Passed at Dover, February 18, 1837.

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CHAPTER CXIV.

AN ACT *to prohibit the use of gill nets and seines in Indian river and Rehoboth bay, across the channels thereof.*

Use of gill nets or gill seines in Indian river or Rehoboth bay prohibited. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the passing of this act, no person or persons shall keep or continue, place or use any gill nets or gill seines in either Indian river or Rehoboth bay, in the county of Sussex across the channels of the same.

Penalty for using, &c., after passing of this act. SECTION 2. *And be it further enacted,* That if any person or persons, shall, after the passing of this act, keep or continue, place or use any gill net or gill seine, in any part of Indian river or Rehoboth bay, across the channel of the same or either of them, every such person so offending, shall for every such offence, forfeit and pay the sum of twenty dollars, to be recovered, with costs of suit before any justice of the peace of Sussex county in the same manner that debts not exceeding fifty dollars are now recoverable by law: and the said sum of twenty dollars shall be applied, the one

half thereof to the use of the person or persons suing for the same, and the other half thereof to the use of the poor of the said county. And it shall be a part of every such judgment, that the said gill net or gill seine complained of, shall be removed and destroyed, and a separate warrant shall be issued by such justice of the peace aforesaid, to be directed to any constable of the said county to cause such gill net or gill seine to be removed and destroyed, and such warrant shall be a sufficient authority for so doing.

Passed at Dover, February 18, 1837.

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CHAPTER CXV.

A SUPPLEMENT to the act entitled "*An Act to incorporate the Cat-tail Marsh Company and for other purposes.*" 8 vol. p. 121,
chap. cxxv.

Whereas it is represented to the General Assembly, that the "Cat-tail Marsh Company," have, under said act, passed at Dover, January the twenty-fourth, eighteen hundred and thirty-two, to which this is a supplement, gone on and improved said marsh and low ground to a certain extent, not having fully accomplished that object that there is yet a large prong or branch of said marsh desired to be improved by a ditch or ditches to drain and reclaim the same: Therefore, Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Peter L. Cooper and Zachariah Jones and William Mastain, be and they are hereby appointed commissioners, to make a valuation of the said marsh and low ground on said marsh, that is hereby intended to be improved, and the said commissioners, or a majority of them, are hereby authorized and empowered to enter upon and view all the said marsh or low grounds 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 benefitted, 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 grounds, the quantity held by each owner and by joint owners, if any be held undivided, and the appraisement of the said several quantities or parcels so by the said commissioners to be made as Commissioners appointed to value marshes, &c.
Their duties and powers.

aforesaid, and shall make a return of the said certificate into the prothonotary's office for Kent county aforesaid: which said certificate shall be final and conclusive upon all parties, and shall remain and be the true appraisement and valuations upon which all and every the tax or taxes which may be necessary for the purposes of this act, shall be assessed, levied and raised. Each commissioner, before he enters upon the duties required of him by this act, shall be sworn or affirmed, by some judge of the State or justice of the peace, in and for Kent county, to exercise the said duties faithfully and impartially, according to the best of his skill and judgment. And the said commissioners or a majority of them, are hereby further authorized and empowered to go upon the said marsh and low ground and to view, examine, locate, lay out, and direct to be cut, a canal, beginning at a point at the ditch of the north east prong of said marsh, at or near the intersection of the lands of John Ferris and Major Wyatt, running up about a west course through the lands of the said Major Wyatt, George Fisher, Francis Spicer, Jesse Ferris, Daniel Wyatt and others, so far as the said commissioners, or a majority of them, shall deem useful and proper, and they are hereby authorized and required, after having located and laid out the said canal, 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, distances and rout of said canal, 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 either of the said commissioners shall die, resign, remove from the said 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.

SECTION 2. *And be it enacted*, That all monies required for the answering the purposes by this act, or by this act intended, shall be levied, apportioned, &c., in the same manner and forms as that of the fourth section of the act to which this is a supplement.

SECTION 3. *And be it enacted*, That the time for the payment and collection of such taxes or sums of money, for the defraying the expenses for the further improvement of said marsh and low ground, shall be and continue the same as contained in the fifth and sixth sections of the act to which this is a supplement.

SECTION 4. *And be it enacted*, That the treasurer shall give bond, the adjacent lands be drained, suits instituted, and compensation to

commissioners, managers and treasurer, shall be made in the same manner as, is directed in the seventh, eighth, ninth and tenth sections of the act to which this is a supplement.

SECTION 5. *And be it enacted*, That the commissioners aforesaid, shall have power to widen any ditch or ditches below the ditch herein contemplated, or make any other improvement in the said Cat-tail Marsh, ditch or ditches, drain or drains, as they may deem expedient, proper and of right should be done. Commissioners may widen ditches, &c.

SECTION 6. *And be it enacted*, That if any owner or owners of marsh and low ground on or contiguous to the said Cat-tail marsh, ditch or ditches, shall feel aggrieved from taxation or otherwise, on any such land, marsh, or low ground as aforesaid, it shall be the duty of the said commissioners, and they are hereby empowered to review, examine and inquire into any such complaint or complaints, and adjust the same as they may deem equitable, just and right. Commissioners to enquire into complaints of owners aggrieved from taxation, &c.

SECTION 7. *And be it enacted*, That no tax or taxes shall be assessed or levied on any lands whatever, below the mouth of the new ditch herein contemplated, either for cutting or improving any part thereof; but all improvements on any ditch or ditches below said new ditch shall be paid as heretofore, and after said new ditch or ditches shall be completed, then and in all cases where a tax or taxes shall hereafter be laid, levied or raised, by the said ditch company, under and by virtue of the act to which this is a supplement, the same shall be extended to all of the ditches or prongs of said marsh alike; and then and in that case, this new ditch thus completed, shall be kept open and protected by the law, to which this is a supplement, in like manner and under the same penalties, as other ditches are under said act. No tax shall be levied below the mouth of new ditch, &c.

Passed at Dover, February 18, 1837.

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CHAPTER CXVI.

AN ACT *fixing the standard of weights and measures and regulating the same within this State.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That Samuel M. Harrington and John R. Bostick be, and they are hereby appointed commissioners, whose duty it shall be, as soon hereafter as may be, to procure and cause to be made of such metallic substance or substances as to them shall seem most suitable, and not inconsistent with the regulations of Congress, three complete sets of weights and measures, which shall be as near as may be, in exact conformity with, and according to, the standard of the weights and measures now fixed and established by law or regulations of Congress, and when so procured and caused to be made, the said Commissioners appointed to procure 3 sets of weights and measures.

One to delivered to the prothonotary of each county. commissioners shall deliver one of the said sets to each of the prothonotaries of the several counties of this State, to be by him deposited and safely and securely kept in his office, until Congress shall otherwise direct. The said weights and measures shall, by the said commissioners, be caused to be so constructed as to conform exactly, or as nearly as possible, to the set of weights and measures which may be delivered to the Governor in pursuance of the resolution of Congress, approved the fourteenth day of June, one thousand eight hundred and thirty-six. Should Congress, by any other or different regulation, change the standard of weights and measures, the said commissioners shall thereupon procure three other sets, conformably to such regulation, and deposit them as aforesaid, to be kept as aforesaid. The set of weights and measures, adopted as standards and delivered to the Governor, in virtue of any regulation of Congress, shall be deposited in the office of the Secretary of State and there kept safely; but the commissioners under this act shall have access thereto and the same shall be used by them, as may be needful for the purpose of at all times keeping the standards in the several counties, in conformity therewith.

How to be constructed.

If Congress change the standard, 3 other sets shall be procured.

Set delivered to Governor shall be deposited in the office of Sec'y of State.

Weights and measures deposited in the Sec'y's office to be the true standard.

Those in prothonotary's office to be duplicates, &c.

SECTION 2. *And be it further enacted,* That the said weights and measures so to be deposited and kept in the secretary's office as aforesaid, shall be and the same are hereby established and declared to be the true and legal standards of such weights and measures within this State: and the said three several sets of weights and measures so to be deposited and kept in the respective prothonotaries' offices as aforesaid, and such weights and measures as shall, under the provisions of this act, be procured from time to time, to replace the said three sets or any of them, shall be and the same are hereby established and declared to be duplicate standards of such weights and measures within this State, by which said duplicate standards all weights and measures used in this State, shall be tried, tested, proved and sealed, or stamped, in the manner hereinafter provided.

Governor to appoint a commiss'r of weights and measures in each county.

Duty of commiss'r once in 2 y'rs to try weights and mea's by duplicates in protho'y's office, &c.

SECTION 3. *And be it further enacted,* That a commissioner of weights and measures shall be appointed and duly commissioned by the Governor of this State, in and for each of the counties of this State, to hold such office of commissioner of weights and measures, until a successor shall be therein appointed and commissioned by the Governor; that it shall be the duty of the said commissioner of weights and measures, in and for each of the said counties respectively, once in every two years, to go through the county of which he is such commissioner, and to examine all and every the weights and measures which he shall discover, or which shall be brought to him, for the purpose within his county, and to try, test and prove the same by and with the duplicate standards of weights and measures, deposited and kept, under the provisions of the first section of this act, in the prothonotary's office of the county of which he is such commissioner: so as to ascertain whether such weights and measures which he shall thus discover, or which shall be thus brought to him as aforesaid, are true and lawful

weights and measures: and he shall likewise, at all other times try, test and prove, by and with such duplicate standards, all the weights and measures within his county, which shall at any time, be brought to him for that purpose, so as to ascertain whether the same are true and lawful weights and measures, and for this purpose the said commissioners of weights and measures of the several counties respectively, shall have free and full access to, and the use of the said duplicate standards, kept as aforesaid, in their respective counties, and it shall be the duty of each of the said commissioners respectively, upon so trying, testing and proving any weights and measures within his county aforesaid, to seal or stamp, with a seal or stamp, by him to be procured and kept for that purpose, all such weights and measures as he shall find and ascertain as aforesaid, to be true and lawful weights and measures, and to seize and retain all such as he shall find and ascertain as aforesaid, not to be true and lawful weights and measures.

SECTION 4. *And be it further enacted*, That it shall be the duty of each of the said commissioners of weights and measures respectively, once in every five years, to try and prove the said duplicate standards of weights and measures kept and deposited in the prothonotary's office, in their respective counties as aforesaid, by comparing the same with the said standards deposited and kept as aforesaid, in the office of the Secretary of State, and to cause the same to be made conformable with said standards in the said office of Secretary of State: when the same shall be found not to be conformable therewith, by causing to be made such alterations in such duplicate standards as shall be necessary to effect such conformity, if practicable, and if not practicable, by causing such duplicate standards to be renewed and replaced.

His duty once in 5 y^{rs}. to try duplicate with standards in Sec'y's office.

SECTION 5. *And be it further enacted*, That if, after the expiration of sixty days from the time when such duplicate standards of weights and measures shall be deposited in the respective offices of the said prothonotaries, any person or persons within this State, shall buy or sell, any goods, wares, merchandise, grain, produce or other article whatsoever, or deal, trade, barter or traffick in or for the same, by any weights or measures not in conformity with, and according to, the aforesaid standards of weights and measures, herein-before directed to be deposited and kept in the said office of the Secretary of State, and herein-before established and declared to be the true and legal standards of weights and measures within this State, or, if any person or persons within this State, shall use or employ, in buying or selling or in any dealing, trading, bartering, or trafficking, any weights or measures which have not been tried, tested and proved, and duly sealed or stamped by the said commissioner of weights and measures, or by one of them, in the manner herein-before provided, every person so offending, shall for every such offence, upon conviction thereof, on indictment in the court of General Sessions of the Peace and Gaol Delivery of this State, within the county in which the offence shall be committed, forfeit and pay to the State, a sum of not less than fifty dollars, nor more than two hundred, with the costs of prosecution.

For using weights and mea^{rs} not in conformity with the standard, etc.

Penalty.

Compensation of commissioners, named in sec. 1.

Costs of procuring sets of weights and measures to be paid by State treasurer.

SECTION 6. *And be it further enacted,* That the commissioners, named in the first section of this act, shall each receive, as a compensation for their services under this act, the sum of fifty dollars, to be paid to them by the treasurer of this State, out of any moneys in the treasury not otherwise appropriated: and that the costs of the making and procuring of the three complete sets of weights and measures, directed to be procured by the first section of this act, shall be paid by the said treasurer, out of any money in the treasury of this State not otherwise appropriated, upon a warrant or order to be drawn upon him for the amount thereof, by the said commissioners, in said first section named.

Compensation of commissioner of weights and measures.

SECTION 7. *And be it further enacted,* That every commissioner of weights and measures, appointed under this act, shall, for the performance of the several duties by this act enjoined upon him, receive such compensation as the Levy-court of the county for which he shall have been appointed, may allow to be paid to him, by the county of and for which he is such commissioner.

Passed at Dover, February 18, 1837.

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CHAPTER CXVII.

AN ACT to confirm a deed of manumission, therein mentioned.

Private act.

Passed at Dover, February 18, 1837.

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CHAPTER CXVIII.

AN ACT to provide for certain deficiencies in the penal code.

For attempt to administer poison.

Penalty.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That if any person, unlawfully and maliciously shall attempt to administer to any person, any poison or other destructive thing, with intent to commit murder, every such offender shall be guilty of felony, and, being convicted thereof, shall forfeit and pay to the State, a fine not less than five hundred, nor more than five thousand dollars; shall be set in the pillory for the space of one hour; shall suffer imprisonment for any term not exceeding two years, and shall, at the expiration of such term, be disposed of as a servant for a period not less than one year nor more than seven years.

Indictments for murder shall conclude how.

SECTION 2. *And be it enacted,* That from and after the passing of this act, all indictments for murder, shall conclude "against the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the State."

Passed at Dover, February 18, 1837.

CHAPTER CXIX.

AN ACT authorizing the Governor of this State to appoint commissioners in other States; to take depositions; the acknowledgment of deeds, &c., and to appoint notaries public in this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Governor of this State may appoint, in each of the United States, one or more commissioners; to continue in office during the pleasure of the Governor for the time being: and every such commissioner shall have power to administer oaths and to take depositions and affidavits, to be used in this State: and also, to take the acknowledgment of any deed or other instrument to be recorded in this State; and the private examination of any feme covert, party to such deed:—the said commissioner shall have authority to have and use a seal, with such devices, expressive of his official character as he shall think proper; which seal shall be affixed to all certificates made by the said commissioner. The fee to the said commissioner, for taking and certifying the acknowledgment or proof of any deed or other writing, shall be one dollar; for administering and certifying an oath or affirmation, fifty cents; and for taking and certifying depositions, such sum as shall be taxed and allowed by the court to which such depositions shall be returned.

Gov. may appoint commissioners in each of the States.
Power of commis'r to administer oaths, &c.
Vide post, chap. 137.
His fee.

SECTION 2. *And be it enacted,* That when any grantor shall refuse to acknowledge his deed, the same may be proved, before the said commissioner by any one of the subscribing witnesses to the same, and the said deed or other instrument so proved, shall be taken and considered to have been acknowledged by the grantor or grantors, and shall be recorded.

If grantor refuse to acknowledge deed, it may be proved by a subscribing witness, &c.

SECTION 3. *And be it enacted,* That all oaths, administered by the said commissioners, all affidavits and depositions taken by them, and all acknowledgments aforesaid certified by them, shall be as effectual in law, to all intents and purposes, as if done and certified by any justice of the peace or other officer in this State.

Acts of said commis'rs to be effectual in law.

SECTION 4. *And be it enacted,* That before any commissioners appointed as aforesaid, shall proceed to perform any of the duties of their office, they shall take and subscribe an oath, before any justice of the peace or other officer, authorized to administer oaths, in the State for which such commissioners may be appointed, that they will faithfully discharge all the duties of their office: which oath shall be filed in the office of the secretary of this State, within six months after the taking of the same.

Commis'r. to take and subscribe oath or affirmation,
To be filed, where.

SECTION 5. *And be it further enacted,* That it shall and may be lawful for the Governor of this State to appoint and commission notaries and tabellions public, who shall be authorized to have and use a notarial* seal, and to exercise all the powers and duties in-

Gov'r may appoint, notaries public.
Their powers.

* Notarial, in the original.

cident to his said office of notary, and shall also have power to take the acknowledgment of deeds and other instruments, to which an acknowledgment is required by the laws of this State, and to take the private examination of any feme covert, party to such deed; and said notaries shall continue in office during the term of seven years; the fee to be paid to a notary, for taking an acknowledgment, shall be one dollar.

Vide post,
chap. 137,
continuance
in office and
fee.

SECTION 6. *Be it enacted,* That the commission heretofore issued by the executive authority of this State to any notary and tabellion public, shall continue and be in full force and authority, until the fourth day of July next, and no longer.

Commis'n. of
notary public
heretofore is-
sued, to be in
force until 4
July.

Passed at Dover, February 18, 1837.

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CHAPTER CXX.

Dig. 217. A FURTHER SUPPLEMENT to the act entitled "*An Act concerning the probate of wills and the administration of the personal estate of deceased persons.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That where, by reason of the infancy or absence from this State, or any other cause, of any person entitled to any legacy or to any distributive share of any personal estate, or to any part thereof, the person or persons having or taking the burthen of any will or testamentary instrument, or the administration of such personal estate, cannot pay such legacy, or some part thereof, although he, she, or they may have effects for that purpose, or cannot pay such distributive share or some part thereof, although he, she, or they, may have the same, or some part thereof, in his, her or their hands, it shall and may be lawful for every such person or persons, to deposit such legacy or distributive share, or any parts or part thereof, respectively, or any sum or sums of money on account thereof, into the Farmers' Bank of the State of Delaware, to be placed to the account of the person or persons for whose benefit the same shall be so deposited; and the person or persons so depositing the same, shall take from the cashier of the said bank, or the branches thereof, a certificate or certificates of deposit therefor, which said certificate or certificates of deposit, it shall and may be lawful for such person or persons, to carry to the register for the probate of wills and granting letters of administration, in and for the county respectively, wherein such deposit is made, to be by him recorded, agreeably to the provisions of the first section of the act entitled "*An Act concerning the acknowledgment and recording of acquittances to executors, administrators and guardians, (and for limiting the time of excepting to their accounts,)*" passed at Dover, the ninth day of February, in the year of our Lord, one thousand eight hundred and twenty-five; and the said certificate or certificates of deposit, or a certified copy thereof, under the

Where, by
reason of in-
fancy, &c., a
legacy or dis-
tributive
share cannot
be paid, it or
any part
thereof, may
be deposited
in the Far-
mers' B'k. to
the account
of person en-
titled to it.

Person de-
positing to
take certi-
ficates of de-
posit.

To be record-
ed by regis-
ter of county
where de-
posit is made

Certificate,
copy or re-

hand and seal of office of the said register for the probate of wills and granting letters of administration, or the record thereof, shall be good and competent evidence to all intents and purposes, and shall enure as a sufficient discharge to the person or persons so making the deposite or deposits aforesaid, and his, her or their surety or sureties respectively, for the money so deposited.

cord thereof to be evidence.

And a discharge to person making deposite.

SECTION 2. *And be it further enacted by the authority aforesaid,*

That whenever any of the parties entitled to any legacy, or to any distributive share of any personal estate, or to any part thereof, are minors, that then, and in every such case, the person or persons so depositing the said legacy, or distributive share, or any part thereof, to the credit of the said minors, agreeably to the provisions of the first section hereof, shall make return of his, her or their proceedings, to the next Orphans' Court of the county wherein such deposit is made, and shall exhibit to the said court, his, her or their certificate or certificates of deposit, and the said certificate or certificates and the said return, shall be recorded among the records of the said court: and the said court is hereby authorized and required to make investments of the money so paid in, in the name and to the credit of the minor or minors respectively, for whose benefit the same shall be so deposited in such manner and form, and in such stocks as to the said court may seem meet and proper; and the said court is further authorized and empowered, upon proper application by the next friend of such minor or minors, to direct that the interest arising on such investment, or the dividends arising on such stocks, or such part thereof as the said court shall judge meet and proper, shall be applied in the maintenance and education of such minor or minors, under such restrictions and on such terms and conditions as the said court shall direct and order. *Provided always,* that whenever there are more than one minor, entitled to the residue of the personal estate of any deceased person or persons, or to any part thereof, the said court shall not be required to invest, separately, the distributive share of each minor, but may invest the whole residue thereof, or such part of the said residue as the said minors are entitled to, to their credit, as the heirs or legal representatives of such deceased person, and in each and every case, the said court shall proceed in such manner as will best advance the interests of the parties concerned. And the said court is hereby further authorized and required, whenever it shall be made satisfactorily to appear to the said court, that any person or persons, for whose benefit an investment has been made as aforesaid, has arrived to full and lawful age, to direct and order the said bank or other corporation, in the stock whereof an investment has been made, to pay over to such person or persons the dividends, which have accrued on such stock, or such part thereof as may remain, after the allowance hereinbefore mentioned, for the maintenance and education of such person or persons which said order shall vest in such person or persons, full and absolute power and control over such stock and all dividends or profits which have accrued thereon; and whenever it shall appear to the said court, that a guardian or guardians has or have been appointed for any minor or minors for whose benefit an

Whenever parties entitled are minors, the person depositing, shall make return to next Orphan's Court, &c.

O. Court to make investments of money so paid in, &c.

To direct interest to be applied, when and how.

Provido, when more than one minor entitled, &c. c't. not required to invest separately, &c.

Court to order dividends &c., to be paid over to person for whom investment is made when of lawful age.

Also to a guardian ap-

pointed after
investment.

Such order
not to vest in
guardian any
power over
stock nor
shall he be
answerable
for it.

Court to ex-
ercise all au-
thority, &c.,
over it.

investment has been made as aforesaid, prior to such appointment of such guardian or guardians, the said court shall direct the said bank or other corporation, in the stock whereof an investment has been made, to pay over to such guardian or guardians of such minor or minors, the dividends which have accrued on such stocks, or such part thereof as may remain, after the allowance hereinbefore mentioned for the maintenance and education of such person or persons, but such order of the said court, shall not vest in such guardian or guardians, of such minor or minors, any power or control over the said stock, neither shall he, she or they, nor his, her or their surety or sureties, become answerable for the same: but in each and every case, during the minority of the person or persons for whose benefit the investment shall have been made, the said court shall have and exercise all authority and control over the said stock, and may dispose thereof and sell the same, and re-invest the proceeds arising on such sale, in such other stocks as the said court shall consider most profitable and advantageous to the parties respectively interested in the same, and all such investments or re-investments shall be made in the name of the minor or minors, respectively, for whose benefit such deposit shall be made, or in the names of the said minors, as the heirs or legal representatives of the deceased person or persons, whenever the said investment or re-investment is not made in the name of each minor respectively.

Money im-
properly de-
posited in F.
&c., may
be disposed of
by O. Court.

SECTION 3. And be it further enacted by the authority aforesaid, That if it shall at any time, after a deposit has been made agreeably to the provisions hereof, appear that such money or any part thereof, has been improperly deposited in the Farmers' Bank of the State of Delaware, as aforesaid, it shall and may be lawful for the said Orphan's Court, upon petition in a summary way to dispose thereof, and of the stocks purchased therewith, and the dividends received thereon, in such manner as justice shall require, and as may be agreeable to equity and good conscience.

This act not
to affect rights
of guardians,
&c., except
in case of in-
vestment be-
fore appoint-
ment.

SECTION 4. And be it further enacted by the authority aforesaid, That nothing in this act shall be construed and taken so as to change, alter, modify or defeat any existing law of this State, with respect to guardians or their rights and powers over the person and personal estate of their wards, except in the sole case of an investment made by the said court, before the appointment of said guardian, but shall only apply in the cases where minors are concerned, to such minors as have no guardians.

After invent-
ory and ap-
praisement, if
either ap-
praiser be un-
able to sign
certificate the
other may
subscribe etc.
Duty of reg'r
in such case.

SECTION 5. And be it further enacted by the authority aforesaid, That whenever, after an inventory and appraisement shall be made out, and before the certificate required by the act to which this is a further supplement shall be endorsed or annexed thereto, either of the appraisers shall, by reason of death or removal from this State, or any other cause, be unable to subscribe the same, it shall and may be lawful for the remaining appraiser, or appraisers, to subscribe the same, and the register shall endorse on, or annex to, the said inventory and appraisement, an affidavit of the executor

or administrator, or any credible person for him, her or them, setting forth the facts of the case, and the said inventory and appraisalment, so subscribed with the certificate aforesaid, shall be valid to all intents and purposes whatsoever.

SECTION 6. *And be it further enacted by the authority aforesaid,* Appraisers That from and after the passing of this act, the register may appoint appraisers without regard to their freehold qualifications, any ^{need not be} ^{freeholders.} law, usage or custom to the contrary hereof notwithstanding.

SECTION 7. *And be it further enacted by the authority aforesaid,* That the register for the probate of wills and granting letters of Register em- administration be, and he is hereby authorized and empowered, to ^{powered to} take the affidavit required by the fourteenth section of the act to ^{take affidavit} which this is a supplement, and shall receive therefor, the same ^{required by} ^{sec. 14 of the} compensation as is now given to justices of the peace for the like ^{original act.} service.

SECTION 8. *And be it further enacted,* That the condition of the obligation given by the executor or administrator and his surety, shall in all cases extend to the rents and profits of the real estate of the deceased, which shall actually come to the hands or possession of such executor or administrator; but this section shall not vest in such executor or administrator any right of possession of the real estate, neither shall such executor or administrator be required to collect such rents and profits. ^{Condition of} ^{obligation by} ^{ex'r or adm'r} ^{as to rents,} ^{etc.}

Passed at Dover, February 18, 1837.

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CHAPTER CXXI.

AN ACT to provide for a geological and mineralogical survey of this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Thomas Stockton of New-Castle county, Jonathan Jenkins of Kent county, and Dr. Henry F. Hall of Sussex county, be and they are hereby appointed commissioners, to procure to be made a geological and mineralogical survey of this State. And it shall be the duty of the said commissioners, as soon as practicable after the passage of this act, to appoint a State geologist of talents, integrity, and suitable scientific and practical knowledge of his profession, who shall also be a scientific and practical mineralogist. ^{Commiss'rs} ^{named to ap-} ^{point a State} ^{geologist.}

SECTION 2. And it shall be the duty of the said State geologist, immediately to commence and carry on, with as much expedition State geolo- and despatch as may be consistent with minuteness and accuracy, ^{gist, his duty} ^{to make sur-} ^{vey, etc.} a geological and mineralogical survey of the State, with a view to determine the order, succession, arrangement, relative position and the dip or inclination, and also the comparative magnitude of the

several strata or geological formations within the State, and to discover and examine all beds and deposits of ores, coals, clays, marls, and such other mineral substances as may be deemed useful or valuable, together with such other duties as may be necessary, to make a full and complete geological and mineralogical survey of this State.

SECTION 3. And it shall further be the duty of the said State geologist, on or before the first day of January in each and every year, during the time necessarily occupied by the said survey, to make a report of the progress of said survey, accompanied with such maps, drawings and specimens, as may be necessary and proper to exemplify and elucidate the same, to the Secretary of the State of Delaware, who shall lay them before the Legislature, at their next meeting thereafter.

SECTION 4. It shall further be the duty of the said commissioners, to employ such suitable assistants as may be necessary and proper for the full performance of the duties imposed upon the said State geologist, and also to procure to be made a correct map of this State, and cause to be marked thereon, by colours and other appropriate means, the various areas occupied by the different geological formations in the State, together with the beds or deposits of the various mineral substances discovered; and on the completion of the said survey, to compile, or cause to be compiled, a memoir of the geology and mineralogy of the State, comprising a complete account of the leading subjects and discoveries, which have been embraced in the survey—which memoir they shall transmit to the Secretary of the State of Delaware, to be by him laid before the Legislature, at their next meeting thereafter.

SECTION 5. And be it further enacted, That the said commissioners be and they are hereby authorized to contract and agree with the said State geologist and assistants for their services, upon such terms and for such reasonable compensation as shall seem to them just and proper; and for the payment of such compensations, they, by their chairman, are hereby authorized to draw upon the State treasurer, who is hereby required to pay the same out of the monies appropriated for that purpose.

SECTION 6. And be it further enacted, That the said commissioners shall receive for their services the sum of three dollars per day, for each and every day that they shall be engaged in the prosecution of the duties hereinbefore imposed upon them, to be paid as is hereinbefore directed, for the payment of the compensations of the State geologist and assistants; and it shall be the further duty of the said commissioners, to keep a just and true account of their own services, as to days on which they are engaged in the performance of their duties herein, as well as of the services performed by the said State geologist and assistants, together with all monies paid, and orders drawn by them, in furtherance of the objects of this act, which account shall be presented by them to

the Legislature for settlement, at the next biennial session after the completion of the said survey.

SECTION 7. *And be it further enacted*, That for the purpose of carrying on and completing the said geological and mineralogical survey, the sum of three thousand dollars is hereby appropriated, to be subject to the orders of, and expended by, the said commissioners as is hereinbefore directed: *Provided*, that not more than the sum of one thousand dollars, of such appropriation, shall be expended in any one county of this State, for the purpose of carrying into effect the objects of this act.

Appropriation.
Proviso.

SECTION 8. In case of the death or resignation of any one or more of the commissioners herein appointed, it shall be lawful for the Governor of this State to fill the vacancy thus occasioned, by the appointment of such person or persons from the county in which such vacancy may occur, as shall in his judgment be suitable and qualified for the appointment.

Gov't to fill vacancies.

Passed at Dover, February 18, 1837.

CHAPTER CXXII.

AN ACT for the preservation of certain records in the office of the Prothonotary of New-Castle county, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That George B. Rodney, Daniel Corbit and James Delaplaine, all of New-Castle county, are hereby appointed commissioners, whose duty it shall be to examine the books and records in the office of the prothonotary, and register of wills and granting letters of administration in and for said county, and shall determine whether any and what books and records ought to be re-bound or transcribed, and what new index or indexes in the register's office ought to be made. And the said commissioners shall make a report of their proceedings, under their hands, to the Levy-court of the said county—particularly setting forth all matters and things which may appertain to the objects of their commission.

Commiss'rs appointed, to examine records, etc.

SECTION 2. *And be it further enacted*, That upon such report being made as aforesaid, the said Levy-court shall appoint some competent person or persons to transcribe such indexes, books and records, and to cause such books and records to be re-bound and to make out such new index or indexes, as shall be mentioned in such report aforesaid; and such indexes, books and records, as shall be transcribed, shall be compared with the originals by the said commissioners, and be certified by them, under their hands, to be true and faithful transcripts thereof. And the said transcripts of records, made and certified as aforesaid, shall have the same force and effect in law, as the original records might or could have; And have the

On report made, Levy court shall appoint a person to transcribe, etc.
Copies to be compared etc. with the originals.

same effect as originals. and copies of the said transcripts, being duly certified, shall be received in evidence in all courts of law and equity, in the same manner, and as fully and effectually to all intents and purposes, as copies duly certified of the original records might or could be.

Commis'srs to take and subscribe oath or affirmation. **SECTION 3.** *And be it further enacted,* That the said commissioners, before entering upon the duties hereby assigned them, shall severally take and subscribe, before some judge or justice of the peace in said county, an oath or affirmation, faithfully and diligently to perform the duties required of them by this act.

Acts of two commiss'rs shall be valid. Their compensation. **SECTION 4.** *And be it further enacted,* That the acts of any two of the said commissioners shall be as valid as the acts of all three of them. And they shall receive the sum of two dollars each for every day they shall be engaged in the performance of the duties aforesaid, with such mileage as is by law allowed to members of the Levy-court.

How paid. **SECTION 5.** *And be it further enacted,* That the said compensation to said commissioners and mileage, and also all such costs and expenses incurred in such transcribing, re-binding and making new indexes and effecting the objects of this act, as shall be allowed by said Levy-court, shall be paid by orders to be drawn on the treasurer of said county.

Passed at Dover, February 20, 1837.

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CHAPTER CXXIII.

AN ACT to prevent the discharge of fire-arms in the village of Camden, Kent county, and for other purposes therein mentioned.

For discharging gun, etc., lighting bon-fire, firing crackers, etc. etc. within a quarter of a mile of Camden. **SECTION 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That if any person or persons shall presume to fire or discharge any gun, ordnance, musket, fowling-piece, fusee or pistol, light or keep up any bon-fire or bon-fires, fire off any cracker or crackers, squib or squibs, or throw any fire-ball or balls, or any rocket or rockets, or make or erect any kind of fire-works whatever, within one-quarter of a mile of the centre of the village of Camden, or shall fire or discharge any gun, ordnance, musket, fowling-piece, fusee or pistol, light or keep up any bon-fire or bon-fires, fire off any cracker or crackers, squib or squibs, throw any fire-ball or balls, or any rocket or rockets, or make or erect any kind of fire-works whatever, within or on any of the streets, alleys or lanes of the said village of Camden, whereon any buildings are or may be erected, shall be fined or punished as hereinafter mentioned.

Penalty on white person, etc. **SECTION 2.** And if any free white person or persons, or the child or children, ward or wards of any such person or persons, shall fire or discharge any gun, ordnance, musket, fowling-piece, fusee

or pistol, light or keep up any bon-fire or bon-fires, fire off any cracker or crackers, squib or squibs, throw any fire-ball or balls, any rocket or rockets, or make or erect any kind of fire-works whatever, at any of the places or limits aforesaid, every such person or persons, so offending, or whose child or children, ward or wards shall so offend, shall forfeit and pay, for every such offence, any sum not exceeding five dollars, nor less than one dollar, to be recovered from the person or persons, or from the parent or guardian of such child or children, ward or wards, before any justice of the peace in this county, on his own view, or on the oath or affirmation of one or more credible witness, to be recovered as debts under fifty dollars are recovered by the laws of this State.

SECTION 3. *And be it enacted*, That if any free negro or mulatto, or the child or children of any such free negro or mulatto, or any manumitted negro or mulatto, or any servant or servants, slave ^{Negro or mulatto, &c.} or slaves, apprentice or apprentices of any person or persons whatsoever shall fire or discharge any gun, ordnance, musket, fusee, fowling-piece or pistol, light or keep up any bon-fire or bon-fires, fire off any cracker or crackers, squib or squibs, throw any fire-ball or balls, rocket or rockets, make or erect any kind of fire-works whatever, within the limits or places herein-before described and be thereof convicted, by the view of any one justice of the peace of said county, or on the oath or affirmation of one or more credible witness, every person so offending, shall forfeit and pay any sum not exceeding five dollars, nor less than one dollar, together with the costs of prosecution, any law, custom or usage in this State to the contrary notwithstanding: *Provided nevertheless*, that in all and every case, when the money is not immediately paid into the hands of the justice of the peace, before whom such conviction is had, it shall and may be lawful, and the said justice is hereby directed to commit such person or persons to the gaol of said county, and there to remain for the space of one month, unless such fine and costs shall be sooner paid.

SECTION 4. *And be it enacted*, That all fines and forfeitures under this act shall be for the use of the poor of said county, and to be paid to the treasurer thereof. ^{Fines, &c., under this act, to be for the use of the poor.}

Passed at Dover, February 20, 1837.

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CHAPTER CXXIV.

A SUPPLEMENT to the acts passed at Dover February 15th 1814, and January 30th 1813, authorizing the appointment of Dig. 589, 125. trustees, to secure the rents of lands and the marsh on Cape Henlopen and preventing tresspasses being committed on said Cape.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the Superior court of Sussex county shall, at their next session, and at holders, to ^{Sup. court to appoint free-}

sell or rent the spring session of said court, every third year thereafter, in the
lands, &c. county of Sussex aforesaid, appoint three good and substantial free-
holders, residing in Lewes and Rehoboth hundred of said county,
one of whom at least shall reside in the town of Lewes, who shall
have power and authority to sell or rent, to the highest and best
bidder, in lots, the lands and marsh upon the north-east side of
Lewes-creek, called Cape Henlopen, for any time not exceeding
three years, and one moiety or half part of the money arising from
the sale of said lots, and from the sale of dead wood and other tim-
ber, to be applied by them to the ditching and draining said marsh
and lands, and the other moiety or half part thereof, to be applied
in the same manner, as is directed by the several acts, to which
this a supplement.

Money arising from sale, how to be applied.

SECTION 2. *Be it enacted by the authority aforesaid,* That the
Powers of trustees appointed under the provisions of this act, shall have all
trustees under the powers, and execute all the duties which were incumbent upon
der this act. the trustees appointed under the act to which this a supplement,
except so far as the provisions of the same are altered by, and in-
compatible with this act, and all the provisions of that act passed
Repeat of at Dover, February 15th 1804, as are altered by and inconsistent
parts of for with this act, are hereby repealed, made null and void.
mer act.

SECTION 3. *Be it enacted,* That the trustees appointed under the
Trustees to make annual provisions of this act, shall make an annual return to the Levy-
return to L. C. court of Sussex county, of all their proceedings.

SECTION 4. *And be it further enacted,* That this act shall be and
Continuance of this act. remain in force for the space of ten years and no longer.

Passed at Dover, February 20, 1837.

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CHAPTER CXXV.

AN ACT supplementary to the charters of certain banks therein mentioned.

SECTION 1. *Be it enacted by the Senate and House of Represen-*
tatives of the State of Delaware in General Assembly met, That the
Sec. 10 of tenth section of the act entitled "A further supplement to the act
chap. 113, entitled 'An Act to establish a bank and incorporate a company
ante p. 150, under the name of the Farmers' Bank of the State of Delaware,'"
amended. passed at Dover, on the eighteenth day of February, one thousand
Corp'e. rights eight hundred and thirty-seven shall be, and the same is hereby
&c. of F. b'k. amended by inserting, at the end of said section, the following
cont'd for 20 words, that is to say: "for and during the term of twenty years
years. from and after the passage of this act, and the said corporation
and body politic, is hereby continued for the period of twenty
years," and the act entitled "A further additional supplement to
the act entitled 'An act to establish a bank and incorporate a com-
pany under the name of the Bank of Smyrna,'" passed at Dover,

Sec. 1 of chap.
109, ante p.
142 amended.

the seventeenth day of February, in the year one thousand eight hundred and thirty-seven shall be, and the same is hereby amended, by inserting at the end of the first section, the following words, that is to say: "and the corporation and body politic, created, established or continued by the said recited acts, or any of them, with all the rights, powers, privileges franchises and immunities, which are now vested in the said corporation by any law of this State, is hereby continued, extended and shall be held in full force and operation, until the sixteenth day of February, which shall be in the year of our Lord, one thousand eight hundred and fifty-seven."

Corporate
rights, &c. of
b'k. of Smyr-
na continued
till 16 Feb.
1857.

Passed at Dover, February 21, 1837.

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CHAPTER CXXVI.

AN ACT to establish a company under the name of the Leipsic Navigation Company.

SECTION 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 a company shall be established for the improvement of the navigation of Little Duck-creek; the capital stock of this company shall not exceed ten thousand dollars, divided into one thousand shares of ten dollars each; and the said company shall go into operation, and their incorporation as hereinafter provided shall take effect, when over fifty shares shall be subscribed, and not otherwise.

Company es-
tablished.

When to go
into opera-
tion.

SECTION 2. *And be it further enacted,* That Elias Naudain, Joseph E. Palmer, Charles Harper, Robert H. Moore and John McClary, shall be commissioners, and they or any two of them, are authorized to receive subscriptions to the said capital stock, and for that purpose, to open books at such time and at such place in Leipsic, as the said commissioners or any two of them may appoint; and such books shall continue open there, at least two days and afterwards, until the said commissioners, or a majority of them, shall deem it proper to close the same; at least ten days notice of the time and place of opening such books, shall be given, by advertisements in one of the newspapers published in this State. If more than ten thousand dollars shall be subscribed on the two days aforesaid, the commissioners or a majority of them, shall apportion the same amongst the subscribers, but shall deduct the excess from the largest subscriptions, so that no share be reduced while one remains larger; and if the whole amount shall not be subscribed at Leipsic, the commissioners, or a majority of them, may direct books to be opened at such time and such place, as they may think proper, giving the notice required in this section; and the said books shall continue open at said place, as the commissioners or a majority of them shall direct; subscriptions may be made by proxy as

Commiss'rs.
appointed.

Their duties
and powers.

well as in person, and the amount subscribed, shall be paid as hereinafter provided.

Corporation.	<p>SECTION 3. <i>And be it further enacted,</i> 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 "Leipsic Navigation Company," and shall continue until the amount of capital stock subscribed and paid in, together with all costs and charges accruing in carrying the provisions of this act into effect, shall have been paid, as is hereinafter provided, and by that name shall have power and capacity to sue and be sued, in courts of law and equity; to purchase, take, enjoy, sell and alien, lands, tenements and hereditaments, goods, chattels, rights, credits and effects 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 this State or of the United States, and to enjoy the franchises incident to a corporation; but it shall not be lawful for said corporation, and they shall not have power to discount notes or bills or to loan money on interest, or to exercise any banking powers whatever; the business and concerns of said corporation shall be managed by five directors; or if at any time the number of stockholders shall be less than five, then a less number than five directors shall be competent to transact the business and concerns of said corporation, at the discretion of the stockholders; the directors shall be elected by the stockholders; the first election shall be held as hereinafter appointed; all the subsequent elections shall be held at the annual meeting of the stockholders; the directors shall continue in office till the annual meeting of the stockholders next succeeding their election, and until successors to them shall be duly chosen; but a vacancy occasioned by death, resignation or inability to serve in the office of a director, may be filled by appointment made by a majority of a board of directors; 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; a majority of them shall form a board to do business, and if the president be absent, a president may be appointed <i>pro tem.</i>; the directors shall have power to employ engineers and labourers and agree upon and pay their wages; to appoint officers and agents, and agree upon and pay their salaries or compensation: to take bond from any officer or agent, as the by-laws shall require, or as may be deemed expedient, with or without surety; to make or cut such canal or canals for the improvement of said creek, as may be deemed necessary to shorten the course or deepen the waters of the same; and to do all other such matters and things as they, or a majority of them, may consider necessary to the improvement of said creek; and to do all acts requisite to effect and carry on the purpose for which the company is established; and, to this end, to use and employ the capital stock and funds of the company, under such regulations as the by-laws may prescribe; and to bind by their contracts, deeds or writings, under the seal of the corporation and the hand of the president, all the property and estate common stock and</p>
Name.	
Powers.	
Not to exercise any banking powers.	
Directors.	
And president, their meetings duties and powers.	
Engineers and labourers.	

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, subject always to the control of the stockholders in regular meeting; the by-laws shall prescribe the officers of the corporation, other than those of president and directors, the bond to be taken from officers, the place of holding the meetings of the stockholders, the manner of calling meetings, and the mode and regulations of assigning the shares of the capital stock: *Provided*, that all meetings of the stockholders and directors, shall be held at some place in the village of Leipsic, where the capital stock of said company shall be assigned either in person or by proxy. There shall be an annual meeting of the stockholders, on the first Monday of April, in every year, during the continuance of the corporation; if any election shall not be held at the annual meeting, or if any meeting shall not take place on the day appointed in any year, the corporation shall not for that cause be dissolved, but in such case, directors may be chosen at an occasional meeting, regularly held. The first annual meeting shall be held on the first Monday in April, in the year of our Lord, one thousand eight hundred and thirty-seven, or on such other day as the stockholders shall appoint. In all meetings of the stockholders regularly assembled or held, those assembled, may proceed to business; all elections of directors, shall be by ballot, one vote for every share; absent stockholders may vote by proxy; a majority of votes given shall determine all questions; no director shall be entitled to receive or demand compensation for services, except the same shall be allowed by the stockholders, at a regular meeting. The shares of the capital stock shall be personal property, and shall be assignable, subject to the regulation of by-laws; the directors shall make yearly dividends of the clear profits of the business of the corporation, or such part of the clear profits of the same, as may be deemed advisable; the directors shall lay before the stockholders, every year, at their yearly meeting, a general account of the stock, funds, debts and credits of the corporation; and any by-laws by them made, shall be open to the inspection of every stockholder.

By-laws.

Meetings to be held in Leipsic.

Annual meetings.

Elections of directors.

Shares to be personal property and assignable.

Dividends.

Directors to lay accounts before stockholders.

SECTION 4. *And be it enacted*, That the subscribers respectively, shall pay five dollars upon each and every share by them subscribed to the capital stock aforesaid, on the day of the first meeting of the subscribers, to be held as herein provided, to the directors who shall then be chosen; and the other one-half part of said shares, in such manner and at such time as the president and directors shall appoint; and either at one time, or in instalments, as may be deemed expedient by the president and directors; and the president and directors shall give public notice of the manner and time, which they shall appoint, for paying such other one-half part of said amount or shares, by advertisement in one of the newspapers published in this State, at least twenty days before the time appointed for such payment, to be continued in such newspaper at least two weeks; and if such subscriber or any or either them, shall

Subscription money, how paid.

neglect to make payment of the sum payable by him, her or them, for the space of thirty days after due notice as above, the president and directors may either declare the share or shares of any delinquent subscriber or subscribers forfeited, or may proceed to sue for and recover upon each and every share or shares, as like sums are recoverable at law.

When gen'l. meeting to elect directors, make by-laws, &c., shall be held.

SECTION 5. *And be it enacted,* That as soon as the capital stock aforesaid, or five hundred dollars thereof shall be subscribed, the commissioners aforesaid, or a majority of them, shall call a general meeting of the stockholders, to be held at Leipsic, on a day in such call to be appointed, and shall give notice of such call, and the time and place of such meeting, by advertisement, to be inserted in one of the newspapers published in this State, and such notice shall also give information that five dollars on each share is, on the day of such meeting to be paid; and the subscribers who shall assemble at such meeting, shall have power to proceed to business, to elect directors, to make by-laws and to do all acts which the stockholders can do, according to this charter.

Loan.

SECTION 6. *And be it enacted,* That the directors be and they are hereby authorized to contract for any loan or sum of money, not exceeding the balance of unsold stock, (should there be any,) in such manner as they may deem meet, for the benefit of the corporation.

Special powers of commissioners.

SECTION 7. *And be it enacted,* That the commissioners, or a majority of them, named in section two of this act, have full power and authority to go upon and view the grounds and marsh, for the purpose of surveying, locating and staking off, the contemplated canal or canals, and when so surveyed, located and staked off as aforesaid, by said commissioners or a majority of them, then three judicious and impartial citizens of Little-creek hundred in Kent county, who shall have been appointed by one of the judges of the Superior court of this State, residing in Kent county aforesaid, and who is hereby authorized and required to make said appointment of commissioners, on application from the president and directors of said "Leipsic Navigation Company," they the said three commissioners so appointed as aforesaid, are hereby authorized and required to go upon and view said grounds and marsh through which said canal or canals shall have been surveyed, located or staked off, in company with the aforesaid five commissioners, or a majority of them, as named in section two of this act, and to assess and allow to the person or persons, through whose land or marsh the said canal or canals may pass, such damages as they shall think such person or persons may be entitled to, in consequence of the cutting and making of the said canal or canals, which damages shall be paid or tendered before the said improvement shall be commenced or undertaken: *Provided always,* that in case any person or persons, through whose land or marsh the said canal or canals may pass, shall be dissatisfied with the damages which shall be assessed by said commissioners, or a majority of them, or with their decision, if no damages are assessed, it shall and may be lawful for

Assessment of damages to such as may be injured by canals, &c.
Proviso.

him, her or them, so dissatisfied; to make the same known to the said president and directors, in writing, within thirty days after being informed of such decision by said commissioners: or, if the said president and directors are dissatisfied with the damages which shall be assessed by said commissioners, or a majority of them, in either case, the party or parties so dissatisfied, shall give the other written notice thereof, within thirty days after being informed of such decision of said commissioners, (who shall report their decision within five days after viewing said grounds and marsh; one copy thereof to the judge aforesaid, and one copy to said president and directors aforesaid, of their dissatisfaction aforesaid, the said party or parties so dissatisfied, may, and it shall and may be lawful for them, or either of them, within five days after the expiration of said thirty days, to appeal from the determination of said commissioners, or a majority of them, to the said judge as aforesaid, who is hereby authorized and required to appoint three other judicious and impartial citizens of Little-creek hundred, in Kent county aforesaid, to go upon and view the said lands and marsh, whose duty it shall be to assess such damages as they shall deem proper and right: which assessment, when made and returned, under their hands or a majority of them, shall be final and conclusive; which return shall be made in writing, within five days after the day of meeting and assessing said damages as aforesaid, one copy thereof to be returned to the president and directors aforesaid, and one copy to the judge aforesaid, who shall have the same recorded in the office for recording of deeds, at Dover, in and for Kent county, at the proper charge and expense of said president and directors aforesaid.

Appeal by
either party.

SECTION 8. *And be it enacted,* That if any person or persons, shall designedly, fill up or obstruct the said canal or canals, when cut and made, or when cutting and making, or shall injure or obstruct the navigation of said creek, he, she, or they offending, shall incur a penalty of any sum not exceeding five hundred dollars, with full costs of prosecution: to be recovered by indictment in any court of General Sessions of the Peace, for Kent county.

Penalty for
injury to nav-
igation.

SECTION 9. *And be it enacted,* That until the amount of capital stock or the actual amount expended in cutting and making said canal or canals, with all costs attending the same, with legal interest, shall be fully satisfied and paid, it shall and may be lawful for the directors of said company aforesaid, after the said canal or canals shall have been cut and opened of the depth of six feet six inches, and of sufficient width to allow of the passage of vessels at a common tide, to authorize any person or persons to demand and receive from the master or commander of every vessel above twenty tons burden, navigating said creek, such sum as may be determined upon by the board of directors; which sum shall not exceed four cents per ton, for every time such vessel shall pass up or down said creek, and any sum not exceeding two cents per ton, for passing by or through any one of said canals. *Provided,* that nothing, in this act contained, shall be construed to authorize the collection of toll from any vessel whose draft of water will not al-

Toll to be
paid by ves-
sels naviga-
ting creek
and canals.

Provido.

low her passage through the said canal or canals; and all vessels under twenty tons, shall pay half the price of those above that size; and in case the master or commander of any vessel as aforesaid, shall neglect or refuse to pay the said sum or toll to the said directors, or to any person authorized by them to demand and receive the same as aforesaid, then and in every such case, it shall and may be lawful for the said directors, or their agent, and they or their agent, are hereby authorized to issue a warrant in the name of the State of Delaware, directed to any constable in Kent county, commanding him to levy the said sum, by distress and sale of any part of the rigging, tackle or furniture, belonging to such vessel, and after retaining the sum or sums which may be due, and the costs which have accrued on the sale of said rigging, tackle or furniture, to return the balance of proceeds of such sale, to the said master or commander of such vessel, or the owner or owners thereof.

How collect- ed. *Provided nevertheless,* that no toll shall be demanded from any scow, lighter or open boat, passing or repassing the same, except the passing and repassing of the same shall be to freight or load vessels at or beyond the eastern or northern end of said canal or canals.

Proviso.

Rate of toll, how ascer- tained. **SECTION 10.** *And be it enacted,* That for the purpose of ascertaining the amount or rate of toll each and every vessel may be liable to pay, under the provisions of this act, that it shall be the duty of each and every captain or commanding officer of any such vessel, to produce to the treasurer or other officer, authorized to collect any such toll, the register or license of every such vessel when demanded, under the penalty of five dollars, with costs of suit, to be recovered before any justice of the peace, in and for Kent county, to be applied to the use and benefit of the canal or canals as aforesaid. And should there be no licence or register of any such scow, lighter or open boat, which come within the provisions of this act, it shall and may be lawful for the directors or their agent, to call upon some skilful person to measure the burthen thereof, and the said scow, lighter or open boat, when so measured, shall come within the provisions of this act, and be liable for amount of toll, as rated.

Penalty for not producing register or license.

Compensation of commissioners. **SECTION 11.** *And be it enacted,* That every commissioner shall, for each and every day's service under the provisions of this act, receive one dollar.

Commissioners and directors to be sworn or affirmed. **SECTION 12.** *And be it enacted,* That every commissioner and director as aforesaid, before entering upon the duties of their respective offices, shall be sworn or affirmed, before some judge or justice of the peace, faithfully and impartially, to perform the duties required of them by this act.

Power of revocation reserved. The constitutional power of revocation is hereby reserved to the Legislature.

Passed at Dover, February 21, 1837.

CHAPTER CXXVII.

AN ACT to invest this State's share of the surplus revenue of the United States, distributed to the several States, under the act entitled "An Act to regulate the deposits of the public money."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That of the State treasurer to invest this State's share of surplus revenue. amount of the surplus revenue of the United States, accruing to the State of Delaware, under the act of Congress, passed the twenty-third day of June last, the State treasurer be and he is hereby authorized to invest the sum of two hundred and fifty thousand dollars, in the capital stock of the Farmers' Bank of the State of Delaware, by subscribing, on the part of the State, for five thousand shares of the increased capital stock of the said bank, authorized by the act entitled "A further 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 at Dover, February eighteenth, eighteen hundred and thirty-seven, at the par value of the said stock, to wit: fifty dollars for each share. And the said State treasurer shall pay in the said subscription to the said capital stock, out of the said surplus revenue, as the same shall be received from the Secretary of the Treasury, under the act of Congress aforesaid, and in the proportion which the said sum of two hundred and fifty thousand dollars bears to the whole sum, accruing to this State, under the act aforesaid, after deducting from said whole sum the amount of the appropriations already made thereout.

Anto chap.
cxiii. p. 150.

SECTION 2. *And be it enacted,* That certificates of stock shall be issued by the said Farmers' Bank, and delivered to the State treasurer, expressing the number of shares to which the State shall be entitled under the subscription aforesaid, and the amount actually paid in on each of said shares, at the time of issuing such certificates; and the said certificates shall be renewed whenever and as often as the said State treasurer shall make further payment to said stock; and on such renewal, the previous certificates shall be delivered up and cancelled.

Certificates of stock to be issued to S. treasurer.

And renewed &c.

SECTION 3. *And be it further enacted,* That out of the surplus revenue aforesaid, the said State treasurer be, and he is hereby authorized to lend at interest, at the rate of six per centum, per annum, payable half yearly, and for a period of not more than two years, to the "Wilmington and Susquehanna Rail Road Company," the sum of one hundred and ten thousand dollars; the repayment of said sum, together with the interest thereon, to be secured by the said the "Wilmington and Susquehanna Rail Road Company" by such surety or sureties, and in such form of security, as shall be directed and approved of by James R. Black and Willard Hall and John M. Clayton; and the amount so loaned as aforesaid, shall be paid by the State treasurer to the said "The Wilmington and Susquehanna Rail Road Company," out of the said surplus revenue, as the same shall be received from the Secretary of the

\$110,000 to be loaned to W. and Susquehanna R. Co.

Security for repayment to be approved by J. R. Black W. Hall and J. M. Clayton.

Treasury, under the act of Congress aforesaid, and in the proportion which the said sum of one hundred and ten thousand dollars bears to the whole sum accruing to this State under the act aforesaid, after deducting from said whole sum, the amount of the appropriations already made thereout; *Provided*, that no payment shall be made to the said company, until the said James R. Black and Willard Hall and John M. Clayton, shall certify to the said State treasurer, that the amount so to be paid has been secured as aforesaid; *And provided also*, that before any such loan shall be made, "The Wilmington and Susquehanna Rail Road Company" shall, by a vote of the stockholders, at a meeting convened according to the provisions of their charter, accept of and confirm the act entitled "A further supplement to an act entitled, 'An Act to incorporate the Wilmington and Susquehanna Rail Road Company,'" passed at Dover, January thirteenth, eighteen hundred and thirty-p. 59, and this seven, and also this act.

S. treasurer to loan part not invested under directions, &c. of J. R. Black, W. Hall and J. M. Clayton. SECTION 4. *And be it enacted*, That if any part or portion of the aforementioned surplus money shall not be invested or loaned as hereinbefore directed, it shall be the duty of the said State treasurer, and he is hereby directed to loan the same, under the directions and with the approval of the said James R. Black and Willard Hall and John M. Clayton.

Passed at Dover, February 21, 1837.

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CHAPTER CXXVIII.

Dig. 486, 8 A SUPPLEMENT to the act entitled "An Act for the establishment of free schools," and to the supplement thereto, passed January 25, 1830.
vol. p. 21.

Year of accounts to commence, when. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That from and after the passage of this act, the year of the accounts to with the school district, shall commence on the first day of August. At the end of every year so commencing, the accounts of all the districts shall be closed, and the trustee of the school fund shall make their apportionment in accordance with this act amongst the several districts.

District raising \$25 in 1 year, may draw its share from S. fund. SECTION 2. *Be it enacted*, That hereafter, whenever the school voters in any school district within this State shall by subscription, tax, or donation raise, in any one year, the sum of twenty-five dollars, and shall certify the same to "the trustee of the fund for establishing free schools within this State," agreeably to the provisions of the original act to which this is a supplement, then, every such district shall be entitled to its equal and full share of the said distributive share of the school fund.

Repeal of SECTION 3. *Be it enacted*, That so much and such parts of the

acts to which this is a supplement, as are altered or amended here-
by, be repealed; made null and void parts of former acts.

Passed at Dover, February 21, 1837.

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CHAPTER CXXIX.

AN ACT to enforce the satisfaction and payment of executions and warrants of distress, against certain corporations.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever any judgment has, or may hereafter be recovered, in any court of law of this State against any turnpike, bridge, canal, rail road or other company, incorporated by law, with powers to recover toll, the franchise of such corporation, with all the privileges and immunities thereof so far as relates to the right of demanding and receiving toll, as well as all the corporate property, either real or personal, shall be liable to the satisfaction and payment of such judgment, and may be taken and sold on execution, at public vendue; the officer first giving notice of the time and place of sale, by posting up a notification thereof, in any town, district or plantation, in which the clerk, treasurer, or any of the directors of said corporation may dwell, thirty days at least before the time of sale, and also by causing an advertisement, expressing the name of the creditor, the amount of said execution and the time and place of sale, to be inserted three weeks successively, in some public newspaper, published in either of the counties of this State, in which either of the aforesaid officers of said corporation may reside (if any such newspaper be there printed,) the last publication to be at least four days before the day of sale.

Franchise and property of corporation entitled to receive toll, may be sold on execution.

Notice of sale to be given by the officer.

SECTION 2. *Be it further enacted,* That in the sale of such franchise, any person who will pay and satisfy said execution, and all legal fees and expenses thereon, in consideration of being entitled to receive to his own use, for the shortest period of time, all such toll as the said corporation may by law be entitled to demand and receive, shall be considered as the highest bidder, and the same shall be struck off to him accordingly; and the officer's return on said execution shall transfer to the purchaser, all the privileges and immunities which by law belonged and appertained to said corporation, so far as relates to the right of demanding and receiving toll; and the said officer shall, immediately after such sale, be authorized and empowered to deliver to said purchaser, possession of all the toll houses and gates, belonging to said corporation, in whatever county the same may be situated, and the said purchaser shall, thereupon, be entitled to demand and receive to his own use, all the toll which may accrue within the time limited by the term of his purchase, in the same manner, and under the same regulations, as the said corporation was before authorized to demand and receive the same. *Provided however,* that the said corporation shall, in all

Who shall be considered the highest bidder.

Officer's return, a transfer to purchaser.

Possession of toll-houses, &c., to be delivered to purchaser, etc.

Powers, &c.

of corp'n after sale. other respects, retain the same powers, be bound to the discharge of the same duties and liable to the same penalties and forfeitures, as before belonged to and were required of them by law; *And provided also*, that if the said corporation shall at any time, within three months from the time of such sale, pay over or tender to said purchaser, such sums of money as he may have paid, in satisfaction of said execution, with twelve per cent interest thereon, in addition to the toll which he may have received, then the said franchise, with all the rights, privileges and immunities thereof, shall revert to said corporation, and shall, in all respects, belong and appertain to them, as if the same had not been sold as aforesaid.

SECTION 3. Be it further enacted, That all the rights, privileges and immunities aforesaid shall be liable to attachment on mesne process; and when such attachment shall be made, or other service of a mesne process shall be made, on any of the corporations aforesaid, the officer serving the same, shall leave an attested copy of said process and his return thereon, with the clerk, treasurer or some one of the directors of said corporation, thirty days at least before the day of the setting of the court, to which the same may be returned.

SECTION 4. Be it further enacted, That whenever any damages assessed, for have been or may hereafter be assessed to any person or body politic, either by a report of referees or a verdict of a jury, for any injury sustained in his or their property, by the doing of any of the corporations aforesaid, and the said damages shall remain unpaid for the space of thirty days after the final acceptance of such report or verdict, such person or body politic, upon petition to any court, by which such report or verdict was accepted, shall be entitled to a warrant of distress against said corporation, for the damages so assessed, and the interest thereon, together with his or their reasonable costs; and the officers to whom such warrant of distress may be delivered, may proceed to execute the same, in the same manner as is hereinbefore provided, for the levying and satisfaction of executions.

SECTION 5. Be it further enacted, That the officer who may levy any execution or warrant of distress, by virtue of this act, shall be authorized to adjourn the vendue from time to time, not exceeding ten days at any one time, until the sale shall be completed.

SECTION 6. Be it further enacted, That all proceedings, under the authority of this act, may be had in any county in which either the creditor or the president, either of the directors, the treasurer or clerk of said corporation may reside or dwell.

Passed at Dover, February 21, 1837.

CHAPTER CXXX.

A SUPPLEMENT to the act entitled "*An Act to consolidate and amend the laws for the relief of the poor.*" Dig. 435.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this supplement to the "Act to consolidate and amend the laws for the relief of the poor," it shall and may be lawful for the trustees of the poor, in Kent county, in this State, to make suitable allowance for any poor person, out of the poor-house of said county, until such poor person can be removed to said poor-house, and also for the conveyance of such poor person or any other poor person to the said poor-house; *Provided,* such poor person shall come within the provisions of the act to which this is a supplement, whenever in their judgment, or in the judgment of two-thirds of them, the same shall be deemed right and proper.

Trustees of poor in Kent county may make allowance for person out of poor-house until, etc. Proviso.

Passed at Dover, February 21, 1837.

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CHAPTER CXXXI.

AN ACT to authorize the recorder of deeds, in New-Castle county, to procure a new seal of office.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Matthew Kean, Esquire, the present recorder of deeds in New-Castle county, is hereby required, as soon as may be, to procure a seal of steel or brass, to be made of the diameter of about one inch, for the office of the recorder of deeds, for the said county; which said seal shall be engraven with such device as the said Matthew Kean shall direct, with a motto or inscription to describe the said office to which said seal is intended to belong.

Recorder of deeds for N. C. county, to procure a new seal.

SECTION 2. *And be it further enacted,* That the expense of said seal and of procuring the same, shall be defrayed by the county of New-Castle, and be paid by the order of said Matthew Kean, on the treasurer of said county.

Expense of seal paid by the county.

Passed at Dover, February 21, 1837.

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CHAPTER CXXXII.

AN ACT to encourage the destruction of crows.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That if any person shall kill and destroy any crow or crows within this

Premium for killing crows.

State, he shall receive, out of the treasury of the county, wherein such crow or crows may have been killed and destroyed, four cents for each and every crow so killed and destroyed, as a premium therefor.

Collector to pay, *SECTION 2. And be it further enacted,* That it shall be the duty of the collector, and he is hereby required, to pay the sum of four cents each, for every crow-scalp which may be delivered to such collector, to the person delivering the same, out of any money in his hands belonging to the county wherein such collector resides; *Person shall reside in the hundred.* *Provided,* that such person, so delivering the same, shall reside in the hundred for which said collector was or may be appointed, and *Take oath and give certificate.* that such person shall take an oath to the fact of said crow or crows having been killed and destroyed in this State, and such person shall give to the said collector a certificate setting forth the number of crow-scalps so delivered by him, and the amount of money received for the same.

County treasurer to allow certificates on settlement with collector. *SECTION 3. And be it further enacted,* That the county treasurer of the respective counties of this State shall, at any settlement with the collectors of their respective counties, allow such certificates in the said collector's account, and shall consider the said certificates as so much money paid by said collector to the said treasurer—which said certificates shall be good and sufficient vouchers of said treasurer, in any settlement to be had with the Levy-court of that county.

Passed at Dover, February 21, 1837.

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CHAPTER CXXXIII.

AN ACT for changing the location of a certain public road, and for other purposes.

Preamble. *WHEREAS,* it is represented to this General Assembly, that the State road leading from Fork landing, in Milford hundred, to Prospect, in Mispillion hundred, in Kent county, in the part where the same is located upon the land of Levi Jester, runs diagonally across his arable land, making several angles in its course in such manner as not only greatly to prejudice the symmetry, shape and convenience of his fields, but also to fix upon him the ruinous expense of keeping up three-quarters of a mile of lane fence, for no other purpose but to protect himself against encroachments from the common highway; and it being further represented, that the said road may be so changed, as to cross said farm in a straight course, of no more than a quarter of a mile with advantage to the public, and without prejudice to any individuals: Therefore,

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Josiah Wolcott, William Sipple and Peter Calaway, be, and they are appointed to

hereby appointed commissioners and authorized and required to go upon and view the said State road, mentioned in the preamble to this act, and examine the same, and if the said commissioners, or a majority of them shall be of opinion that any change or changes desired by the said Levi Jester, can be made in that part of the said road which crosses the land of the said Levi Jester, without material prejudice to the public interest or convenience, and without prejudice to other individuals, they shall proceed to lay out such road, across said Jester's land, as will produce such change or changes, having regard to all circumstances of public or private convenience, and shall cause to be made a plot or draft of such road so laid out by them, representing the courses, distances and width thereof, and shall determine what part or parts of the original road, across said land, may be vacated, without prejudice to the public, and shall make return of the said plot or draft, with a plot or description of so much of the said original road, as they shall determine may be vacated, and also with notes of such matters as they shall think proper to set forth under their hands, or the hands of a majority of them, to the clerk of the peace, in and for Kent county, to be kept in his office; and upon such return being made to the clerk of the peace as aforesaid, it shall and may be lawful for the said Levi Jester to open and make the said road, which said commissioners or a majority of them shall lay out as aforesaid, according to the courses, distances and width, designated in and upon said plot and return, and to enclose and hold for the only proper use and behoof of the said Levi Jester, his heirs and assigns, such part or parts of the original road as the said commissioners, or a majority of them, shall have determined may be vacated; and the said road so laid out, by the said commissioners, shall be and remain a part of the aforesaid State road, and after the same shall have been opened and made as aforesaid shall be kept up and in good repair at the public expense. *Provided nevertheless*, that the said Levi Jester, shall not enclose, or otherwise obstruct, any part of the said original road until the said commissioners, or a majority of them, shall have determined that the same may be vacated, and return their proceedings as aforesaid, and the said Levi Jester at his own proper cost and charges shall have opened, and put in good travelling condition, the said road which the said commissioners shall lay out as aforesaid, or cause the same to be done, and shall have paid the commissioners and such surveyor as they may call to their assistance, for their services in the premises.

view and
change loca-
tion of road
on land of L.
Jester.

To make a
plot of the
road, &c.

And return to
clerk of the
peace of Kent
county.

On return
made L. Jester
to open
road, and en-
close the parts
of old one va-
cated, &c.

Proviso.

SECTION 2. *And be it further enacted*, That the said commissioners and the surveyor employed by them shall, before entering upon the services required by this act, be sworn or affirmed before some justice of the peace in Kent county, that is to say: the commissioners to perform the duties enjoined upon them by this act, and the surveyor to perform the service for which he is employed, according to the best of their skill and judgment respectively.

Commis'srs.
and surveyor
to be sworn
or affirmed.

SECTION 3. *And be it further enacted*, That every commissioner shall, for each and every day's service under this act, be entitled to one dollar, and the surveyor, to such sum as may be stipulated

Their com-
pensation.

between him and the said Levi Jester, which expenses shall be paid by the said Levi Jester; and if any of the said commissioners shall die or refuse or neglect, for the space of one month, after called upon to act, any judge of the Superior Court, may appoint a person or persons to act in the place of such commissioner or commissioners, and so from time to time, until the duties of the said commissioners, under this act, are fully discharged.

Passed at Dover, February 21, 1837.

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CHAPTER CXXXIV.

AN ACT for changing the location of a certain public road, and for other purposes.

Preamble. WHEREAS, it is represented to this General Assembly, that the State road leading from Williamsville, to the dividing line between Kent and Sussex counties, in the part where the same is located upon the land of James C. Tatman, runs diagonally across his land, making several angles in its course, in such manner as not only greatly to prejudice the symmetry, shape and convenience of his fields, but also to fix upon him the ruinous expense of keeping up a long range of fence for no other purpose, but to protect himself against encroachments from the public highway, and it further represents that the said road may be so changed, as to cross said farm in a straight course of no more than a half a mile, with great advantage to the public, by shortening the road, and without prejudice to individuals: Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That Manlove Johnson, Nathan Fleming and William L. Jump, be and they are hereby appointed commissioners, and authorized and required to go upon and view the said State road, mentioned in the preamble to this act, and examine the same, and if the said commissioners, or a majority of them, shall be of opinion that any change or changes, desired by the said James C. Tatman, can be made in that part of the said road which crosses the land of the said James C. Tatman, without prejudice to the public interest or convenience, and without prejudice to other individuals, they shall proceed to lay out such road across said Tatman's land, as will produce such change or changes, having regard to all circumstances of public or private convenience, and shall cause to be made a plot or draft of such road, so laid out by them, representing the courses, distances and width thereof, and shall determine what part or parts of the original road, across said land may be vacated, without prejudice to the public, and shall make return of the said plot or draft, with a plot or description of so much of the said original road, as they shall determine may be vacated; and also, with notes of such matters as they shall think proper to set forth under their hands, And return it or the hands of a majority of them, to the clerk of the peace, in and

Commiss'rs.
appointed to
view and
change loca-
tion of road
on land of J.
C. Tatman.

To make a
plot of the
road.

for Kent county, to be kept in his office; and upon such return being made to the clerk of the peace as aforesaid, it shall and may be lawful for the said James C. Tatman to open and make the said road, which said commissioners, or a majority of them, shall lay out as aforesaid, according to the courses, distances and width, designated in and upon said plot and return, and to enclose and hold, for the only proper use and behoof of the said James C. Tatman, his heirs and assigns, such part or parts of the original road as the said commissioners, or a majority of them, shall have determined may be vacated; and the said road so laid out, by the said commissioners, or a majority of them, shall be and remain a part of the aforesaid State road, and after the same shall have been opened and made as aforesaid, it shall be kept up and in good repair at the public expense. *Provided nevertheless*, that the said James C. Tatman, shall not enclose, or otherwise obstruct, any part of the said original road until the said commissioners, or a majority of them, shall have determined that the same may be vacated, and return their proceedings as aforesaid, and the said James C. Tatman at his own proper cost and charges shall have opened, and put in good travelling condition, the said road which the said commissioners shall lay out as aforesaid, or cause the same to be done, and shall have paid the commissioners and such surveyor as they may call to their assistance, for their services in the premises.

to clerk of the peace of Kent county.

On return made J. C. Tatman to open road, and enclose the parts of old one vacated, &c.

Proviso.

SECTION 2. *And be it further enacted*, That the said commissioners and the surveyor employed by them shall, before entering upon the services required by this act, be sworn or affirmed before some justice of the peace in Kent county, that is to say: the commissioners to perform the duties enjoined upon them by this act, and the surveyor to perform the service for which he is employed, according to the best of their skill and judgment respectively.

Commissioners and surveyor to be sworn or affirmed.

SECTION 3. *And be it further enacted*, That every commissioner shall, for each and every day's service under this act, be entitled to one dollar, and the surveyor, to such sum as may be stipulated between him and the said James C. Tatman, which expense shall be paid by the said James C. Tatman; and if any of the said commissioners shall die or refuse or neglect, for the space of one month, after called upon to act, any judge of the Superior Court, or justice of the peace in Kent county, may appoint a person or persons to act in the place of such commissioner or commissioners, and so from time to time, until the duties of the said commissioners, under this act, are fully discharged.

Their compensation.

To be paid by J. C. Tatman.

Vacancies.

Passed at Dover, February 21. 1837.

CHAPTER CXXXV.

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

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the monies now in 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 salaries due and to become due, to the governor, chancellor, judges of the Superior court, attorney general, secretary of State, auditor of accounts and State's treasurer, up to the first Tuesday of January, eighteen hundred and thirty-nine: 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, and for the payment for one hundred copies of "Harrington's reports," and for the repairing the tomb of Col. John Hazlett, and the procuring of the portraits of the signers of the declaration of independance, on the part of this State.

Appropriation for.
Salaries.
Allowance to members of legislature.
For printing laws, &c.
Claims of citizens.
Harrington's reports.
repairing of Col. Hazlett's tomb.
Portraits.

Passed at Dover, February 21, 1837.

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CHAPTER CXXXVI.

Dig. 127. A SUPPLEMENT to the act entitled "*An Act providing for the punishment of certain crimes and misdemeanors.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That if any person or persons shall, knowingly entice, persuade, encourage, aid or abet any negro or mulatto slave or indented servant, to leave the service of his or her master or mistress, or shall, knowingly, aid or assist any negro or mulatto slaves or indented servants, in escaping from the service of his or her said master or mistress, every person so offending, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay to the State, a fine of not less than one hundred dollars, nor more than five hundred dollars, and shall be imprisoned for a term of not less than three months, nor more than six months, and at the expiration of said imprisonment shall be disposed of, if a negro or mulatto, as a servant to the highest and best bidder, for the period of seven years.

For enticing, persuading, &c., a slave or servant to leave his master.
Penalty.

Passed at Dover, February 21, 1837.

CHAPTER CXXXVII.

AN ACT to amend the act entitled "*An Act authorizing the Governor of this State to appoint commissioners in other States, to take depositions, the acknowledgment of deeds, &c., and to appoint notaries public, in this State.*"

Ante chap.
cxix. p. 159.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*An Act authorizing the Governor of this State to appoint commissioners in other States, to take depositions, the acknowledgment of deeds, &c., and to appoint notaries public in this State,*" passed at Dover, on the seventeenth day of February, in the year of our Lord, one thousand eight hundred and thirty-seven, be and the same is hereby amended, by inserting at the end of the first section, these words: ("and the private examination of any feme covert, party to such deed. The said commissioner shall have authority to have and use a seal, with such devices, expressive of his official character, as he shall think proper, which seal shall be affixed to all certificates made by the said commissioner. The fee to the said commissioner, for taking and certifying the acknowledgment or proof of any deed or other writing, shall be one dollar; for administering and certifying an oath or affirmation, fifty cents, and for taking and certifying depositions, such sum as shall be taxed and allowed by the court to which such depositions shall be returned;") and that the said act be amended by inserting in fifth section, in the ninth line thereof, after the word "State," these words: ("and to take the private examination of any feme covert, party to such deed.")

Insertion of a
clause at the
end of sec. 1.
chap. 119, an-
te p. 159.

Sec. 5. 7th
line of print-
ed copy, see
ante ch. 119.

SECTION 2. *And be it further enacted,* That in any edition of the laws of this State, the said act shall be printed as hereinbefore amended.

That act to
be printed as
hereby a-
mended.

Passed at Dover, February 21, 1837.

—:00:—

CHAPTER CXXXVIII.

AN ACT for the payment of claims against the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State treasurer be, and he is hereby authorized and directed to pay the following claims: to Robert Richie, for his services and expenses incurred in going to Maryland after William Smith, a fugitive from justice—also for his services and expenses for going to Pennsylvania, after Randle Lewis, a fugitive from justice, and bringing the same into the State of Delaware, on the orders of the Governor, one hundred seventeen dollars and forty-two cents; to John H. Eccleston, for stationary furnished to the court of Errors and Appeals, twenty-five dollars; to Robert W. Reynolds, Esquire, late

S. trans'r to
pay claims,
to.

R. Richie.

J. H. Eccleston.

R. W. Rey-
nolds.

- sheriff of Kent county, for attendance on the court of Errors and Appeals and convening the Legislature, twenty-eight dollars and fifty cents; to Peter Adams, recorder of deeds for Kent county, for recording the proceedings of both Houses concerning the election of Governor, and recording the bond of Secretary of State, one dollar; to Kent county, for two years rent of an office for Secretary of State, sixty dollars; to P. B. Porter, for stationary, &c. furnished John Randel, Esquire, in the survey of the Delaware Rail Road, fourteen dollars and fifty-one cents; to Robert Frame, Esquire, for making index to the laws of the June session (1836), examining the proof sheets and superintending the printing of the same, twenty dollars; to R. and J. B. Porter, for printing laws, advertising, &c., from the twenty-seventh day of February, one thousand eight hundred and thirty-five, up to the second day of July, one thousand eight hundred and thirty-six, nineteen dollars and eighty cents; to Charles C. Emory, for a large lamp and post, twenty dollars; to Nehemiah Clark, former sheriff of Kent county, a fee in case of escheated lands of a certain Evan James, in the town of Milford in said county, four dollars; to Joseph Buckmaster, for his services as cryer of the court of Errors and Appeals, scouring and cleaning State-house, and taking care of the books and papers thereof, sixty-one dollars and seventy-five cents; to Henry Todd, late recorder of deeds for Kent county, for recording R. Frame's bond as Secretary of State, fifty cents; to Thomas Stevenson, for sundry locks and repairs done on desks, &c., for the House of Representatives, nine dollars; to Abraham Schræder, for services rendered to the State, in the years one thousand eight hundred and twenty-seven, and one thousand eight hundred and twenty-eight, in cleaning and repairing muskets, twenty-five dollars; to D. A. J. Upham, for printing the laws, passed at the extra session of eighteen hundred and thirty-five, and sundry advertisements in the years of eighteen hundred and thirty-four, eighteen hundred and thirty-five and eighteen hundred and thirty-six, seventy-three dollars and eighty cents; to Joseph L. Harper, for one day's attendance as secretary for the electors for President and Vice-president of the United States, five dollars, and to William Hurlington, forty dollars, for transcribing, examining proof-sheets and superintending the printing of the Journal of the Senate of the State of Delaware, for the June session in 1836; to George M. Manlove, for 14 1-2 cords of wood, at 4 25 cents per cord, sixty-one dollars and sixty-two and a half cents; to Peter S. Parker, for services and report on the affairs of the Wilmington Bridge Company, including his expenses, eighteen dollars; and also, to the said Peter S. Parker, an allowance approved by Cornelius P. Comegys, Governor of this State, for expenses and services in going to, and returning from Washington, for the purpose of receiving the surplus revenue, ninety-two dollars.

Secretary of
State.

SECTION 2. *And be it enacted*, That the State treasurer be, and he is hereby authorized to pay to the Secretary of State, the sum of four 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 Assembly, at the next biennial session.

Passed at Dover, February 22, 1837.

—:00:—
CHAPTER CXXXIX.

AN ACT to provide for the distribution of the interest of this State's proportion of the surplus fund.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the dividends on the stock in the Farmers' Bank of the State of Delaware, directed by this general assembly to be subscribed for, on the part of the State, being five thousand shares of the capital stock of the said bank, and the interest on all loans of the money of this State, (except the loan heretofore made to the county of Sussex,) directed to be made during the present session of the legislature, shall be by the State treasurer, as the said dividends and the said interest shall respectively fall due, divided into three equal parts, and shall be disposed of as hereinafter provided for, that is to say: one-third part thereof shall be appropriated, and the same is hereby appropriated, to the use and benefit of New-Castle county; one other third part thereof, shall be and the same is hereby appropriated to and for the use and benefit of Kent county, and one other, and the remaining third part thereof, shall be, and the same is hereby appropriated to, and for the use and benefit of Sussex county.

S. treas'r to divide dividends on stock and interest on loans except loan to S. county into 3 equal parts.

Appropriation to each county.

SECTION 2. *And be it further enacted,* That it shall be the duty of the State treasurer, and he is hereby required, to pay over to the trustee of the school fund, the share of the dividends and interest, arising from the stock and loans aforesaid, and which is hereinbefore appropriated to the county of New-Castle, and the said trustee of the school fund is hereby directed and required, to apportion the same among the several school districts, in said county of New-Castle, agreeably to the provisions of the act, entitled "An Act for the establishment of free schools," passed at Dover, the twelfth day of February, in the year of our Lord, one thousand eight hundred and twenty nine, and the several supplements thereto.

S. treas'r to pay to trustee of S. fund, the share of N. C. county, to be apportioned among school districts.

SECTION 3. *And be it further enacted,* That the share of the dividends and interest, arising, or to arise from the stock and loans aforesaid, and which is hereinbefore appropriated to the use and benefit of the county of Kent, shall be and remain in the hands of the said State treasurer, subject to the order and direction of the Levy-court and court of Appeals of said Kent county; and the said Levy-court and court of Appeals are hereby authorized and empowered, to draw orders for, and dispose of the same, either in part or the whole, from time to time, for the purpose of the same, how.

Share of K. county to remain in hands of S. treas'r. subject to order of Levy-court.

L. Ct empowered to dispose of the same, how.

pose of applying the same, or any part thereof for the use and benefit of the several and respective school districts, in said Kent county, (each respective school district to have and receive for its use and benefit a like sum,) or for the purpose of applying the same in such other manner, and for such other purpose or purposes, as the said Levy-court and court of Appeal may direct and determine, or in part, for the use and benefit of such school districts, and in part for such other purpose or purposes.

S. treas'r. to pay to trustee of S. fund one-third of the share of S. county to be apportioned among school districts. **SECTION 4.** *And be it further enacted,* That it shall be the duty of the State treasurer, and he is hereby required, to pay over to the trustee of the school fund, one-third part of the share of the dividends and interest, arising or to arise from the stock and loans aforesaid, and which is herein before appropriated to the county of Sussex, and the said trustee is hereby directed and required to apportion the same among the several school districts in said Sussex county, agreeably to the provisions of the act entitled "An Act for the establishment of free schools," passed at Dover on the twelfth day of February, in the year of our Lord, one thousand eight hundred and twenty-nine, and the several supplements thereto; and it shall be the duty of the said State treasurer to pay

Two other third parts to be paid to c'ty treasurer.

L. c't to apply it, how. Proviso.

over to the county treasurer, of the said county of Sussex, the other two remaining third parts of said county's share of said dividends and interest, as the same may fall due, and it shall be the duty of the Levy-court and court of Appeal of said Sussex county, to appropriate the same toward the payment of the poor tax of said county: *Provided however and be it enacted by the authority aforesaid,* that the said State treasurer, in distributing such dividends and interest as aforesaid, amongst the several counties aforesaid, shall so distribute the same, taking into consideration the loan of five thousand dollars, made to the county of Sussex, during the present session of the general assembly, out of this State's share of the surplus revenue of the United States, as shall do equal justice to the several and respective counties, and so that each county may receive an equal share of the interest and benefit to be derived from the whole of said surplus, so as aforesaid invested and loaned.

Passed at Dover, February 22, 1837.

—:00:—

CHAPTER CXL.

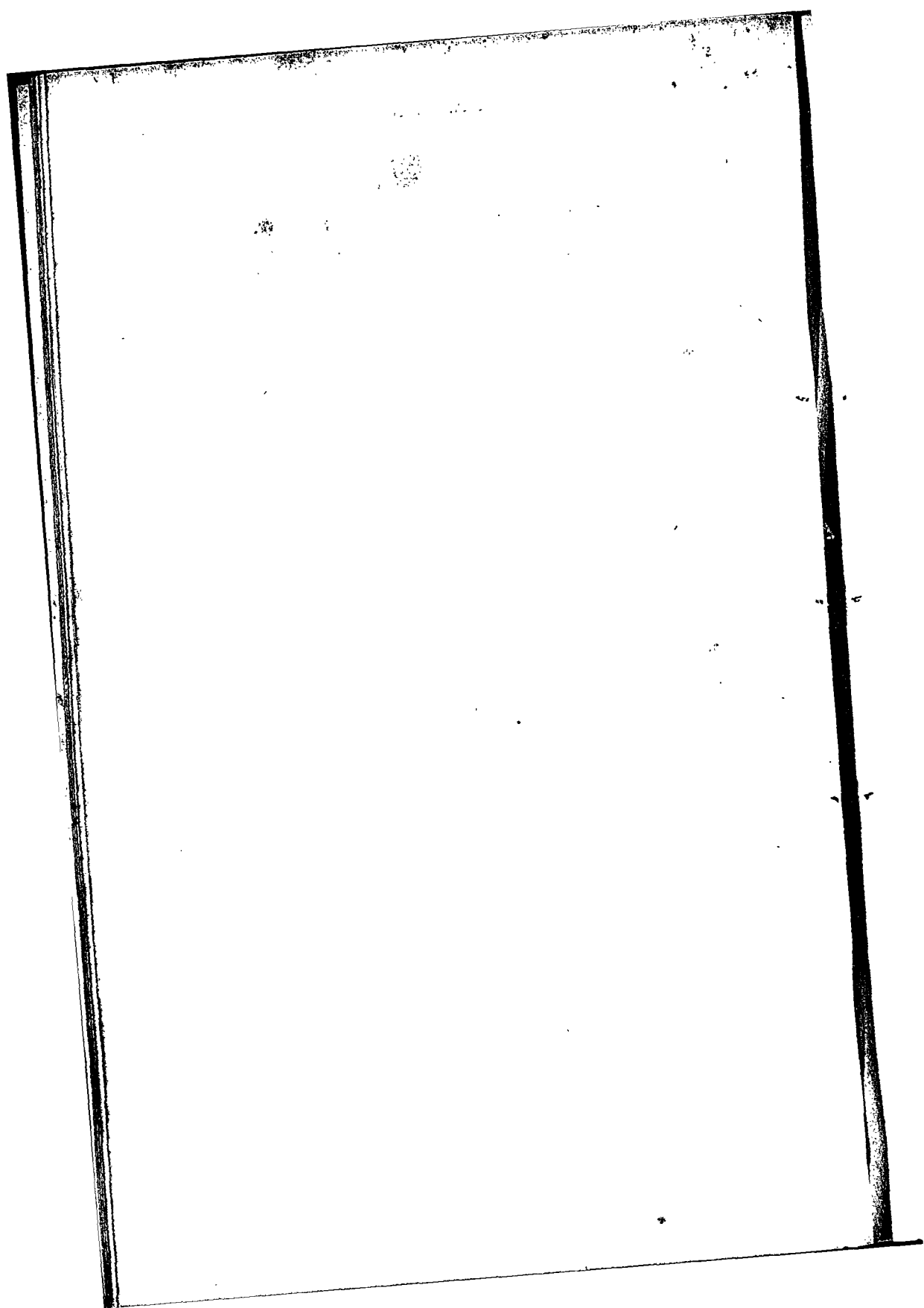
AN ACT to secure a report of cases adjudged in this State.

Asso'to judge in Kent c'ty. to report decisions of courts. **SECTION 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 associate judge of the Superior court, residing in Kent county, to report the decisions of the Superior court, court of Oyer and Terminer and court of Errors and Appeals, on all such points as to him shall seem important to be known and understood by the people of this State, and as soon as a sufficient quan-

tity of matter shall accumulate, to form a suitable volume, the said associate judge shall report the fact to the general assembly, at its next session thereafter.

SECTION 2. *And be it enacted,* That in consideration of the increased duty hereby imposed on him, the annual salary of the said associate judge of the Superior court, shall be twelve hundred dollars, from and after the passing of this act, in lieu of his present salary of one thousand dollars, and to be paid in the same manner, so long as he shall continue to report. In consideration of increased duty, salary to be \$1200.

Passed at Dover, February 22, 1837.



RESOLUTIONS.

CHAPTER CXLI.

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 Farmers' b'k. appointed.

For the principal bank at Dover: Hunn Jenkins, John M. Clayton and James S. Buckmaster. Dover.

For the branch at Wilmington: John J. Milligan, Charles I. Dupont and John Evans Young. Wilmington.

For the branch at Newcastle: Thomas Stockton, George B. Rodney and George Platt. New-castle.

For the branch at Georgetown: William D. Waples, Henry F. Rodney and Henry Little. Georgetown.

Adopted at Dover, January 6th, 1837.

—:00:—

CHAPTER CXLII.

Resolved by the House of Representatives of the State of Delaware, with the concurrence of the Senate, That Peter S. Parker be, and he is hereby appointed State treasurer. P. S. Parker, S. treasurer.

Adopted at Dover, January 10th, 1837.

—:00:—

CHAPTER CXLIII.

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. G. S. Adkins, auditor of accounts.

Adopted at Dover, January 10th, 1837.

—:00:—

CHAPTER CXLIV.

WHEREAS, the prosperous condition of the revenue of the United States, is such as to enable Congress to dispense with all such taxes as are oppressive and burdensome upon peculiar classes of our citizens, and in as much as the imposition of a direct tax, in the way of hospital money upon seamen and all others engaged in the coasting trade and fisheries, is not only invidious and oppressive in itself, but unfair and inefficient in the distribution of its benefits, and as the citizens of this State, for a long period of time, have been compelled to pay the said tax without receiving a correspondent benefit therefrom: Therefore Preamble:

Our representatives in Congress requested to procure a repeal of hospital tax on persons engaged in coasting, &c.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That our senators and our representative in Congress be, and they are hereby requested to use their best exertions to procure the repeal of any or all such enactments as impose a tax for hospital money on such persons as are engaged in the coasting trade or fisheries of this State.

Resolved, That copies of the foregoing preamble and resolutions be signed by the Speaker of the Senate and of the House of Representatives, and transmitted to each of our senators and our representative in Congress.

Copies to be transmitted to them.

Adopted at Dover, January 26th 1837.

—:00:—

CHAPTER CXLV.

Report preamble and resolutions respecting piers in the Del. bay and river.

The committee to whom was referred the subject of piers upon the Delaware bay and river, beg leave to report, that after a careful inquiry and mature consideration, they are well convinced, that the general interests of commerce and navigation, and especially of that branch of it trading upon the waters of the Delaware, require the prompt and efficient interference of the General government, to repair some of the piers already constructed, and erect others at points where they are greatly needed, in order to give greater protection and facilities to vessels navigating those waters.

AND WHEREAS, the great advantages already realized from the practical completion of the Delaware breakwater, would be more available to the citizens of this State, if a pier or mole were constructed, to connect that harbor with the main land, and the interests of commerce greatly subserved, by thus affording the facility of loading and discharging the cargoes of vessels detained there by ice, and as several important State improvements would be likely to follow the construction of such a work, it is therefore a subject in which the citizens of this State, as well as the navigating and commercial interest at large, are greatly concerned: and whereas, this State did, by an act of the Legislature, in the year one thousand seven hundred and ninety-one, assign and make over all its right and title to the piers opposite Reedy Island, with certain land adjoining thereto, for the purpose of promoting the welfare of the navigating interest, and as the said piers are in a dilapidated condition, it is highly important to all vessels passing up and down said river in winter, that they should be thoroughly and substantially repaired, so as to afford the necessary protection against ice, and inasmuch as the harbor at Delaware City, near the Pea Patch, is much exposed to ice and storms, and as it is rendered the more important as the point where the Chesapeake and Delaware canal disembogues into the Delaware, and where vessels passing the said canal are often detained at great peril, and where vessels are often stopped by an abrupt turn in the course of the river, to which point certain winds will enable them to attain in ascending and descending the river, but proceed no further; it is, therefore, of vast importance that piers should be constructed at this point, as a shelter from ice and storms: Therefore,

Resolved by the Senate and House of Representatives of the State of Delaware, That our representatives in each branch of Congress, be requested to bring these subjects before their respective Houses, and urge an appropriation for the objects above contemplated. Our representation in Congress requested to urge an appropriation

Resolved, That copies of the foregoing, be signed by the Speakers of each House, and transmitted to our senators and representative in Congress. Copies to be transmitted to them.

Adopted at Dover, January 27th 1837.

—:00:—
CHAPTER CXLVI.

The committee to, whom was referred so much of the Governor's message as relates to the claim of a certain Henry Gale, a citizen of New Jersey, to a portion of the territory of this State, in the river Delaware, known by the name of the Pea Patch island, (now Fort Delaware,) beg leave to report, that

WHEREAS, a certain Henry Gale, a citizen of the State of New-Jersey, under a title derived from that State, to an island in the river Delaware, (now known as the site of Fort Delaware,) did, during the past recess of Congress, renew an action of ejectment against the tenant in possession under the United States, in the Circuit Court for the district of New Jersey, and therein prosecuted the same to trial whereby he succeeded in obtaining a verdict in his favour. Report, preamble and resolutions, in relation to the claim of H. Gale to Pea patch island,

And whereas, the State of Delaware, by custom and usage, has from time immemorial, claimed the right to and exercised jurisdiction over the soil of the aforesaid island, up to the present time, as a part of her undoubted territory under ancient grants and charters, which, under the administration of President Monroe, were successfully maintained against the aforesaid claimant, who at that time instituted a suit for the purpose of justifying his claim; the suit on the part of this State and of the general government, was defended by able counsel of this State, retained by the then administration of the general government: and with such evidence as was then adduced, it would appear almost impossible that a different verdict or result could have been produced: Therefore,

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That our senators and representative from this State, in the Congress of the United States, be and they are hereby requested to bring the foregoing subject under the consideration of Congress, and recommend either the retrocession of the said island back to this State, or otherwise adopt such measures as may be deemed expedient, whereby this State may be placed in an attitude legally to assert and maintain her just rights and title to the said territory. Our senators and representative in Congress requested to recommend the retrocession of the same to this State.

Resolved, That copies of the foregoing preamble and resolution be signed by the Speaker 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. Copies to be transmitted to them.

Adopted at Dover, January 28th, 1837.

CHAPTER CXLVII.

Preamble and
resolutions
for restoring
the journal of
U. S. Senate.

WHEREAS, the President of the United States, in the month of September 1833, by an abuse of the power of appointment to office, did cause the public money of the United States to be removed from the custody of the Bank of the United States, where it had been deposited by law, subject only to be removed by the Secretary of the treasury, upon good and sufficient reasons to be exhibited to Congress, and did declare that he assumed the responsibility of that act; an act which this General Assembly believes was pernicious in its consequences, and derogatory to the public faith, as well as subversive of the constitution: And whereas, the Senate of the United States, on the 28th day of March thereafter, upon full consideration of the said act of the President of the United States, and in the exercise, as this General Assembly solemnly believes, of its constitutional power, did declare its opinion of the said act, and cause that opinion to be recorded in its journal in the words following, viz:

"Resolved, That the President in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power, not conferred by the constitution and laws, but in derogation of both."

And whereas, a resolution was adopted by the Senate of the United States, on the 16th day of January instant, in the words following, viz:

"Resolved, That the said resolve (meaning the preceding resolution,) be expunged from the Journal; and for that purpose, that the Secretary of the Senate, at such time and place as the Senate may appoint, shall bring the manuscript journal of the session of 1833—34 into the Senate, and in the presence of the Senate, draw black lines round the said resolve, and write across the face thereof, in strong letters, the following words: EXPUNGED by order of the Senate, this 16th day of January, in the year of our Lord 1837."

And the said secretary did thereupon produce the said journal, and according to the direction of the said resolution, did draw black lines around the resolution of the 28th of March 1834, as it was recorded in the said journal, and wrote across the face thereof, the words: *"EXPUNGED by order of the Senate, this 16th day of January, in the year of our Lord, 1837,"* thereby altering, defacing and mutilating a public record.

And this general assembly solemnly believing in the truth and justice of the resolution of the 28th of March 1834, and in the full and perfect right of the senate under the constitution, to adopt the same, cannot but view with the strongest feelings of condemnation, an act which in their judgment controverts a solemn truth, violates the constitution by *destroying* that which the constitution enjoins shall be *kept*, and directly invades the rights of the several states of this confederacy, each of which has a property in the journal of the Senate, as that is the only record from which it can derive a knowledge of the votes and acts of its representatives in that body, and for the purpose as well, of vindicating the rights of this State

In the premises, as of sooner or later re-establishing the constitutional power of the Senate of the United States, and of vindicating the constitution itself, by the *restoration* of the journal of the Senate, so that it shall remain a true and faithful record of the acts and proceedings of the Senate, and in all time hereafter be *kept* as the constitution enjoins:—

Be it therefore resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Senators of this State in the Congress of the United States be and they are hereby instructed, to introduce in the Senate and give their earnest support, to a resolution for *restoring* the journal of its proceedings of the 28th day of March 1834, and for rescinding and solemnly disavowing, the principles of the resolution of the 16th day of January, 1837, and to give notice in the Senate, that the motion will be persisted in, until the journal of the Senate of the 28th day of March, 1834 shall be *restored*, the constitutional powers of the Senate vindicated, and the right and property of this State in the journal of the Senate firmly re-established.

Our Senators in Congress instructed to introduce a resolution restoring journal and rescinding the expunging resolution.

Resolved, That a copy of the foregoing proceedings, signed by the speakers of both houses, be transmitted by the Governor to the Senators of this State in Congress, with a request that they be laid before the Senate.

Copies to be sent to them by the Gov'r.

Adopted at Dover, January 31st, 1837.

—:00:—

CHAPTER CXLVIII.

The joint committee of the two Houses of the General Assembly, to whom were referred the subject of the report of the commissioners appointed to provide suitable rooms for the Legislature of this State, have had the subject under consideration and after a careful investigation of all the accounts and vouchers, do find the general account submitted by the commissioners to be correct, and that the whole of the arduous duties confided to them have been performed with a degree of faithfulness and skill which merit the fullest approbation of your committee, and the committee take pleasure in according to them the highest approbation for the good taste and discretion manifested by them in the planning and execution of the improvements confided to their superintendence.

Report of commissioners to provide rooms for legislature.
Report of committee thereon.

There will remain in the hands of the commissioners, the balance of \$73 81
which will be in hand when the Levy-court of Kent county shall have made an appropriation, according to stipulation, for the improvements made by the commissioners in the court room.

In addition to the foregoing balance, your committee recommend a further appropriation of 316 19
to be applied to completing the improvements in the library, for blinds for the hall and pavement, &c. &c.

Also the further sum of 250 00
as a remuneration to the commissioners for 2 years services. \$640 00

The committee 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 be, and he is hereby authorized to pay over to the commissioners appointed to provide suitable buildings for the Legislature, the sum of three hundred and sixteen dollars and nineteen cents, to be applied by them in finishing the improvements already begun, and the further sum of two hundred and fifty dollars, for services performed by said commissioners.

Appropriation for finishing improvements.
And for compensation to commissioners.

Resolved, That the thanks of this General Assembly be, and they are hereby tendered to the commissioners, for the faithful manner in which they have discharged the duties imposed upon them, and for the skill and good taste manifested by them, in the erection of the building and other improvements executed under their direction.

Adopted at Dover, February 18th, 1837.

—:00:—

CHAPTER CXLIX.

Joint resolution respecting the printing of the report of the commissioners of the Delaware Rail Road, and the documents connected therewith.

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Speaker of the House of Representatives be, and he is hereby authorized to cause to be printed, two hundred and fifty copies of the Report of the commissioners of the Delaware Rail Road, and the documents connected therewith, for distribution by the said commissioners, and that the warrant of the said Speaker, for the expenses of the said printing, shall be paid by the State treasurer, out of any monies in the treasury, not otherwise appropriated.

Speaker of H. Rep's to have printed 250 copies of Del. R. R. report and documents.

Expenses of printing to be paid by State treasurer.

Adopted at Dover, February 20th, 1837.

—:00:—

CHAPTER CL.

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Attorney General of this State be, and he is hereby directed to file a bill in equity, in the name of this State, against the "Wilmington Bridge Company," to compel them to come to a full, fair and just account of their nett profits for each and every year since the erection of their said bridge over the Christiana, and to pay into the hands of the trustee of the school fund, whatever shall appear to be due to said fund on such account, and for the purpose aforesaid, to join as defendant or defendants to the said bill, the present or any former officer or officers, director or directors of said company, and to require their several answers on oath or affirmation.

Attor'y general to file bill in equity against Wilmington bridge com'y.

Adopted, February 21st, 1837.

CHAPTER CLI.

Resolution concerning the distribution of Harrington's Reports of cases adjudged in the Superior Court and Court of Appeals.

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 required to distribute and dispose of the one hundred copies of "Harrington's Reports," subscribed for by the joint resolution of the 10th February 1835, in the following manner: one copy to the Governor, and one to the Secretary of State; nine to the Senate, and twenty-one to the House of Representatives; one copy to the Executive of each State and territory of the United States; one copy to the prothonotary, one to the clerk of the Peace, one to the clerk of the Orphans' Court, one to the register in Chancery, one to the recorder of deeds, and one to the register for the probate of wills and granting letters of administration, in each county, to be retained in their respective offices and delivered over to their successors in office. The remaining copies shall be deposited in the library, subject to the further orders of the General Assembly.

Secretary of State to distribute Harrington's reports, how.

Adopted at Dover, February 21st, 1837.

—:00:—

CHAPTER CLII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Henry F. Rodney and William Herdman of the Senate, and Thomas Davis, William Johnson and Charles T. Fleming of the House 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-eight, 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.

Committee appointed to settle with S. treasurer and to receive auditors report in Jan. 1838.

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 affecting 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 indexes thereto: and to make such allowances 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 accounts of clerks of two houses, &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 the committee.

Compensation of committee.

man 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, February 21, 1837.

—:00:—

CHAPTER CLIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Joseph P. Comegys be and he is hereby appointed to take charge of 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; and that Benjamin Enos be appointed to take charge of the furniture belonging to the Senate, and David M. Smith of that belonging to the House of Representatives.

Resolved, That Joseph P. Comegys be and he is hereby authorized to purchase for the Senate chamber, a coal grate of such size and form as he may think proper, and cause the same to be placed in the chimney of the said chamber, some time before the next biennial session of the Legislature, and that he be also authorized to purchase stationary for the use of the General Assembly at their next session.

Resolved, That the sum of one hundred dollars are hereby appropriated, out of any money in the treasury to carry into effect the object of these resolutions, and that the said sum shall be paid by the treasurer to the said Joseph P. Comegys at any time hereafter and his order shall be a sufficient voucher for the payment thereof.

Adopted at Dover, February 22, 1837.

SECRETARY'S OFFICE,

Dover, May 23, 1837.

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 third day of January, and closed on Wednesday, the twenty-second day of February, in the year of our Lord one thousand eight hundred and thirty-seven.

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 FIRST DAY OF JANUARY,

IN THE YEAR OF OUR LORD

ONE THOUSAND EIGHT HUNDRED AND THIRTY-NINE,

AND OF THE

INDEPENDENCE OF THE UNITED STATES

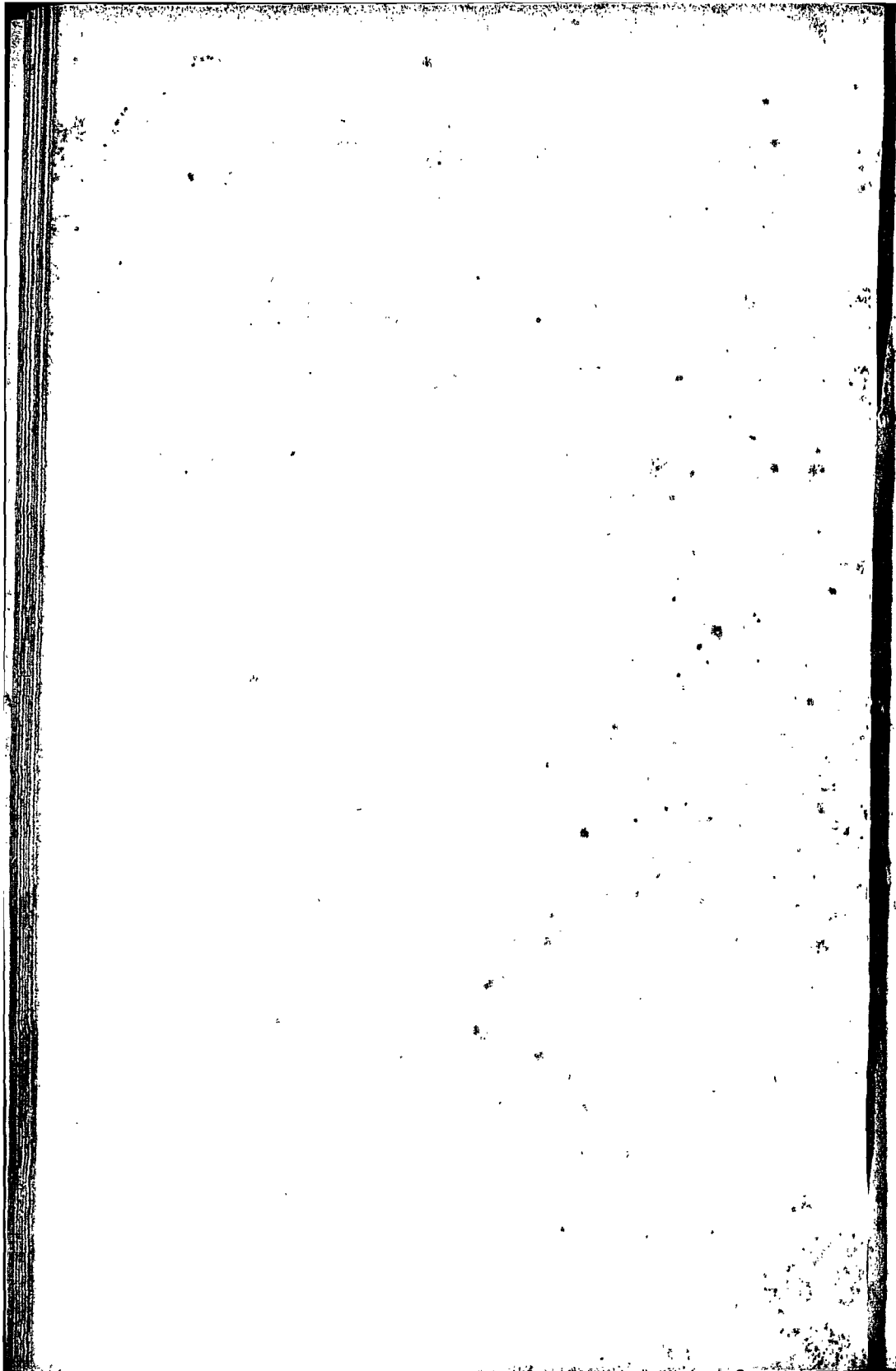
THE SIXTY-THIRD.

BY AUTHORITY.

DOVER, DELAWARE.

S. Kimney, printer.

1889.



LAWS

OF THE

STATE OF DELAWARE.

CHAPTER CLIV.

AN ACT to authorize Isaac P. Walker, to remove a certain slave therein mentioned, from this State, into the State of Maryland.

Private act.

Passed at Dover, January 10, 1839.

CHAPTER CLV.

AN ACT to encourage the growth and reeling of silk within this State.

SECTION 1. *Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passage of this act, whenever any person or persons, individually or collectively, shall raise any silk within this State, he, she, or they shall be entitled to draw from the State Treasury a premium of fifteen cents for each and every pound of cocoons so by him, her, or them raised, and the further premium of fifty cents per pound, for each and every pound of merchantable raw silk by him, her, or them reeled from cocoons so raised; and the person or persons, so claiming the premium aforesaid, shall first exhibit the cocoons raised, and the silk reeled as aforesaid, to one justice of the peace of the proper county where they shall have been raised, and the said justice of the peace shall thereupon examine the person or persons claiming the premium as aforesaid, upon his, her or their oath or affirmation, and shall require the person, so claiming the premium, to swear or affirm that the cocoons were raised in the State of Delaware,—that the premium has not before been claimed by, or paid to, such person or persons so claiming, or to any other person; and also in relation to such other facts, matters or things as is or may be in their opinion connected with the raising or reeling the same; and upon the evidence being satisfactory to his mind, he shall thereupon make out a certificate of the same under his hand and seal, and the said State Treasurer upon the presentation of said certificate or certificates, is hereby authorized and directed to pay the amount of the same out of any monies belonging to this State, which may be in his hands not otherwise appropriated. *Provided,**

Premium on cocoons and reeled silk.

Person claiming to make oath &c., before J. P.

Certificate of J. Peace.

This act not to extend to incorporated companies.

that nothing in this act contained, shall extend or apply to incorporated companies.

Penalty for
false swear-
ing.

SECTION 2. Any false swearing under this act, shall be indictable and punishable, as perjury in other cases is punishable.

Fees to J. P.

SECTION 3. For weighing the cocoons, administering the oath or affirmation required by this act, and making out the certificate, the Justice shall be entitled to a fee of twenty-five cents, to be paid by the person applying for, or claiming the premium.

Continuance
of act.

SECTION 4. The provisions of this act, shall be and continue in force for the term of four years from the day of the date of its passage.

Rep. of Chap.
CXI. ante.
149.

SECTION 5. *And be it further enacted*, That the act entitled "An act to encourage the rearing of silk worms within this State," passed on the seventeenth day of February, in the year of our Lord one thousand eight hundred and thirty-seven, be and the same is hereby repealed, made null and void.

Passed at Dover, January 17, 1839.



CHAPTER CLVI.

AN ACT allowing for a limited time, an additional Justice of the Peace to the county of Sussex.

Justice of the
Peace at Can-
non's ferry.

Limitation of
this act.

SECTION 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 the county of Sussex 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 village of Cannon's Ferry, and in North West Fork hundred, in the county aforesaid. *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.

Passed at Dover, January 17, 1839.



CHAPTER CLVII.

AN ACT to cede to the United States, the jurisdiction over a piece of land and marsh therein mentioned.

Preamble.

WHEREAS, by an act of Congress approved March 3, 1837, the sum of ten thousand dollars was appropriated to building a light house on Reedy Island, in the Delaware bay; and application being made to this General Assembly by Henry Whitely, Esquire, super-

intendent of the Delaware light house establishment, under instructions from that branch of the Treasury Department of the United States charged with the general supervision of light houses in the United States, praying an act, ceding to the United States, a certain part of the south or lower end of Reedy Island, for the purpose aforesaid. Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the purpose of erecting a light-house, five acres of land and marsh at any place on the south or lower end of Reedy Island, adjoining low water mark, on the Delaware bay, and extending into the said bay not exceeding sixty feet, are hereby ceded and granted to the United States, upon the condition, that a light-house shall be thereon erected at the expense of the United States, within six years from the date of this act, and be continued and kept lighted thereafter. *And provided,* That said five acres shall be located at any time within the term of one year, from the date of this act, 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, &c., in New Castle county.

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

SECTION 2. This State doth hereby 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 to be thereon erected.

Reservation of jurisdiction.

Passed at Dover, January 17, 1839.

CHAPTER CLVIII.

AN ACT to enable Alexander Johnson to locate certain vacant land situate in Mispillion hundred in Kent county, and to complete his title to the same.

Private Act.

Passed at Dover, January, 18, 1839.

CHAPTER CLIX.

AN ACT to authorize Joseph Smithers to erect gates across a road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for Joseph Smithers to erect, and place two gates across the road running through his land, and leading from the branch emptying into Virdin's mill-pond, to the road leading

Gates may be erected across a certain road.

from Canterbury to Frederica, in Kent county; one of said gates to be near said branch, and the other at or near the junction of the said road, with the road leading as aforesaid from Canterbury to Frederica.

SECTION 2. *And be it enacted,* That if any person or persons shall injure or destroy the said gates, or either of them, or open and leave them or either of them open, he, she, or they shall forfeit and pay, for every such offence, a sum not exceeding ten dollars, which may be recovered as debts of like amount are recoverable by the laws of this State, by any person who shall sue for the same. *Provided,* That it shall be the duty of the said Joseph Smithers, or the person or persons to whom the land upon which the said gates may be placed, shall or may at any time belong, to keep the said gates in good repair, and convenient to be opened and shut.

Passed at Dover, January 18, 1830.



CHAPTER CLX.

AN ACT ceding to the United States the jurisdiction over a certain piece of land and marsh, between the mouth of Little creek and the mouth of Duck creek.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the purpose of erecting a light-house, five acres of land and marsh, at any place between the mouth of Duck creek and Little creek, 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.

SECTION 2. This State shall, and hereby doth retain concurrent jurisdiction with the United States, over the said tract or piece of land and marsh, so far that process civil and criminal, issuing under the authority of said State, may be executed in any part of the said tract or piece of land and marsh, or in any building thereon to be erected.

Passed at Dover, January 24, 1830.

CHAPTER CLXI.

AN ACT to enable Clement Layton and Warren Kinder to locate certain vacant land, situate in North West Fork hundred in Sussex county, and to complete their title to the same.

Private act.

Passed at Dover, January 25, 1839.

CHAPTER CLXII.

A SUPPLEMENT to the act entitled "*An act to straighten and improve the roads from the bunked marshes on Simon's creek in Kent county, to the village of Seaford, in Sussex county.*"

6 vol. p. 549
Chapter
CCXVIII.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the fourth section of the said act, to which this act is a supplement, be and the same is hereby repealed, made null and void.

Rep'l. of Sec.
4 of original
act.

Passed at Dover, January 25, 1839.

CHAPTER CLXIII.

AN ACT to enable Smith Timmons to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, January 28, 1839.

CHAPTER CLXIV.

AN ACT for recording certain evidences of public debt.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the bond of the Wilmington and Susquehanna Rail Road Company and David C. Wilson, Joseph C. Gilpin, William Chandler, and Allan Thompson, of the city of Wilmington, given to this State for the penal sum of two hundred and twenty thousand dollars, conditioned for the payment of the real debt of one hundred and ten thousand dollars as therein mentioned, bearing date the twenty-fifth day of April, in the year of our Lord one thousand eight hundred and thirty seven, and the certificate of the commissioners James R. Black, Willard Hall and John M. Clayton, entered on said bond; also, a certified copy of

Bond of the
Wilmington
and Susque-
hanna R. R.
Co. &c., &c.,
to be record-
ed in the of-
fice for record-
ing of deeds
in Kent Co.

from Canterbury to Frederica, in Kent county; one of said gates to be near said branch, and the other at or near the junction of the said road, with the road leading as aforesaid from Canterbury to Frederica.

SECTION 2. *And be it enacted,* That if any person or persons shall injure or destroy the said gates, or either of them, or open and leave them or either of them open, he, she, or they shall forfeit and pay, for every such offence, a sum not exceeding ten dollars, which may be recovered as debts of like amount are recoverable by the laws of this State, by any person who shall sue for the same. *Provided,* That it shall be the duty of the said Joseph Smithers, or the person or persons to whom the land upon which the said gates may be placed, shall or may at any time belong, to keep the said gates in good repair, and convenient to be opened and shut.

Forfeiture for
injuring or
leaving them
open.

Must be kept
in good re-
pair.

Passed at Dover, January 18, 1830.



CHAPTER CLX.

AN ACT *ceding to the United States the jurisdiction over a certain piece of land and marsh, between the mouth of Little creek and the mouth of Duck creek.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the purpose of erecting a light-house, five acres of land and marsh, at any place between the mouth of Duck creek and Little creek, 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 U. S.

On condition.

SECTION 2. This State shall, and hereby doth retain concurrent jurisdiction with the United States, over the said tract or piece of land and marsh, so far that process civil and criminal, issuing under the authority of said State, may be executed in any part of the said tract or piece of land and marsh, or in any building thereon to be erected.

Reservation
of jurisdic-
tion.

Passed at Dover, January 24, 1830.

CHAPTER CLXI.

AN ACT to enable Clement Layton and Warren Kinder to locate certain vacant land, situate in North West Fork hundred in Sussex county, and to complete their title to the same.

Private act.

Passed at Dover, January 25, 1839.

CHAPTER CLXII.

A SUPPLEMENT to the act entitled "An act to straighten and improve the roads from the banked marshes on Simon's creek in Kent county, to the village of Seaford, in Sussex county." 6 vol. p. 549
Chapter
CCXVIII.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the fourth section of the said act, to which this act is a supplement, be and the same is hereby repealed, made null and void. Rep'l. of Sec.
4 of original
act.

Passed at Dover, January 25, 1839.

CHAPTER CLXIII.

AN ACT to enable Smith Timmons to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, January 28, 1839.

CHAPTER CLXIV.

AN ACT for recording certain evidences of public debt.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the bond of the Wilmington and Susquehanna Rail Road Company and David C. Wilson, Joseph C. Gilpin, William Chandler and Allan Thompson, of the city of Wilmington, given to this State for the penal sum of two hundred and twenty thousand dollars, conditioned for the payment of the real debt of one hundred and ten thousand dollars as therein mentioned, bearing date the twenty-fifth day of April, in the year of our Lord one thousand eight hundred and thirty seven, and the certificate of the commissioners James R. Black, Willard Hall and John M. Clayton, entered on said bond; also, a certified copy of Bond of the
Wilmington
and Susque-
hanna R. R.
Co. &c., &c.,
to be record-
ed in the of-
fice for record-
ing of deeds
in Kent Co.

LAWS OF THE STATE

Record to be
evidence.

the proceedings at a special meeting of the stockholders of the Wilmington and Susquehanna Rail Road Company, convened pursuant to legal notice, at the office of said company, in Wilmington, on Monday the twenty-fourth day of April, A. D. eighteen hundred and thirty seven, also the agreement and writing obligatory of the said company, and of the said David C. Wilson, William Chandler, Allan Thompson and Joseph C. Gilpin, bearing date the thirteenth day of November, in the year of our Lord one thousand eight hundred and thirty-seven, and the certificate of the commissioners aforesaid, entered thereon, shall be duly recorded in the office for the recording of deeds in and for Kent county in this State, and the record of said bond, certificates, proceedings, agreements, or writing obligatory, and of each of them, shall be good and legal evidence in all courts of law or equity within this State.

Passed at Dover, January 28, 1839.

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CHAPTER CLXV.

AN ACT for the relief of Isaac Walker of Appoquinimink hundred, in the county of New Castle.

Private act.

Passed at Dover, January 28, 1839.

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CHAPTER CLXVI.

AN ACT for the relief of John Hutchins, Thomas M. Hutchins and Lydia his wife, Fanny H. Hutchins, Lydia Ann Hutchins and Louisa O. Hutchins of Kent county.

Private act.

Passed at Dover, January 29, 1839.

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CHAPTER CLXVII.

AN ACT for the relief of the owners and possessors of the marsh, and low grounds on and near the main branch of the head waters of Nanticoke river and its branches.

Preamble.

WHEREAS, it is represented to this General Assembly, by the owners and possessors of the marsh and low grounds, situate, principally in Mispillion hundred in Kent county, and in North West Fork hundred and Nanticoke hundred in Sussex county, on and near the main branch of the head waters of the Nanticoke river and its

branches, that they have gone on; to a considerable extent and at great expense, to ditch and reclaim the said marshes and low grounds, according to the existing general laws upon that subject, but find it very difficult and expensive to proceed under and according to said general laws, and that they believe it would be very beneficial to the said owners and possessors, were a special law for their relief to be enacted. Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the owners and possessors of all the marsh and low grounds lying and being on the main branch of Nanticoke river and its branches, being partly in the hundred of Mispillion in Kent county, and partly in the hundreds of North West Fork and Nanticoke in Sussex county, which shall hereafter be included in the certificate and appraisement or valuation, to be made out by the commissioners hereafter to be appointed by the provisions of this act, shall compose a company to be called the Kent and Sussex Marsh Company, and by that name to sue and be sued, plead and be impleaded.

Company established.
Name.

SECTION 2 *And be it enacted by the authority aforesaid,* That the said Kent and Sussex Marsh Company shall hold a meeting on the second Tuesday of April in the present year, and on the second Tuesday of April in every year hereafter, at the house now occupied by Philip C. Jones as a public house in St. John's Town, or at such other place as may be determined by a resolution of the company, adopted at a previous meeting, and such annual meeting may be adjourned from time to time as occasions may require.

Meetings, when and where.

SECTION 3. *And be it enacted,* That the said company shall, at the first meeting thereof, or at some other meeting to be holden on some day prior to the first day of June next, choose by ballot, three substantial disinterested freeholders of Kent and Sussex counties, as commissioners, to make a valuation of the said marshes and low grounds, and the said commissioners are hereby authorized and empowered to go upon and view the said marshes and low grounds, and ascertain all the owners, and determine who are, or will be benefited by any ditch or ditches already cut or cleared out, or which ought to be cut or cleared out, and the quantity held by each owner, and by joint owners, if any be held undivided, and the said commissioners shall appraise all the said marshes and low grounds which in their opinion are, or will be benefited or improved by any such ditch or ditches, and shall determine the value of the said marshes and low grounds per acre, as near as may be according to the situation thereof, and upon such principles as will do equal justice to all the owners thereof; but in determining the quantity or number of acres of the said marsh or low ground held by any owner or owners as aforesaid, it shall not be necessary for any actual survey to be made, but the said commissioners may estimate the same according to the reputed quantity or number of acres, and the best information they may be able to procure; and the said commissioners when they shall have completed such valuation and appraisement as aforesaid, shall cause to be put up in at

Commissioners to be chosen.
Their duties.
To view marshes, &c.
Appraisement.

Notice of
completion of
appraisement
to be publish-
ed.

Appeal.

Certificates.

To be deliv-
ered, where.

Taxes how
assessed.

least four of the most public places in the neighborhood of the said marshes and low grounds, written or printed notice of such their completion of such valuation and appraisement of said marshes and low grounds, and specifying and appointing a day, not less than fifteen, nor more than thirty days after the day of advertising, for a general meeting of the said company at the house so occupied as aforesaid by Philip C. Jones, or at some other place in the neighborhood, and in said advertisements to be named, at which said meeting, said commissioners shall constitute a board of appeal, and shall hear and determine all and every the objections, grievances and complaints of all and every person or persons who may consider him, or herself, or themselves aggrieved by such appraisement or valuation as aforesaid, and the said commissioners so sitting as a board of appeal as aforesaid, shall have power to make such alteration in such valuation and appraisement, as upon a full hearing and consideration of all circumstances, they may deem just and equitable, and the said commissioners, after having as such board of appeals, settled and adjusted such valuation and appraisement, of the said marshes and low grounds as aforesaid, shall make out under their hands, a certificate containing the names of the respective owners of the said marshes and low grounds, the quantity held by each owner, and by joint owners (if any be held undivided) and the appraisement of the said several quantities held by each owner, or by joint owners respectively, according as the same shall have been settled and adjusted by the said commissioners, so sitting as a board of appeals as aforesaid, and the said commissioners shall deliver, or cause to be delivered such their certificate, into the recorder's office in and for Sussex county, to be there recorded by the recorder of deeds for said county, which said certificate shall be conclusive upon all parties; and a copy of the record thereof, certified by the said recorder under his hand and seal of office, shall be good and sufficient evidence in all courts of justice, and before all justices of the peace in this State; and the said appraisement and valuation of the said marshes and low grounds so as aforesaid to be made, shall be the rates of assessments for all taxes levied under this act, for and during the term of ten years next after the second Tuesday in April next, and until commissioners shall again be chosen by the said company, in the same manner, and shall in the same manner as prescribed in this section, complete and certify into the recorder's office as aforesaid, another valuation and appraisement of the said marshes and low ground, to be recorded as aforesaid, which said other appraisement and valuation of the said marshes and low grounds being so completed, returned and recorded as herein directed for the first, shall be thenceforth the rate of assessment for all taxes levied under this act, and it shall be binding and conclusive upon all parties; and the copy of the record thereof, certified by the said recorder under his hand and seal of office, shall be good and sufficient evidence in all courts of justice, and before all justices of the peace in this State, for and during the term of ten years next after the second Tuesday in April of the year in which it shall be completed, and until another valuation and appraisement, shall in like manner be made, and so, *toties quoties*, for every period of ten years, reckon-

ing from the second Tuesday in April of the year in which any valuation and appraisement of the said marshes and low ground shall have been made, so that a new valuation and appraisement as aforesaid, may be had by the said company, every ten years. And in any such other or new valuation and appraisement, the commissioners shall not be confined to the same marshes or low ground only, which shall have been included in any previous valuation and appraisement, but may include any other marshes and low grounds which they may be of opinion are, or will be benefited or improved by any ditch or ditches, which shall have been, or may be opened.

SECTION 4. *And be it enacted,* That the said company, at each Election of and every annual meeting thereof, shall choose by ballot and by a majority of votes, four Managers, one Treasurer, and one Secretary; who shall respectively continue in office, until the second Tuesday in the month of April, next ensuing their election, and until successors shall respectively be chosen. officers.
Their continuance in office.

SECTION 5. *And be it enacted,* That the said company shall have power, at any and every annual meeting thereof, to ascertain and determine the sum or sums of money which may be necessary to raise for the purposes of the said company, and to assign to the managers respectively, such part or parts of any ditch or ditches, for care and superintendence, as may be deemed expedient and proper, and to determine upon, and give directions, concerning all matters touching the interest of said company, and which may be deemed requisite for effectually draining and reclaiming the said marshes and low grounds, either by cleaning out and scouring such ditch or ditches, as has or have already been laid out, and cut, or cleared out, or by altering or extending the same, or by cutting or clearing out new ones or otherwise. Powers of company.

SECTION 6. *And be it enacted,* That it shall be the duty of the managers for the time being, or a majority of them, as soon as conveniently may be, after the said company shall have ascertained and determined at any annual meeting, any sum or sums of money to be raised for the purposes of the said company, to lay and assess upon the value of the said marshes and low grounds, such sum or sums of money so ascertained and determined to be raised: that is to say, the said company having determined in manner aforesaid upon the sum or sums of money to be raised at any particular time, the said managers for the time being, or a majority of them, shall apportion and assess the same among the several owners of the said marsh and low ground according to the quantity held by each, and according to the valuation and appraisement so as aforesaid made by the commissioners; and returned and recorded, and shall appoint the time for the payment of the same; and the said managers, or a majority of them, shall from time to time make out duplicate lists, under their hands, of all the assessment and taxes so by them to be made and laid as aforesaid, which list shall also contain an account of all the changes of ownerships, and transfers of any of the said marshes or low grounds, and one of the said lists shall be delivered to the treasurer for the time being, and the other shall be retained Assessing of taxes.
Duplicate tax lists.

To be final.	by the said managers, and such assessment and list shall be final and conclusive upon all parties. And furthermore, it shall be the
Duty of managers.	duty of the managers, and they are hereby empowered and required to carry into full effect all the directions of said company, which may or shall be given as aforesaid; for which purpose the said managers shall have power to employ workmen, and contract for such
To employ workmen &c.	materials as may be necessary for completing the work assigned to them, at the common expense of the company, and each manager shall have power to employ workmen at the common expense of the company, for the purpose of accomplishing the directions of the said company in relation to any such ditch or ditches, as may or shall have been assigned to him in particular, and for all hire, wages or expenses in and about said work, the said managers or a majority of them shall draw orders on the treasurer for the time being. <i>Provided however,</i> That orders for the payment of hire, wages and expenses in and about any work, or matter, the superintendence of which shall have been assigned to any one or more of the said managers by the company as aforesaid, shall be drawn by such manager or managers alone; every order shall specify the service, wages or expense for which it shall be drawn, and an exact account shall be kept by the managers of all the orders drawn by them, or a majority of them, and by each manager, of all orders drawn by him, and such accounts shall also specify the service, wages or expense, for which each order shall have been drawn, and said accounts shall be laid before the annual or other meetings of said company, as said company may direct.
Expenses, how paid.	
Account of, kept.	

SECTION 7. *And be it enacted,* That it shall be the duty of each manager, to superintend and have care of such ditch or ditches, or parts of ditches, as shall be by the said company assigned to him, and to keep the same well scoured and cleared from obstructions.

SECTION 8. *And be it enacted,* That if any person or persons shall wilfully fill up, or in any manner obstruct the ditch as aforesaid, or any of them, every such person shall pay to the said company, treble the amount of the damage so done, to be recovered before any justice of the peace in the State of Delaware, if not exceeding in the whole fifty dollars, as debts above forty shillings and not exceeding fifty dollars, are recoverable, and if exceeding that sum, in the Superior Court in either county of the aforesaid State, together with costs.

SECTION 9. *And be it enacted,* That occasional meetings of the said company may be called 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, and in said notice to state all the business which will be laid before the meeting, by advertisements set up at four at least of the most public places in the neighborhood of the said marshes and low grounds.

SECTION 10. *And be it enacted,* That if either or any of the com-

missioners appointed or elected, as directed in the third section of this act, to value and appraise the marshes and low grounds aforesaid, shall die, resign, refuse or neglect to act, before all the duties required of said commissioner, shall have been completed, or if the managers, treasurer, or secretary as aforesaid, shall not all or any of them be chosen at any annual meeting, and if any manager, treasurer or secretary as aforesaid, shall die, resign, refuse or neglect to act, before all the duties of said managers, treasurer and secretary have been completed, then and in that case, the said company may at any annual, adjourned, or occasional meeting, choose a commissioner or commissioners, manager or managers, treasurer and secretary to fill such vacancy, or such vacancies, and so from time to time as circumstances may require: *And further*, The said company shall have power to do all such acts, at any adjourned or occasional meeting, as may or might be done at an annual meeting, but no sum of money shall be ascertained or determined to be raised at any occasional meeting.

Vacancies.

SECTION 11. *And be it enacted*, That the treasurer and every treasurer shall before he enters upon the duties of his office, give bond with sureties or surety to be approved by the managers at the time being, or a majority of them, to and in the name of the company aforesaid, in the penalty of double the amount of the duplicate list, delivered by the managers or a majority of them, to said treasurer, upon condition to be void, if he shall pay all orders drawn upon him by the managers for the time being, or a majority of them, or by one or more manager or managers, who is or are by this act authorized to draw orders upon the treasurer, as far as the said treasurer shall have funds for that purpose, and shall well and truly account for all monies that may come to his hands as such treasurer, at every annual meeting of the company, or otherwise as the company may direct, and shall pay any balance or sum, which shall be due from him on such account, to his successor in office, or otherwise as the company shall direct, and shall perform all the duties of his office with fidelity.

Treasurer to give bond.

Condition of

SECTION 12. *And be it enacted*, That the treasurer, and every treasurer to be chosen as aforesaid, shall have full power and authority to demand and receive, levy and make all and every the taxes which shall be laid 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, which certificate or lists shall be his sufficient warrant for that purpose, and in case any tax or taxes so laid and assessed, or any part thereof, shall remain unpaid for the space of ten days after the time appointed for the payment thereof, the treasurer aforesaid 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 and proceedings, as are provided by the act of the General Assembly of this State, entitled "An act concerning the Levy Court, Clerk of the Peace, Assessors, Collectors, and County Treasurer, for levying and recovering the rates and taxes in said act mentioned," and any treasurer having received a certificate or list of taxes to be levied and

Treasurer empowered to collect taxes.

made, shall have full power and authority, and it is hereby made his duty, to levy and collect the same, notwithstanding his term of office as such treasurer shall have expired, or another treasurer shall have been elected, so that each treasurer shall have authority, and be bound to levy and collect the several rates and taxes set forth upon the certificate or certificates, list or lists, which may or shall have been delivered to him, and the bond or bonds entered into as above, by any and every such treasurer and his surety or sureties, shall extend as well to such rates and taxes as shall remain uncollected at and after the expiration of the term of office of any such treasurer, or to those which shall have been collected during such term.

SECTION 13. *And be it enacted,* That the managers aforesaid, or a majority of them, having appointed the time for the payment of the several rates and taxes so assessed and apportioned among the several owners of the said marshes and low grounds, as directed in the sixth section of this act, it shall be the duty of the several and respective taxables 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 said managers, or a majority of them, and in case of a failure or neglect on the part of any of the said taxables, to pay his, her or their tax, by the time appointed for such payment as aforesaid, the taxable or taxables, or person or persons so failing or neglecting, shall forfeit and pay at the rate of fifteen per centum per annum upon their respective taxes, so remaining unpaid, or any part thereof remaining unpaid, computing from the time fixed as aforesaid, for the payment of the same.

SECTION 14. *And be it enacted,* That all resolutions, questions, and matters, shall be determined by a majority of votes, and at all meetings, every owner of any of said marshes, or low grounds, and every guardian of an infant owner, and every regular constituted agent of any owner or owners may vote if present, or if absent, may vote by proxy regularly constituted by a note in writing, signed by such absent owner or guardian.

SECTION 15. *And be it enacted,* That the said company shall have power, at any annual or adjourned meeting thereof, but not at an occasional meeting, to make and adopt all such by-laws, not repugnant to the constitution and laws of this State, or to this act, as shall be deemed expedient and necessary for effectually carrying into operation the provisions of this act, and of obtaining the objects of the said company, in ditching, draining and improving the said marshes and low grounds.

SECTION 16. *And be it enacted,* That it shall be the duty of the secretary for the time being, to enter in a book to be provided by the company for that purpose, a correct copy of this act, and of every certificate of valuation and appraisement of the said marshes and low grounds which shall be made out by any commissioners,

and recorded as directed in the third section in this act, the name of each and every manager, treasurer and secretary, who shall be chosen, and the time when chosen, and if to fill a vacancy, what vacancy,—the sum or sums of money ascertained or determined at any meeting to be raised, the apportionment and assessment thereof by the managers among the several owners of the said marshes and low grounds, and the time appointed for the payment of the same,—and shall also make an entry of each and every assignment of ditches or parts of ditches, by the said company to any particular manager or managers, and of every by-law which shall be made and adopted by the said company, and the time when adopted, and of all allowances of pay made by said company to any officer or officers of the company, or other person, whenever the same shall be other than, or different from those specified in this act,—and all such directions as shall be given by said company to the managers aforesaid, or any of them—and generally to enter in said book all such proceedings of the said company and its officers, and all such matters as shall be necessary for ascertaining the state and circumstances of the affairs of the said company; which said book, and the entries so made or caused to be made by the said secretary as aforesaid, shall be good and sufficient evidence in all courts of justice, and before all justices of the peace in this State. His book to be evidence.

SECTION 17. *And be it enacted*, That in all cases, each and every commissioner elected or appointed to value and appraise the said marshes and low grounds, each and every manager, and each and every secretary appointed as aforesaid, shall before he enters upon the duties required of him in this act, be sworn or affirmed by some judge or justice of the peace in this State, to perform the several duties appertaining to their respective offices, faithfully and impartially, according to the best of his skill and judgment. Officers to be sworn or affirmed.

SECTION 18. *And be it enacted*, That every commissioner and manager shall, for every day's service in and about the business of the said company under this act, be entitled to receive of and from the said company the sum of one dollar; and every treasurer shall be allowed a commission of five percentum on all monies by him collected, but the company may in their discretion, under circumstances, allow him more: the secretary shall receive such compensation, as the company may determine by by-law or otherwise. Their compensation.

Passed at Dover, January 29, 1830.

CHAPTER CLXVIII.

A SUPPLEMENT to the act entitled "*An act to enable Elizabeth Caroline Whaley, a minor, to sell and convey a certain tract of land therein mentioned.*"

Private act.

Passed at Dover, January 30, 1830.

Chap.
LXXVII.
Ante. p. 81.

made, shall have full power and authority, and it is hereby made his duty, to levy and collect the same, notwithstanding his term of office as such treasurer shall have expired, or another treasurer shall have been elected, so that each treasurer shall have authority, and be bound to levy and collect the several rates and taxes set forth upon the certificate or certificates, list or lists, which may or shall have been delivered to him, and the bond or bonds entered into as above, by any and every such treasurer and his surety or sureties, shall extend as well to such rates and taxes as shall remain uncollected at and after the expiration of the term of office of any such treasurer, or to those which shall have been collected during such term.

SECTION 13. *And be it enacted,* That the managers aforesaid, or a majority of them, having appointed the time for the payment of the several rates and taxes so assessed and apportioned among the several owners of the said marshes and low grounds, as directed in the sixth section of this act, it shall be the duty of the several and respective taxables 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 said managers, or a majority of them, and in case of a failure or neglect on the part of any of the said taxables, to pay his, her or their tax, by the time appointed for such payment as aforesaid, the taxable or taxables, or person or persons so failing or neglecting, shall forfeit and pay at the rate of fifteen per centum per annum upon their respective taxes, so remaining unpaid, or any part thereof remaining unpaid, computing from the time fixed as aforesaid, for the payment of the same.

Forfeiture for failing to pay.

SECTION 14. *And be it enacted,* That all resolutions, questions, and matters, shall be determined by a majority of votes, and at all meetings, every owner of any of said marshes, or low grounds, and every guardian of an infant owner, and every regular constituted agent of any owner or owners may vote if present, or if absent, may vote by proxy regularly constituted by a note in writing, signed by such absent owner or guardian.

Voting.

SECTION 15. *And be it enacted,* That the said company shall have power, at any annual or adjourned meeting thereof, but not at an occasional meeting, to make and adopt all such by-laws, not repugnant to the constitution and laws of this State, or to this act, as shall be deemed expedient and necessary for effectually carrying into operation the provisions of this act, and of obtaining the objects of the said company, in ditching, draining and improving the said marshes and low grounds.

By-laws.

SECTION 16. *And be it enacted,* That it shall be the duty of the secretary for the time being, to enter in a book to be provided by the company for that purpose, a correct copy of this act, and of every certificate of valuation and appraisalment of the said marshes and low grounds which shall be made out by any commissioners,

Secretary's duty.

and recorded as directed in the third section in this act, the name of each and every manager, treasurer and secretary, who shall be chosen, and the time when chosen, and if to fill a vacancy, what vacancy,—the sum or sums of money ascertained or determined at any meeting to be raised, the apportionment and assessment thereof by the managers among the several owners of the said marshes and low grounds, and the time appointed for the payment of the same,—and shall also make an entry of each and every assignment of ditches or parts of ditches, by the said company to any particular manager or managers, and of every by-law which shall be made and adopted by the said company, and the time when adopted, and of all allowances of pay made by said company to any officer or officers of the company, or other person, whenever the same shall be other than, or different from those specified in this act,—and all such directions as shall be given by said company to the managers aforesaid, or any of them—and generally to enter in said book all such proceedings of the said company and its officers, and all such matters as shall be necessary for ascertaining the state and circumstances of the affairs of the said company; which said book, and the entries so made or caused to be made by the said secretary as aforesaid, shall be good and sufficient evidence in all courts of justice, and before all justices of the peace in this State.

His book to be evidence.

SECTION 17. *And be it enacted*, That in all cases each and every commissioner elected or appointed to value and appraise the said marshes and low grounds, each and every manager, and each and every secretary appointed as aforesaid, shall before he enters upon the duties required of him in this act, be sworn or affirmed by some judge or justice of the peace in this State, to perform the several duties appertaining to their respective offices, faithfully and impartially, according to the best of his skill and judgment.

Officers to be sworn or affirmed.

SECTION 18. *And be it enacted*, That every commissioner and manager shall, for every day's service in and about the business of the said company under this act, be entitled to receive of and from the said company the sum of one dollar; and every treasurer shall be allowed a commission of five percentum on all monies by him collected, but the company may in their discretion, under circumstances, allow him more: the secretary shall receive such compensation, as the company may determine by by-law or otherwise.

Their compensation.

Passed at Dover, January 29, 1830.



CHAPTER CLXVIII.

A SUPPLEMENT to the act entitled "*An act to enable Elizabeth Caroline Whately, a minor, to sell and convey a certain tract of land therein mentioned.*"

Private act.

Chap.
LXXVII.
Ante. p. 81.

Passed at Dover, January 30, 1830.

CHAPTER CLXIX.

AN ACT to incorporate the Union Silk Company of New Castle county.

Commission-
ers to receive
subscriptions.

Payment on
subscribing.

Meeting of
subscribers,
after sub-
scription of
200 shares.

Election of
directors, &c.

Incorpora-
tion.

Name.

Banking
powers pro-
hibited.

Continuance
Power of re-
vocation re-
served.

Fundamental
articles.

Directors.

SECTION 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 to form a company with a capital of twenty-five thousand dollars in twelve hundred and fifty shares, each of twenty dollars, to promote the culture of silk, Daniel Corbit, David W. Thomas and Charles Tatman, of Cantwell's Bridge, and James S. Naudain, Joshua E. Driver and Joshua Clayton, Esq., of Middletown, be commissioners to receive subscriptions in their respective villages of said shares. Any one or more of said commissioners shall have power to receive subscriptions; subscriptions may be received on such day as the said commissioners may appoint, by giving at least five days public notice of the same; provided it be before the next biennial session of the Legislature of this State; and if all the shares be not taken at any time afterwards at any place. Two dollars shall be paid on each share at the time of subscribing. As soon as two hundred shares are subscribed, the aforesaid commissioners or a majority of them, shall have power to call a meeting of the subscribers, to be held at a day and hour to be appointed in the call, at Cantwell's Bridge, giving at least ten days notice of the meeting, by public advertisements in two papers printed in Wilmington. The subscribers assembled in this meeting may proceed to elect the directors hereinafter mentioned, and to do any business proper for the company. They may adjourn the meeting to hold the election on another day.

SECTION 2. *And be it further enacted by the authority aforesaid,* That as soon as directors shall be elected according to the preceding section, the shareholders of the capital stock aforesaid, shall be incorporated by the name of the "Union Silk Company of New Castle county," and shall enjoy all the franchises incident to a corporation. *Provided,* That the said corporation shall not exercise any banking powers, and that this act shall continue in force twenty years and no longer, without re-enactment of the Legislature; and that power is reserved to revoke this act by the Legislature.

The following shall be the fundamental articles of this corporation:—

First.—The business and concerns of the corporation, shall be managed by seven directors chosen by the shareholders voting by ballot and having one vote for every share. The first election shall be held as aforesaid; and the subsequent elections shall be held at an annual meeting of the shareholders, the time and place of which shall be appointed by the by-laws. The directors shall continue in office until the annual meeting next succeeding their election, and until successors are chosen. A vacancy happening in the interim between the elections, shall be filled by the remaining directors. A director must be a shareholder, and his office shall cease on his

* ceasing to be a shareholder. Any five directors shall form a board competent to transact business.

Second.—The directors shall choose one of their number to be president; in his absence an appointment may be made *pro tem*. They shall choose their secretary and treasurer, and appoint such officers and agents as they shall deem necessary. They shall have power to make by-laws. They may require any officer or agent to give security for the faithful performance of his duties and his good behavior. They shall hold meetings according to the by-laws. They shall have the superintendence, ordering and control of all the affairs and concerns of the corporation. They may purchase or rent lands and tenements, direct the culture and carry in to effect the object of the company, according to their judgment.

President.

Secretary
and treasurerPowers of
directors.

Third.—No director shall be entitled to any emolument, unless allowed by the stockholders at a regular meeting.

Fourth.—The shares of the capital stock shall be personal property, and shall be assignable according to the by-laws.

Shares, personal
property.

Fifth.—The directors shall at the annual meeting, and previous to going into an election, lay before the stockholders a general account of the stock, funds, debts, credits and profit and loss of the corporation; and they shall make annual dividends of the clear profits, or such part as may be deemed advisable.

Accounts to
be laid before
stockholders.

Dividends.

SECTION 3. *And be it further enacted,* That the board of directors shall have authority to call in the balance remaining due on every share, in instalments of two dollars on each share, giving thirty days' notice of every call, until the full amount of each share shall be paid in. If any shareholder shall neglect to pay according to such call, the share may, in thirty days after the expiration of the call, be declared forfeited. If the sum called, be not paid on the day, interest shall be chargeable from that day. Every subscriber shall be liable by virtue of his subscription, to pay the full amount of every call that shall be made as aforesaid, upon every share by him subscribed, and the corporation shall have an action therefor.

Payment of
balance of
subscription
money.

SECTION 4. The board of directors shall have power to dispose of all the shares that shall not have been subscribed for, when the shareholders shall become incorporated as aforesaid, and of all the shares that shall be forfeited. For this purpose, they may receive subscriptions of shares, or take any other measure for disposing of said shares, which they shall deem expedient. Any member of the board shall have power to receive such subscriptions. The board may direct the manner in which the amount of the shares so to be subscribed or disposed of, shall be paid, and the subscribers or persons taking the shares, shall be bound by such directions.

Disposition
of shares not
subscribed
and forfeited.

SECTION 5. *And be it further enacted,* That this act shall be a public act.

Public act.

Passed at Dover, January 30, 1839.

LAWS OF THE STATE

CHAPTER CLXX.

AN ACT to divorce *Ann Cabbage* from her husband *George Cabbage*.

Private act.

Passed at Dover, January 31, 1839.



CHAPTER CLXXI.

Chap. XVII. 8 vol. p. 19. AN ADDITIONAL SUPPLEMENT to the act entitled "*An act to extend the time for recording of deeds.*"

SECTION 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 on or before the first day of January one thousand eight hundred and thirty-nine, 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 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 situated, if lodged in such office, on or before the first day of January, in the year of our Lord one thousand eight hundred and forty-one, and the said record or a copy thereof, shall be sufficient evidence; and from and after the first day of January, in the year last aforesaid, no deed or letter of attorney, sealed and delivered before the said first day of January, in the year of our Lord one thousand eight hundred and thirty-nine, shall be recorded.

This act to be published.

SECTION 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 newspapers printed in this State.

Passed at Dover, January 31, 1839.



CHAPTER CLXXII.

AN ACT to incorporate the *Smyrna, Leipsic and Philadelphia Steamboat Company.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, and it is hereby enacted by the authority of the same, (two thirds of each branch concurring,) That William Denny, Samuel Griffin, George W. Cummins, Simon Spearman, Ayres Stockley, Ebenezer Cloak, Robert*

Palmatory and all such persons as now are or shall become stock-holders in a company now forming, for the building or procuring a steamboat to run from Smyrna or Leipsic to the city of Philadelphia, touching at Delaware city and other points on the river Delaware, and their successors and assigns be, and they are hereby made and declared to be a corporation and body politic, by the name, title and designation of "The Smyrna, Leipsic and Philadelphia Steamboat Company," and by that name may have succession, may make and have a common seal, and shall be able to sue and be sued, implead and be impleaded in all courts of record and elsewhere, and shall have full right, power and legal authority, to purchase, build, hold, occupy and convey any steamboats, lands, tenements and hereditaments, and real and personal estate whatsoever, which shall be necessary to carry into effect the objects of the said corporation.

Company incorporated.

Name.

Powers.

SECTION 2. *And be it enacted by the authority aforesaid,* That the capital stock of the said corporation shall not exceed the sum of fifty thousand dollars, which shall be divided into shares of twenty five dollars each, and shall be employed and vested in the purchase or the building of one or more steamboats, with steam engines, boilers and machinery, and all their rigging, furniture, tackle and apparatus, and in the repairs necessary thereto from time to time, and in the purchase of real estate, and the construction thereon of suitable store houses and other buildings, for the safe-keeping and preservation of goods, wares and merchandize, transported or owned by said corporation, and in the construction of wharves, docks, and landing places for the boat or boats of said corporation, and for such other purposes as may be necessary and convenient for steamboat navigation, and for the purpose of purchasing stages, wagons, horses, &c. for the conveyance of passengers and merchandize by land, and that the said capital stock, shall be deemed personal estate, and shall be assignable and transferable upon the books of said corporation, agreeably to the by-laws for that purpose to be made and adopted.

Capital stock.

For what purpose employed.

To be personal estate.

SECTION 3. *And be it enacted,* That the board of directors, hereinafter named in the fifth section of this act, shall have power and authority to open books of subscription to said stock, at such time or times and place or places as they, or a majority of them, shall think proper, giving at least thirty days' notice of the time and place of their meeting, to receive subscriptions to said stock. Five dollars on each share subscribed, shall be paid to the said directors in gold or silver coin, or in current bank notes; and whenever five thousand dollars shall be paid in, or expended on said boat, the said company shall be considered fully organized, and may proceed to elect their officers, and the board of directors shall and may call in the residue of said stock at such times as they shall deem expedient, giving thirty days' notice before the same shall be payable, in at least one newspaper published in the city of Wilmington, and one published in the city of Philadelphia, but not more than ten dollars on each share, shall be called for at any one time; and the said corporation shall have power to make, ordain and establish such by-laws, rules and regulations for the said company, as to them shall

Directors to receive subscriptions.

Payment on subscribing.

Company organized when, &c.

By-laws.

seem expedient, and not inconsistent with the laws of this State, or of the United States.

Directors chosen. **Vacancy.** **First election of directors held, where and when.**

SECTION 4. *And be it enacted,* That the affairs, property and concerns of the said corporation shall be conducted by seven directors, to be chosen annually by ballot, by the stockholders, either in person or by proxy, and in the choice of directors, each share shall be entitled to one vote; should a vacancy at any time occur in the board of directors, the place may be supplied by an appointment by the remaining directors until the next annual election; the first election for directors, under this act, shall be held at Smyrna, on the first Saturday in May next after the passage of this act, twenty days' notice being first given thereof, in one newspaper in Wilmington and one in Philadelphia. The stockholders when met, shall choose two disinterested persons as judges of election, and all future elections of directors for said corporation, shall be held annually at such time and place as the by-laws shall direct.

Directors appointed by this act. **Their powers.**

SECTION 5. *And be it enacted,* That William Denny, Samuel Griffin, George W. Cummins, Ayres Stockley, Ebenezer Cloak, Simon Spearman, Robert Palmatory shall be, and they are hereby declared to be the directors of the said corporation from the passage of this act, until the election is held, as is provided for in the foregoing section; that the board of directors for the time being shall have power to elect a president who shall be a director, a treasurer and all such other officers and agents, and to employ such workmen, artificers and laborers, as shall be necessary to carry into effect and execute all the powers by this act granted to the said corporation, and to allow such compensation, as shall be agreed upon, and if they judge it necessary, to exact and take from their officers and agents, bonds for the proper execution of their several duties and trusts, and for the faithful performance of their several contracts.

President. **Directors to regulate prices of transportation, &c.** **Dividends.**

SECTION 6. *And be it enacted,* That the president shall preside at all meetings of the said corporation, and if absent, his place may be supplied, for the time he is absent, by the appointment of any one of the directors. That the directors shall have power and authority by their by-laws, to fix, determine and regulate the prices of transportation of passengers, goods, wares and merchandize, wagons, carriages, horses, cattle, stock of every description, or other articles that shall be transported in the boat or boats of said corporation; and that the board of directors shall from time to time declare dividends of so much of the profits of said corporation, as they may deem advisable, and pay the same over to the persons entitled thereto, but no part of the capital stock shall be divided during the continuance of this charter.

Neglect to pay instalments.

SECTION 7. *And be it enacted,* That if any subscriber or subscribers to the capital stock of this company, shall neglect or refuse to pay any instalment or instalments on the number of shares which he or they may have subscribed, or be the holders of, for the space of thirty days, after the time the same may have been called for and appointed for

the payment thereof, by an advertisement, published by order of the directors, in one newspaper, published in Wilmington, and one newspaper published in Philadelphia, for the space of thirty days previous thereto, that in such case the president and directors may either declare such share or shares forfeited, and they shall have full power and authority to sell and dispose of the same for the use, benefit and advantage of the said company, or they may in the name of the said corporation, sue for and recover the sum or sums so remaining unpaid with costs and interest thereon, and that such delinquents shall not, during the time that any of the instalments aforesaid shall be due and remain unpaid, be entitled to vote at any meeting of the stockholders, or to receive any dividends on the stock standing in their name.

SECTION 8. *And be it enacted*, That if an election of directors shall not be made during the day when, pursuant to this act, it ought to be made, the said corporation shall not for that cause be deemed to be dissolved, but such election may be held at any time thereafter, upon notice as aforesaid, and the directors for the time being shall continue in all cases to hold their offices, until new ones shall have been chosen in their stead, and in all elections for directors, the stockholders may vote either in person or by proxy.

A failure to elect directors on the proper day not to effect a dissolution of the corporation.

SECTION 9. *And be it enacted*, That the said corporation shall not use or employ any part of the capital stock, or other funds, for banking or other purposes not clearly indicated in this act, under the penalty of an immediate forfeiture of their charter.

Banking powers prohibited.

SECTION 10. *And be it enacted*, That this act shall continue in force and operation twenty years and no longer without re-enactment, and it shall be lawful for the legislature at any time hereafter to alter, amend, modify or repeal the same.

Continuance of this act. May be altered or repealed.

Passed at Dover, January 31, 1839.



CHAPTER CLXXIII.

AN ACT to incorporate the Delaware Iron Company.

SECTION 1. *Be it and it is hereby enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two thirds of each branch therein concurring,)* That Asa Haines, Lewis Howell, and such others as may be hereafter associated with them for the purpose of carrying on the manufacture of iron, directly from the iron ore, and for opening and working their mines of iron at the estate of the said Asa Haines on Iron hill, in Pencader hundred, in New Castle county, or such other place, on or near said Iron hill, as they may obtain for that purpose, shall be and hereby are ordained and declared to be a body politic and corporate, by the name of "the Delaware Iron Company," and by that name they, and their successors and assigns, shall and may have succession, and be ca-

Incorporation. Name.

Powers.

pable 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 this State, or of the United States, and to enjoy the franchises incident to a corporation.

Capital stock.

SECTION 2. *And be it enacted,* That the capital stock of said company shall consist of one thousand shares of one hundred dollars each, of which the lands and mines of the said Asa Haines, in New Castle county, shall constitute a part, at such price as may be agreed upon between him, the said Asa Haines of the one part, and those who may associate with him and constitute the aforesaid corporation, by subscriptions for stock, payable in money of the other part; and which price and agreement shall be signified, by the subscription, in the first place by the said Asa Haines to the stock of the said company, of the said lands at the price so agreed, and by the conveyance of the same to the said corporation; and by the subscription thereafter, payable in money, of such other persons, as may associate with him and constitute the said corporation, to an amount sufficient to make up and complete the entire subscription of one thousand shares, of one hundred dollars each.

Commissioners to receive subscriptions.

SECTION 3. *And be it enacted,* That the subscriptions to the capital stock of said company, shall be received under the direction of Asa Haines, John W. Evans, and Abram Egbert, or a majority of them, at such times and places as they, the said commissioners, may designate, giving at least ten days' notice, in one or more papers, printed in the town or cities of Dover and Wilmington, in this State, and elsewhere if they deem it necessary, and each subscriber to stock, payable in money, shall pay at the time of subscribing to the said commissioners in attendance, such sum as they may, in their said public notice designate, on each share by him, or her, or them subscribed; and every person who shall so subscribe for, or become the owner of one or more shares of said stock, shall, in virtue of said ownership, be a member of said corporation, and shall be entitled, at all meetings of the stockholders, to one vote in person or by proxy for each share of the capital stock which shall be held by such person; and the shares of said capital stock shall be considered personal property, and shall be assignable or transferable on the books of the company, at such places, and in such manner, as may be prescribed by its by-laws; and after the organization of the company, the amount due on the subscription to its capital stock, shall be paid in instalments, at such times as the president and directors shall require, they giving at least thirty days' previous notice of the time and place appointed for said payments, in at least two newspapers printed in this State and elsewhere, if they deem proper, and in default of payment of any instalment, the president and directors may sell at public sale the shares of the stockholders so making default, or so many thereof as may be sufficient to discharge his default, and the purchaser or purchasers thereof shall

Payment on subscribing, &c.**Shares to be personal property.****Payment of amount due on subscription.****Shares of defaulting stockholders may be sold.**

hold the said stock subject to the same regulations and with the same rights as if he or they had originally subscribed for the same.

SECTION 4. *And be it enacted*, That the affairs of the said company shall be managed by a president and four directors, who shall be chosen annually by the stockholders, to serve for one year and until others shall be elected, in such manner as shall be provided by the stockholders in the by-laws of said corporation; and until the first election of president and directors shall be held, in pursuance of said by-laws, the said Asa Haines, John W. Evans and Abram Egbert, or a majority of them, shall have full power and authority to exercise all the corporate powers of the said company, and shall, upon said election, pay over to the president any monies received by them, as commissioners, first deducting their necessary expenses and a reasonable compensation for their services, and hand over all papers belonging to the corporation, and connected with the execution of their trust. And the said president and directors and their successors, or a majority of them, shall have full power and authority to appoint, employ and compensate, and, at their pleasure, to remove such officers, agents or servants, as they may deem necessary in the business of the company, also to purchase and hold such real and personal estate, materials, vessels, carriages, machinery, implements, privileges and franchises, and to cause all such machinery, building, or other improvements to be made as may be necessary to carry into effect the objects of said company, and the same or any part thereof, to sell, lease, or otherwise dispose of, at their discretion; also, to prescribe the mode of issuing and transferring stock in the said company, and the evidences thereof, and agreeably to do, whatsoever they may deem expedient for the interest of said company, the same being in conformity with the objects of this act, and not contrary to the laws of this State, or of the United States, and not contrary to any by-laws, adopted at any general meeting of the stockholders; and a quorum, for the transaction of business, shall consist of the president and any two of the directors, and in the absence of the president, of three directors, one of whom shall be chosen president *pro tem*. And in case of any vacancy occurring in the president or directors of the company, the remainder may fill said vacancy, by appointing some stockholder to serve until the next election thereafter, by the stockholders.

President & directors.

Their powers.

Quorum.

Vacancy.

SECTION 5. *And be it enacted*, That a general meeting of the stockholders shall be held at least once in each year after the organization of the company, the first meeting to be called by the president and directors, after at least thirty days' notice in one or more papers published in this State, and the subsequent meetings shall be held at such times and places as the said stockholders shall at each preceding meeting determine, and, at said meetings, the president and directors aforesaid, shall make report of the whole condition and business of the company, and special meetings may be called of the stockholders, at any time, by the president and directors, or of stockholders who shall, together, be proprietors of not less than one-half of the whole stock of the said company, first

General meeting of stockholders.

Report.

Special meetings.

Quorum.

giving at least thirty days' notice in two papers published in this State; and at all such meetings of stockholders, a quorum for the transaction of any business, other than the election of president and directors, shall consist of the owners and representatives of the owners, of at least a major part of the capital stock of said company; and every such meeting shall have power to pass, amend, alter or repeal by-laws, or resolutions which shall be binding on the president and directors, officers, agents and servants of the company, the same not being contrary to law, and may dismiss any president, director, officer, agent or servant, and appoint others in their stead.

President & directors may borrow money.

SECTION 6. *And be it enacted*, That the president and directors are hereby authorized and empowered, should it be necessary, to borrow money on the faith of the company and the property of the said company, for its lawful purposes.

Banking powers prohibited.

SECTION 7 *And be it enacted* That this act shall not be so construed as to give to said company any banking privileges.

Continuance of corporation. Power of re-vocation reserved.

SECTION 8. *And be it enacted*, That the said corporation shall continue in force twenty years, and no longer, without re-enactment of the Legislature, and that power is hereby reserved to alter or revoke this act by the Legislature, and that if the said company shall not, within three years, have erected works at which shall have been made within the period of one year at least, one thousand tons of pig, or other iron, to be proved by the certificate, under oath or affirmation, of the principal agent of the company at the works, and filed with the clerk of the county of New Castle, who shall give his receipt therefor, upon the payment of his accustomed fees, that then and in that case, this act, and every part thereof shall cease and determine, except so far as may be necessary to enable the stockholders to dispose of their property, and wind up the affairs of the company.

This act to cease unless, &c.

Passed at Dover, February 1, 1839.



CHAPTER CLXXIV.

Ante. Chap. CVIII. p. 140

A SUPPLEMENT to the act entitled "*An act to authorize the building of a court-house and fire-proof offices at Georgetown, in Sussex county.*"

Fire proof offices for respective officers designated.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That when, and as soon as, the said brick building, mentioned in the act to which this is a supplement, shall be completed, finished and ready for use, the said fire-proof offices, in said brick building, shall, forever thereafter, be used and occupied by the respective officers named in the act aforesaid, and they are hereby required to use and

occupy the same in the following manner, to wit:—The Prothonotary of the Superior Court shall occupy the office fronting on the public square and Market street. The Recorder of Deeds shall occupy the office adjoining the Prothonotary's office, on Market street. The Clerk of the Peace shall occupy the office adjoining the Recorder's office, on Market street. The Register of Wills, &c. shall occupy the office fronting on the public square, and court-house lot. The Register in Chancery shall occupy the office adjoining the office allotted to the Register of Wills, and the Clerk of the Orphans' Court shall occupy the office adjoining the office allotted to the Register in Chancery: *Provided however*, That when the offices of Register in Chancery and Clerk of the Orphans' Court are held by the same person, then and in that case, the said Register in Chancery and Clerk of the Orphans' Court, shall occupy only one of said fire-proof offices, to be selected by the then incumbent, and the Sheriff of the said county may occupy the office not used or occupied by the said officer.

Passed at Dover, February 1, 1839.



CHAPTER CLXXV.

A SUPPLEMENT to the act entitled "*An act concerning the office of Sheriff.*" Dig. 500.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That no person who shall have served as under or deputy sheriff for one continued year, or who shall have served as under or deputy sheriff several times, amounting in the whole to one year, during the term of office of any one sheriff, shall be appointed or chosen to the office of sheriff in the county in which he shall have so served as under or deputy sheriff, within the space of two years after the termination of his service as under or deputy sheriff.

When deputy
sheriff shall
not be chosen
sheriff.

SECTION 2. *And be it further enacted*, That the first section of the act to which this is a supplement, passed at Dover, January 23, 1827, be and the same is hereby repealed, made null and void.

Rep'l Sec. 1
Dig. 500.

Passed at Dover, February 1, 1839.



CHAPTER CLXXVI.

AN ACT to enable William Butler to locate certain vacant land situate in Appoquinimink hundred in New Castle county, and to complete his title to the same.

Private Act.

Passed at Dover, February 1, 1839.

CHAPTER CLXXVII.

Dig. p. 238. A SUPPLEMENT to an act entitled "*An act for regulating fees.*"

Mileage to bailiffs attending courts. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That each bailiff, appointed by the several courts of this State, to attend thereon, shall, if residing out of the county town, be allowed the same sum for mileage, to which jurors are entitled, under the act to which this is a supplement.

Compensation to witnesses in appeals from J. P. and certiorari. SECTION 2. *And be it further enacted,* That each witness, attending upon the Superior Court, in cases of appeals from justices of the peace, and in cases of certiorari, where testimony shall be taken by order of the court, shall be allowed the same compensation, for attendance and mileage, which is provided in the act, to which this is a supplement, to witnesses, attending before the several courts and offices therein mentioned.

Per diem allowance to Cl'k. of Court of Errors and Appeals. SECTION 3. *And be it further enacted,* That the clerk of the court of Errors and Appeals, in addition to the fees to which he is by law entitled, shall be allowed the further sum of two dollars, for each day's attendance upon the said court, to be paid by the State.

Additional fees to prothonotary. SECTION 4. *And be it further enacted,* That the prothonotary of the Superior Court, in each of the counties of this State, shall be entitled to receive the following fees for the services specified, which are not now provided for;—for writs made out by the prothonotary, when exceeding forty lines, in addition to the fee now allowed, one cent per line for each line of ten words;—for taking the declaration of a garnishee, fifty cents;—for entering judgment in the judgment docket, except when entered upon bond by warrant of attorney, or by the prothonotary under the act of 1830, twenty-five cents;—for entering a surrender by bail and commitment, twenty-five cents;—for entering on the record of a suit any general or special rule, for which no fee is now provided, twenty cents;—for notice of such rule when furnished, twenty cents.

Repeal—parts of Sec. 1, Dig. 238, and Sec. 45, Dig. 355. SECTION 5. *And be it further enacted,* That so much of the first section of the act to which this is a supplement, and also of the forty-fifth section of the act entitled "*An act providing for the recovery of small debts,*" as is inconsistent with the foregoing provisions, be and the same is hereby repealed.

Passed at Dover, February 2, 1830.



CHAPTER CLXXVIII.

Chap. LXVIII, 3 vol. p. 170—Dig. 83.

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

SECTION 1. *Be it enacted by the Senate and House of Represen-*

tatives of the State of Delaware in General Assembly met, (two thirds of each branch of the legislature concurring herein,) That from and after the passing of this act, it shall be lawful for the Chesapeake and Delaware canal company, and full right and power are hereby granted to the said company, so to increase the toll on sawed lumber and squared or round timber, passing through the said canal, as in their discretion, they may deem expedient; and to levy and exact the same. *Provided however,* That said tolls on the said articles above mentioned, shall not exceed the rate of one dollar per hundred cubic feet of such articles. Company empowered to increase toll on sawed lumber, &c. Proviso.

SECTION 2. *And be it further enacted,* That the power to revoke this act, be and the same is hereby reserved to the legislature. Power to revoke this act reserved.

Passed at Dover, February 2, 1839.



CHAPTER CLXXIX.

AN ACT to enable Isaac Cannon (of E.) to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 2, 1839.



CHAPTER CLXXX.

AN ACT to enable Ebenezer Gray to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 2, 1839.



CHAPTER CLXXXI.

AN ACT to incorporate the Dover Silk Company.

SECTION 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 a company may be formed in Kent county for the culture, production Company may be formed.

Capital.

and manufacture of silk, in any or all the branches of that business. The capital of said company may be extended to fifty thousand dollars in shares of ten dollars each; but the company may go into operation on any smaller capital. For obtaining subscriptions to said capital stock, books shall be opened by Samuel M. Harrington, Charles Kimmey, sen'r., William P. Smithers, and Daniel Cowgill, who are appointed commissioners for that purpose, or by any two of them, at such time and place as they shall think fit. One dollar, on each share, shall be paid to the commissioners, at the time of subscribing; and whenever fifty shares shall be subscribed, the commissioners shall call a meeting of the subscribers to elect officers and to transact other business, which meeting may adjourn from time to time, or may be re-convened by said commissioners.

Commissioners to open books.

Payment on subscribing.

Meeting of subscribers, after subscription of 50 shares.

Incorporation.

Name.

Banking powers prohibited.

Continuance

Power of revocation reserved.

SECTION 2. *And be it enacted*, That as soon as directors shall have been elected, the stockholders shall be incorporated by the name of "The Dover Silk Company," and shall have all the powers incident to a corporation, except banking powers. This act of incorporation shall not continue in force for a longer period than twenty years, without the re-enactment of the Legislature; and the power of revocation by the Legislature is also expressly reserved.

Directors.

President, Secretary, Treasurer, &c.

General meeting of stockholders, held when, &c.

Statement to be laid before stockholders. Shares, personal property.

SECTION 3. *And be it enacted*, That the business of this corporation shall be managed by three directors, chosen by the shareholders by ballot, and by a majority of shares. The directors shall continue in office for one year, and until successors shall be chosen. Vacancies happening during the year may be filled by the other directors. Directors must be stockholders. One of the directors shall be president. They may appoint a secretary, treasurer and employ such other officers, agents and servants as they think fit. They may take bond and security from any of them. They shall have the superintendence and control of the affairs of the corporation and shall have all the powers necessary to the proper conducting them. A majority of them may do any business. They shall receive no pay except by vote at a general meeting of stockholders. Such meetings shall be held annually on the first Saturday in March after the first general meeting to be called by the commissioners. At any such meeting, when a majority of the stock subscribed is represented, the by-laws may be made or changed, dividends struck, or any other business conducted. The directors shall lay before every annual meeting, a full and particular statement of the concerns of the corporation. The shares of the capital stock shall be personal property, assignable according to the by-laws.

Payment of subscription money.

SECTION 4. The directors shall have authority to call in the subscription, by instalments of one dollar on each share after the first call, which may be for five dollars on each share. Thirty days' notice of each call shall be given to each subscriber personally, or by letter directed to his usual place of abode, and placed in the post-office at Dover. Every subscriber shall be liable to pay each

call regularly made as aforesaid, and the corporation shall have an action therefor with interest, from the time the instalment should have been paid. If any stockholder shall neglect to pay according to such call, for the space of forty days after the money is due, his stock may be declared forfeited by the directors, and shall belong to the company, and may be disposed of accordingly. Forfeiture for neglect.

Passed at Dover, February 5, 1839.



CHAPTER CLXXXII.

AN ACT to enable George H. Walson to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 6, 1839.



CHAPTER CLXXXIII.

AN ACT to create an additional school district in the county of Kent.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Clayton Hawkins, John Hargadine, Joseph Green, Matthias Day and David Marvel, sen'r., be and they are hereby appointed commissioners under this act, and they, or a majority of them, are authorized and required, as soon as convenient after the passing of this act, after having first taken to their assistance a skilful surveyor of the county of Kent, to go upon the lands embraced within the limits of school districts Nos. 15, 16, 19 and 20, in said county, and lay out and locate in the centre of the said districts, an additional school district, which shall be composed of an equal portion of the lands contained within the said school districts Nos. 15, 16, 19 and 20; and the said commissioners or a majority of them, after the said additional district shall have been so located and laid out, shall make out a correct plot and return of their proceedings under this act, and cause the same to be returned to the Levy court and court of Appeal of said county, at its next session after the said plot and return shall have been so made as aforesaid, for confirmation by the said court. The said return shall be signed by a majority of the said commissioners, and the said plot shall represent by lines the form of the said districts Nos. 15, 16, 19 and 20, and shall also show the lines Commissioners to lay out new district, where.
Plot, &c. to be returned to Levy court

of the said additional school district so to be created within the said districts as aforesaid.

L. Court may confirm or reject return.

Name of district in case return be confirmed.

SECTION 2. *And be it further enacted,* That the said Levy-court and court of Appeal, of the county aforesaid, at the session of said court to which the return of the said commissioners is made as aforesaid, shall confirm or reject the said return, as to a majority of the members of said court, being present, may seem fit and proper. If the said return be confirmed, then, from and after the period of said confirmation, the said district so laid out, shall be an additional school district in Kent county, aforesaid, which shall be called *School District No. 46, in Kent county*, and the same shall in all respects be an independent and separate district, as if it had been originally laid out as such, except so far as relates to the said district's share of the school fund of this State, hereinafter provided for.

Duty of trustee of school fund, in such case.

SECTION 3. *And be it further enacted,* That the trustee of the school fund, in case the return and proceedings of the said commissioners be confirmed by the Levy-court as aforesaid, shall in the year 1840 and annually thereafter, at the time of the annual distribution of the said fund to and among the several districts of this State, distribute the aggregate shares of districts Nos. 15, 16, 19 and 20, into five parts or shares, of which district No. 15, shall receive one equal fifth part of the gross amount; district No. 16 one other equal fifth part; district No. 19 one other equal fifth part; district No. 20 one other equal fifth part; and district No. 46 the other and remaining equal fifth part of said gross amount:—so that the share or proportion of said district No. 46 of the distribution of the school fund of this State, shall be composed entirely of the fifth part so to be deducted from the share of each of the abovementioned school districts, out of which the said district is to be formed and created.

Com'rs. and surveyor to be sworn or affirmed.

Their compensation.

SECTION 4. *And be it further enacted,* That the said commissioners and surveyor, before they enter upon the discharge of the duties assigned them by this act, shall be severally sworn or affirmed, to do and perform all the matters and things, herein required of them, faithfully and impartially, according to the best of their skill and judgment. The commissioners may qualify each other, and any one of them may administer the oath or affirmation to the surveyor. The said commissioners and surveyor shall receive for their services under this act, such reasonable compensation as to the said Levy-court, so sitting at the time of the return of the said plot and proceedings, may seem meet and proper, which said allowance shall be certified by the clerk of the Levy-court, and shall be paid, upon said certificate, by the trustee of the school fund as aforesaid, who is hereby directed to deduct the same from the aggregate amount of the distribution of said school fund, which will be due to said school districts Nos. 15, 16, 19 and 20, in the year 1840, and distribute to the said districts, and to district No. 46 as aforesaid, in equal proportions, the balance or sum remaining due, after such deduction as aforesaid. If the return and proceedings be not confirmed as aforesaid, then the whole balance remaining, after said deduction, shall be distributed, in four equal parts, to the

districts Nos. 15, 16, 19 and 20 as aforesaid. The said plot and return shall be filed among the papers belonging to the Levy-court aforesaid, and if the same be confirmed, the said trustee of the school fund shall be notified thereof immediately, by the clerk of said court. Plot and return to be filed where.

SECTION 5. *And be it further enacted*, That in case any of the said commissioners should die, remove from the county, or refuse to act, the vacancy or vacancies may be filled by a judge of the Superior Court, residing in the county aforesaid. Vacancy among commissioners, by whom filled.

Passed at Dover, February 6, 1839.



CHAPTER CLXXXIV.

AN ACT *for making partition of the lands and real estate of which James Lawson Clayton died seized.*

Private act.

Passed at Dover, February 6, 1839.



CHAPTER CLXXXV.

AN ACT *to revive the act entitled "An act to incorporate the Gravelly Run Marsh Company," and to extend the time for recording the same.* Ante. p. 120.
Chap. C.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the act entitled "An act to incorporate the Gravelly Run Marsh Company," be and the same is hereby revived and re-enacted, in full force and virtue, with each and every the powers and provisions, restrictions and limitations therein conferred and imposed upon the said company; and that so much of the eighth section of the said act, as provides that the secretary of the said company shall, within a certain time therein mentioned, cause a certified copy of the said act to be recorded by the recorder of deeds of Kent county, be and it is hereby so far altered and amended, as to limit and extend the time for recording the certified copy of the act as aforesaid, to the full end and term of twelve months from the passage of this act; and that all the acts and proceedings heretofore had and done by the said company, and by the commissioners, managers, treasurer secretary, or other officer thereof, performed and fulfilled under or by virtue of the said act; and that all sales, deeds Original act revived and re-enacted, &c.

and conveyances heretofore held, made and executed by the treasurer of the said company, as well as all other acts by him done under and by virtue of the act aforesaid, shall be deemed and held as good, valid and subsisting in law and equity, as if the said act had been duly recorded within the time specified in the eighth section as aforesaid. *Provided*, That the secretary for the time being of the said company, shall cause a certified copy of the said act to incorporate the "Gravelly Run Marsh Company," with a certified copy of this act, to be recorded in the office for recording of deeds, in and for Kent county, within twelve months from the passage of this act.

To be recorded, with this act.

Power of managers to levy taxes, &c.

SECTION 2. *And be it further enacted*, That, for the purpose of keeping in good and sufficient repair the ditches and drains, cut by the said company, and for other purposes, the managers or a majority of them, for the time being thereof, shall have full power to lay and assess, on all vacant lands, reclaimed and benefited by the works of the said company, at an equal rate with such additional sums as may be hereafter levied, in accordance with the provisions of the aforesaid act upon private property, any tax or taxes, having, in the assessment of such tax or taxes, a due regard to the original or unimproved value of the said vacant lands, and the value of the same, after they have been ditched and drained, by the improvements of the said company.

Passed at Dover, February 7, 1839.



CHAPTER CLXXXVI.

AN ACT for the relief of David Marvel.

Private act.

Passed at Dover, February 8, 1839.



CHAPTER CLXXXVII.

AN ACT requiring Clerks of the Peace to pay to the State Treasurer, instead of the Secretary of State, certain sums received for fees to the State.

Duplicate list of tax licenses to be sent S. Treasurer.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the judges composing the court of general sessions of the peace and gaol delivery in each county, as soon as convenient, after the end of each term, shall send by mail or other safe conveyance, to the

State Treasurer, a duplicate of the list to be delivered to the Secretary of State, of all the persons recommended at such term; for licenses for keeping a public house of entertainment, tavern, inn, ale-house, ordinary or victualling house; and the Clerk of the Peace, within three days, after the end of such term, shall deposit to the credit of the State Treasurer, in the Farmers' Bank of the State of Delaware, or branch thereof, in the place of holding said court, all and every the sum and sums of money which shall have been paid to the said clerk, or which were payable to him for fees to the State, for such licenses, and send by mail, or other safe conveyance, to the State Treasurer, a certificate of said deposit. The failure of any Clerk of the Peace to make such deposit within the time before prescribed, shall be a misdemeanor, forfeiting *ipso facto*, his office, and a breach of the condition of his official bond; and a failure to put into the post office, or deliver to some suitable conveyance, within said prescribed time, the certificate of such deposit, duly addressed to the State Treasurer, shall be a breach of said condition.

Fees received by clerk of the peace to be deposited, to credit of S. Treas. when and where.

Certificate of deposit to be sent to State Treasurer.

Penalty on C. P. for failure.

SECTION 2. *And be it further enacted*, That the Secretary of State, upon supplying to a Clerk of the Peace, blanks for marriage licenses, licenses to venders of tin or japanned wares, licenses to hawkers, pedlars and petty chapmen, or licenses to retailers, besides making a true entry thereof in the books of his office, shall send a duplicate of said entry to the Auditor of Accounts, to enable him to keep the account of such blanks: and he is required to keep such account in the books of his office. And each Clerk of the Peace, semi-annually, to wit, on the first Tuesday of April, and the first Tuesday of October, or within three days after each of said days respectively, shall plainly state, under his hand, a full and true account of all moneys by him received or for which he is accountable for fees to the State, for all and every the licenses aforesaid, and also, all moneys by him received, or for which he is accountable, for fees to the State upon the appointment of constables, and deposit to the credit of the said Treasurer, in the bank aforesaid, or branch thereof, in the county town of such clerk, the full sum due upon such account, and send by mail, or other safe conveyance, to the State Treasurer, said account, with a certificate of such deposit, thereon endorsed. The failure of any Clerk of the Peace to state such account and make deposit, as before prescribed in this section, within the time limited for that purpose, shall be a misdemeanor and a breach of the condition of his official bond. Also, a failure to put into the post office, or to deliver to some suitable conveyance, within said limited time, such account with such certificate of deposit thereon endorsed, duly addressed to the State Treasurer, shall be a breach of said condition.

Sec. of State to make entry of certain blanks supplied C. P. and send duplicate, to Auditor, &c.

C. P. to state account and make deposit to cr. of State Treasurer, when.

To send account &c. to S. Treasurer.

Penalty for failure.

SECTION 3. *And be it further enacted*, That it shall be the duty of the State Treasurer, and it is strictly enjoined upon him, if a Clerk of the Peace shall fail to observe and fulfil, in all things, the preceding section, to report the failure to the next General Assembly, and within thirty days after such failure, to cause suit to be in-

Duty of State Treasurer on failure of C. P.

stituted upon the official bond of the delinquent, against principal and sureties.

C. P. to send
to Auditor
certificate of
constables
appointed by
L. court.

Auditor to
charge fees
&c.
Fee on app't.
by Governor.

SECTION 4. *And be it further enacted*, That it shall be the duty of the Clerk of the Peace, within ten days after appointment, by the Levy court and court of Appeal of which he is clerk, of any constable or constables, to send by mail or other safe conveyance, to the Auditor of Accounts, a true certificate of the name of every constable so appointed; and the auditor shall thereupon charge the fees payable to the State, against the clerk, in his account. When the Governor appoints a constable, the fee to the State shall be paid into the hands of the Secretary of State, on issuing the commission.

Auditor to
settle with
Clerks of the
Peace, &c.

Penalty on
C. P. for ne-
glecting to
appear.

Aud'r. to set-
tle in his ab-
sence and re-
port balance
to S. Treas'r.
&c.

SECTION 5. *And be it further enacted*, That the Auditor of Accounts shall, annually, settle the account of the Clerk of the Peace in each county, for fees to the State, for all licenses (tavern licenses excepted,) and upon the appointment of constables. For this purpose, when the auditor shall attend in either county, according to his appointment, the Clerk of the Peace in the said county shall appear before him, with the necessary accounts and vouchers, for settlement. No allowance shall be made to the clerk for blanks on hand, unless the blanks are produced to the auditor; and he may either cancel the same and file them in his office, or return them to the clerk, and charge him therewith, in a new account. The failure of a Clerk of the Peace to appear before the auditor, for the settlement of his account as aforesaid, shall be a misdemeanor and a breach of the condition of his official bond. The auditor shall report every such failure to the next General Assembly; and he shall have power to compel the clerk, by attachment, to appear and account. Furthermore, the auditor shall proceed to state and settle the account of such clerk in his absence; if he refuse or neglect to appear as aforesaid; and for this purpose, he may summon witnesses and compel their attendance, and send for vouchers and compel their production, by attachment: and the account so settled shall be final and conclusive. The auditor shall report any balance against the Clerk of the Peace, upon settlement as aforesaid, to the State Treasurer, who shall immediately institute suit upon the delinquent's bond, principal and sureties, for the recovery: but in such settlement, no item shall be charged against the clerk, arising after his last semi-annual account to the State Treasurer; but every such item shall belong to the succeeding settlement.

This act not
to effect what

SECTION 6. *And be it further enacted*, That this act shall not effect the appropriation of the moneys or fees which it concerns, but the said moneys or fees shall belong to "the fund for establishing schools in the State of Delaware," or to the State, as heretofore appropriated.

Acc't. book
in Secreta-
ry's office.

SECTION 7. *And be it further enacted*, That the book of accounts, in the office of the Secretary of State, shall be delivered by him to the State Treasurer, who is required to proceed, without delay, to close the outstanding accounts on said book and to institute suits when necessary.

SECTION 8. *And be it further enacted*, That so much of the acts of the General Assembly of this State, as requires Clerks of the Peace to pay to the Secretary of State, money received for fees to the State, mentioned in this act, shall be and hereby is repealed. Repeal—
parts of Dig.
pp. 85, 264,
462.

Passed at Dover, February 8, 1839.



CHAPTER CLXXXVIII.

AN ACT to amend the act entitled "*An act to provide for certain deficiencies in the penal code.*" Ante. p. 158
Chap.
CXVIII.

SECTION 1. *Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the second section of the act entitled "*An act to provide for certain deficiencies in the penal code;*" be and the same hereby is amended, by striking out, from the third line thereof, the word "act," and inserting instead, the word "acts." Sec. 2. amended by striking out. &c.

SECTION 2. *And be it further enacted*, That the said second section shall be read and construed, and, in every future edition of the laws, shall be printed, according to the foregoing amendment. How to be read, construed and printed.

Passed at Dover, February 9, 1839.



CHAPTER CLXXXIX.

AN ACT to improve the navigation of Cedar creek.

Private act.

Passed at Dover, February 11, 1839,



CHAPTER CXC.

AN ACT to enable Jonathan R. Torbert to locate certain vacant land situate in Nanticoke hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 11, 1839.

LAWS OF THE STATE

CHAPTER CXCI.

AN ACT to authorize James Giffin the executor of the last will and testament of Frederick Ford, late of Mill creek hundred in New-Castle county, deceased, to make sale of all the real estate of the said Frederick Ford, deceased, in manner and form as therein prescribed.

Private act.

Passed at Dover, February 11, 1839.



CHAPTER CXCH.

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

Appropriation for

Salaries.

Allowance to members of Legislature, for printing laws, &c.

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, State Treasurer and Auditor of Accounts, up to the first Tuesday of January eighteen hundred and forty-one; 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 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.

Passed at Dover, February 11, 1839.



CHAPTER CXCH.

Dig. 305. A SUPPLEMENT to the act entitled "*An act to vest in the Court of Chancery the care of Idiots and Lunatics.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever it shall appear to the chancellor, that it will be for the benefit of any idiot, lunatic, or person of unsound mind, that his or her land, in either of the counties of this State, or any part thereof, should be sold, it shall and may be lawful for the chancellor, sitting

When chancellor may direct sale of land of idiot or lunatic &c

in the county wherein such land may be situate, and when such land shall lay in two or more counties; then in either of them, to direct a sale of all or any part of such land, to be made by the trustee of such idiot, lunatic, or person of unsound mind, and the proceeds thereof, shall be paid into court, to be subject to the directions of the chancellor as is hereinafter provided.

Proceeds thereof to be paid into court.

SECTION 2. *Be it further enacted,* That the chancellor is hereby authorized and required to make investment of the money paid into court, under the foregoing provisions, after the deduction of all necessary charges and allowances, in the name, and to the credit, of the person or persons for whose benefit the land has been sold, and in such stocks or other securities as to the chancellor shall seem expedient; and the chancellor is further authorized and empowered to direct that the interest arising on such investment, or the dividends accruing on such stocks, or such part thereof as the chancellor may deem proper, shall be applied by the trustee to the maintenance, or for the benefit of the idiot, lunatic, or person of unsound mind, under instructions, and on such terms and conditions as the chancellor shall direct; and such interest or dividends shall be accounted for by the trustee, in the same manner as is provided by the act to which this is a supplement; and the trust to be thus exercised, shall be within the condition of his recognizance. And the chancellor shall have and exercise all authority and control over the said investments, and may change and re-invest the same, as he may deem expedient; and in case of the recovery or death of such idiot, lunatic, or person of unsound mind, the chancellor shall cause to be transferred to him or her, or to his or her heirs or proper representatives, all such stock and investments, or cause the same to be sold, and the proceeds thus paid over, deducting thereout such allowances as shall be made by the chancellor to the trustee, on the settlement of his or her accounts.

Chancellor to make investment.

And direct interest to be applied to maintenance of idiot, &c.

Interest to be accounted for by trustee.

Chancellor to have authority over investments, &c.

If idiot, &c., recover or die investment to be transferred.

SECTION 3. *Be it further enacted,* That after the said sale shall be returned to and confirmed by the chancellor, he shall direct the said trustee to make a deed or deeds to the purchaser or purchasers thereof; and the purchaser or purchasers under any deed or deeds made in pursuance of such order of the chancellor, shall have as full and ample title to the land so purchased by him, her or them as aforesaid, as the said idiot, lunatic, or person of unsound mind, had thereto previous to the said sale. *Provided nevertheless,* That the land so sold as aforesaid, shall be subject in the hands of the purchaser to any lien or incumbrance, properly existing against it at the time of said sale.

Deed to be made to purchaser, &c.

Land to be subject to liens existing at time of sale.

Passed at Dover, February 11, 1839.

CHAPTER CXCV.

8 vol. 316—
Chapter
CCCXIX.
Dig. 431.

AN ACT to amend the act entitled "*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.'*"

Proviso in 8
vol. Chapter
319, p. 316,
not to apply
to Thompsonian or Botanic practitioners.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in the act entitled "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,'"* passed at Dover, January 29, 1835, the proviso commencing in the twelfth line thereof, in the following words: "*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 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,*" shall not be deemed, held and taken to apply to any person or persons practicing medicine upon the Thompsonian or Botanic system exclusively.

Persons practicing on Thompsonian or botanic system may sue for fees.

SECTION 2. *And be it further enacted, That any person or persons practising medicine, upon the Thompsonian or Botanic system exclusively, shall have full power and right, and he, she or they is or are hereby fully authorized, permitted and allowed 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 or about the same, as the nature of the case may admit, and as may be consonant to right, equity, and good conscience; to be recovered in like manner as debts of the same amount are recoverable by the laws of this State, any usage, custom or law to the contrary notwithstanding.*

How this act shall be printed.

SECTION 3. *And be it further enacted, That in any future edition of the laws, this act shall be printed as the same is hereby altered, modified and amended.*

Passed at Dover, February 11, 1839.



CHAPTER CXCV.

8 vol. p. 53
Ch. LXXIV.

AN ACT supplementary to the act entitled "*An act to incorporate the Wilmington and New Jersey Steamboat Company.*"

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

seph Baily, William R. Sellars, William Seal, Meritt Canby and William M'Caulley, be and they are hereby appointed commissioners, with full power and authority to examine the books and affairs of said company, and affix a fair and just valuation on the stock, at present subscribed, according to the value of the property and funds of said company, over and above their debts and liabilities.

Comm'rs. to examine books and value stock of Company.

SECTION 2. *And be it further enacted*, That the present holders of stock, may either fill up their stock under the direction of the president and managers of said company, or hold the amount as valued by said commissioners, or condense the same: and the said corporation may issue new certificates of stock, and make such other regulations respecting the same, as may be necessary, securing nevertheless, to each and every stockholder, his due and equal voice in the affairs of said company, in proportion to the value of the stock held.

Stock may be filled up or held as valued.

New certificates of stock to be issued.

SECTION 3. *And be it further enacted*. That the said commissioners, before entering upon their duties as such, shall take and subscribe an oath or affirmation before some officer, legally qualified to administer oaths and affirmations under the laws of this State "well and faithfully to the best of their skill and judgment," to perform the duties enjoined on them by this act. The acts of a majority of said commissioners shall be as valid and effectual as if done by the whole; and said commissioners or a majority of them, shall make out two certificates of their doings under this act, under their hands and seals, one of which shall be delivered to the recorder of deeds of New Castle county, to be by him recorded and filed in his office, an office copy whereof, shall be evidence in all cases when the same is called in question, the other to be delivered to the president or treasurer of said company.

Comm'rs. to take oath or affirmation.

Acts of majority to be valid.

Comm'rs. to make 2 certificates—to be delivered where

SECTION 4. *And be it further enacted*, That the charter of said company, be and the same is hereby extended for twenty years from and after the expiration of its present term, with the power of revocation nevertheless, reserved by the Legislature for corrupt misconduct,

Charter of Company extended 20 years, with power of revocation reserved.

Passed at Dover, February 12, 1839.



CHAPTER CXCVI.

AN ACT to divorce Mary Ann Humphries from her husband Peter A. Humphries.

Private act.

Passed at Dover, February 12, 1839.

CHAPTER CXCVII.

3 vol. 327.
Chap. CXIV.

A FURTHER SUPPLEMENT to an act entitled "*An act to authorize the owners and possessors of the marsh and low grounds commonly called and known by the name of Meredith's Branch in the forest of Murderkill and Mispillion hundreds to cut a ditch or drain through the same.*"

Commission-
ers to be cho-
sen.

Their duties
to view
marshes, &c.

Appraise-
ment.

Enlargement
of ditches al-
ready cut.

New lateral
ditches.

Proviso, as to
main ditch.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Meredith's Branch Company, shall at its next annual meeting, to be held on the second Monday in April in the present year, elect by ballot and by plurality of votes, three freeholders of Kent county, not being members of said company, to act as commissioners, and the said commissioners are hereby authorized to go upon and view the marsh and low grounds which are or will be benefited by the ditches of said company already cut or opened, or hereafter to be cut or opened, and ascertain all the owners thereof, and who will be benefited by such ditches or any of them, and the quantity held by each owner, or by joint-owners, (if any be held undivided,) and shall appraise the said marsh and low grounds which in their opinion, or the opinion of a majority of them, are or will be benefited by said ditch or ditches, having regard to the present value thereof, and the amount of benefit in their opinion to be received by each owner (or by joint owners if any be held undivided,) in such manner as will, in their opinion, do equal justice to all concerned; which said appraisement shall be the valuation upon which all sums of money to be raised, and taxes to be assessed and levied by said company, or for the improvement of said marsh and low grounds, shall be raised, assessed and levied. And the said commissioners are hereby further authorized and required to view and examine the ditch or ditches of said company already or heretofore cut or opened, and if in their opinion the same or any of them ought to be enlarged, to direct such enlargement in such manner and to such extent as they may deem requisite for the complete draining of said marsh and low ground. *And further,* if the said commissioners shall deem it necessary, in order to effect equal justice between or among all the owners and possessors of said marsh and low grounds, that any new lateral ditch or ditches emptying into the company's main ditch, should be cut and opened at the common expense of the company, they are hereby authorized to lay out such lateral ditch or ditches, and direct the same to be cut and opened of such width and depth as shall in their judgment be necessary, and from such place of beginning to such termination on the main ditch, as they may determine on. And the said new or lateral ditch or ditches so laid out and directed to be cut and opened (if any) shall be cut, opened and completed at the common expense of the company, and shall become and be a part of the improvements of the said Meredith's Branch Company, and as such shall be kept open and in repair. *Provided however,* That nothing herein contained, shall be construed or taken as authorizing the said commissioners to extend the length of the main ditch of said company beyond the limits to which it has been heretofore cut and opened. And the

said commissioners or a majority of them, shall make a certificate under their hands 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 of the appraisement of the said several quantities or parcels so by the said commissioners to be made as aforesaid, containing also a description of all the ditches which they shall direct to be enlarged or opened, (shewing the extent of the enlargement of those which they shall direct to be enlarged.) And if the said commissioners shall be of opinion that the owner or owners of any land lying upon or adjacent to the said ditches or any of them, will sustain damage by the enlargement or opening of such ditches or any of them, more than equivalent to the benefit received by such owner or owners, they shall make a valuation of such excess of damage, and enter such valuation with the name of the person or persons to whom they shall award damage, and the amount thereof, upon the said certificate, which damages, (if any be awarded) shall be paid by the company before the enlargement or opening of said ditches, and shall return said certificate into the office for recording deeds in and for Kent county aforesaid, there to be recorded, which said certificate shall be final and conclusive, and the appraisement and valuation therein contained, shall be the true valuation of said marsh and low grounds, according to which all sums of money raised by said company shall be apportioned, and a copy of said certificate under the hand and seal of office of the recorder, shall be competent evidence to all intents and purposes, and in all the courts of this State. *And further,* The said commissioners are hereby authorized and required to estimate the probable expense of accomplishing the improvements they shall direct to be made, and the work they shall direct to be done in the premises, and certify the said estimate under their hands, or the hands of a majority of them, and shall deliver said certificate to the managers for the time being, to be kept among the papers of the company. All the commissioners shall view the said marsh and low grounds, but the acts of any two of them agreeing, shall be as valid to all intents and purposes as the acts of the whole of them. If any of the said commissioners to be elected as aforesaid, shall die, resign, remove from Kent county, or refuse, neglect, or become incompetent to act, before all the duties of said commissioners shall have been completed, or if the company shall fail to elect such commissioners at its next annual meeting, the said company may elect a commissioner or commissioners to fill such vacancy or vacancies, or to supply such omission or failure to elect, at any annual, adjourned, or occasional meeting, and so from time to time until all the duties of said commissioners under this act, shall have been completed.

Certificate of ownership & appraisement.

Valuation of damage to such as may be injured by ditches &c.

Certificate to be returned where.

To be final, &c.

Probable expense of improvements to be certified, &c.

Vacancies.

SECTION 2. *And be it further enacted,* That the second section of the act entitled "An additional supplement to an act entitled 'An act to authorize the owners and possessors of the marsh or low grounds, commonly called and known by the name of Meredith's Branch, in the forest of Murderkill and Mispillion hundreds in Kent county, to cut a ditch or drain through the same.'" and so much of the said act as is inconsistent with this act, be and the same is

Repeal of sec. 2, and parts of Chap. 103 ante, p. 132.

hereby repealed, made null and void, and the residue of said act is hereby declared to be in full force.

Passed at Dover, February 12, 1839.



CHAPTER CXCVIII.

AN ACT empowering the State Treasurer to collect all balances due to the State from Sheriffs, Constables and Justices of the Peace.

Duty of State Treasurer to sue for the recovery of fines or forfeitures.

Auditors duty to certify list of balances, Jurisdiction of suits. S. Treas'r. to lay statement before Gen'l. Assembly. His compensation.

When balances cannot be collected S. Treas'r. to certify the fact to Auditor.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That, in all cases in which a sheriff or constable is charged, upon any abstract in the hands of the Auditor of Accounts, with a fine or forfeiture, or whenever such fine or forfeiture has been received by a justice of the peace, it shall be the duty of the State Treasurer for the time being, to institute suit in the name of the State, upon the official bond of such person, or by action on the case, for the purpose of recovering such amount, if the person from whom it may be due, shall not, within three months after public notice given by the said treasurer, pay over the same, or satisfy the said treasurer that such amount never came into his possession, and that he is not properly accountable for the same. And it shall be the duty of the Auditor of Accounts, on or before the first day of January in each and every year, to certify to the State Treasurer, a list of all balances due to the State as aforesaid. The jurisdiction of all suits to be instituted under this act, shall be determined by the amount of the demand, as is now provided by law. And the State Treasurer shall, at each biennial session of the General Assembly, lay before that body, a statement of all his proceedings under the provisions of this act, and of the amount collected. He shall be entitled to retain five per cent., upon such amount for his compensation.

SECTION 2. *And be it further enacted,* That in all cases of balances of fines and forfeitures as aforesaid, now standing upon the books of the Auditor of Accounts, where it shall appear that such sums, respectively, cannot be collected by reason of the death, insolvency or removal from the State of the parties charged, and no fund or estate left, out of which payment may be compelled, the said State Treasurer is hereby authorized to certify such facts to the Auditor of Accounts, who shall thereupon enter upon his books, the reason why such amounts cannot be collected, and liquidate and settle the balances respectively.

Passed at Dover, February 12, 1839.

CHAPTER CXCIX.

AN ACT *providing for certain police arrangements within the town of New Castle.*

SECTION 1. *Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the sheriff of the county of New Castle, and each and every deputy of the said sheriff, and every justice of the peace and constable resident within the town of New Castle be, and they are hereby constituted special conservators of the peace in and for the said town; and each and every of the said officers are hereby authorized to require the aid of any citizen or citizens of the said town, whenever such assistance shall be necessary for the preservation of the peace.

Sheriffs and other officers, to be special conservators of the peace in town of New Castle.

SECTION 2. *And be it further enacted,* That if any officer as aforesaid, shall neglect or refuse to interfere to prevent or terminate any breach of the peace, happening within the said town of New Castle, in view of such officer, or when information thereof shall be given by any respectable citizen of the said town, every officer so offending shall be liable to indictment in the court of General Sessions of the peace and Gaol Delivery, in and for the county aforesaid, and upon conviction, shall forfeit and pay for the use of said town, a fine of not less than five, nor more than one hundred dollars. And if any citizen of the said town shall neglect or refuse to render aid for the preservation of the peace, when lawfully required as aforesaid, every person so offending, shall be liable to indictment in the said court, and upon conviction, shall forfeit and pay for the use aforesaid, a fine of not less than five, nor more than twenty five dollars. *Provided however,* That no citizen above the age of forty-five years, shall be liable to the penalty herein provided.

Penalty on officer for neglect of duty,

On citizen for refusal to aid.

Passed at Dover, February 12, 1839.



CHAPTER CC.

A SUPPLEMENT to the act entitled "*An act to invest this State's share of the surplus revenue of the United States distributed to the several States, under the act entitled 'An act to regulate the deposits of the public money.'*"

Chap. CXXVII.
Ante. p. 175.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be, and he is hereby authorized and empowered to extend to the Philadelphia, Wilmington and Baltimore Rail Road Company, the loan made to the Wilmington and Susquehanna Rail Road Company under and by virtue of the third section of the act to which this is a supplement, to a period not exceeding four years, upon such amount, description and form of security being given by

S. Treas'r. to extend to Phil. Wil. & Balt. R. R. Co. the loan made to W. & S. R. R. Co. under Sec. 3, ante, p. 175.

Security to
be directed
by whom.

the said "The Philadelphia, Wilmington and Baltimore Rail Road Company," for the repayment of the same, with interest thereon, at the rate of six per centum per annum, payable half yearly, as shall be directed by James R. Black, Willard Hall and John M. Clayton.

This act not
effect liability
of W. &
S. R. R. Co.
&c. until loan
shall be ex-
tended.

SECTION 2. *Provided always, and be it further enacted*, That nothing in this act contained shall be held or taken to impair, or in any manner affect, the liability of the said "The Wilmington and Susquehanna Rail Road Company" for said loan, or any surety or security, given by or on account of said company for the repayment of the same, unless and until the said loan shall have been actually extended to the said "The Philadelphia, Wilmington and Baltimore Rail Road Company," under and according to the provisions of the first section of this act.

S. Treas'r. to
pay to J. R.
Black, W.
Hall and J.
M. Clayton
each \$50 for
their trouble
&c.

SECTION 3. *And be it further enacted*, That the State Treasurer shall pay to the said James R. Black, Willard Hall and John M. Clayton, each, the sum of fifty dollars, out of any money in the treasury not otherwise appropriated on their respective orders, as an indemnity for their trouble and expenses under this act, and the act to which this is a supplement.

Passed at Dover, February 12, 1830.



CHAPTER CCL.

A FURTHER SUPPLEMENT to the act entitled "*An act to enable William Inskeep to raise his mill-dam, and for other purposes therein mentioned.*"

Private act.

Passed at Dover, February 12, 1830.



CHAPTER CCII.

AN ACT to authorize Catharine S. Baker, (widow) and Welcome Gray, administrators of William W. Baker, M. D., late of the city of Wilmington, deceased, to make sale of the real estate of the said William W. Baker, M. D. deceased, in manner and form as therein prescribed.

Private Act.

Passed at Dover, February 13, 1830.

CHAPTER CCIII.

AN ACT for the relief of John Hutson.

*Private act.**Passed at Dover, February 13, 1839.*

CHAPTER CCIV.

AN ACT to confirm and give effect in the State of Delaware to an act of the General Assembly of Maryland entitled "An act for the division of the real estate of Samuel and William Meter, dec'd."

*Private act.**Passed at Dover, February 13, 1839.*

CHAPTER CCV.

AN ACT to authorize George T. Martin (guardian of Catharine A. Robinson and John M. Robinson, minors,) to remove two certain slaves therein mentioned, from this State into the State of Maryland.

*Private act.**Passed at Dover, February 14, 1839.*

CHAPTER CCVI.

A FURTHER SUPPLEMENT to an act entitled "An act to incorporate the Wilmington and Susquehanna Rail Road Company."

Chap. CX. 8
vol. 107.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the "Philadelphia Wilmington and Baltimore Rail Road Company," be and it is hereby authorized to keep and maintain a permanent bridge, without any draw therein, over a stream of water in Brandywine hundred, commonly called Boat or Bout creek, at the same place where the bridge of the said company across the said stream is now erected, any thing in the act to which this is a supplement, or in any

Phil. Wil. &
Balt. R. R.
Co. authorized to keep
and maintain
permanent
bridge, on
Boat creek.

Proviso—
Owners of
land lying on
stream may
apply for writ
of *ad quod*
damnum.

Costs of writ.

Company
may make
agreement
with owner
of land, &c.

R. R. Co. to
pay costs of
a certain suit
in Equity.

of the several supplements thereto, to the contrary notwithstanding. *Provided always nevertheless*, That the owner or owners of any land lying and being on the said stream, shall have the right and privilege, within six months after the passage of this act, to apply to the prothonotary of the Superior Court in and for New Castle county, for a writ, in the nature of a writ of *ad quod damnum*, which the said prothonotary is hereby required, on such application, to issue, commanding the sheriff of the said county, to inquire, by twelve impartial men of his bailiwick, under their several oaths or affirmations, whether any, and what damages have been sustained by such owner or owners by reason of the said bridge erected by the said company over the said stream, being constructed without any draw or pass therein; and thereupon, the said sheriff shall inquire according to the command of the said writ, and make return of such inquiry, and of all his doings by virtue of said writ, to the next term of the Superior Court held in said county, after the issuing of the same; and upon such return being made, the said court may, in their discretion, quash the same, and direct a new writ of like nature, to be issued, or approve the said writ and the proceedings thereon, and cause judgment of confirmation to be entered for the amount of damages assessed; which judgment shall be a lien on the lands, tenements and hereditaments of the said company in the said county, and the person or persons in whose name or names the said judgment is entered, shall be entitled to execution process thereon, according to the laws of this State, in the same manner as if judgment had been rendered, in the said court, against the said company, in a suit brought against them. The costs of the said writ, and of the proceedings thereon, if quashed, shall be paid by either party as the court may direct, and if judgment of confirmation be entered on damages assessed, the costs shall be paid by the said company; and if no damages be assessed, then judgment for costs shall be rendered in favor of the said company against the person or persons on whose application the said writ issued. *Provided also*, That the said company may by agreement with any owner or owners of lands lying and being on said creek, ascertain the amount of damages sustained by said owner or owners, by reason of the said bridge being constructed without a pass or draw, and upon payment of the amount of damages so ascertained, the right of the said owner or owners entering into such agreement, to apply for a writ as herein before provided, shall cease and determine. *And provided further*, That before the said rail road company shall be entitled to any of the privileges and powers conferred by this act, they shall first pay the legal costs and charges of a certain suit in equity, brought against the said company by Joseph Perkins, which said suit is now pending in the court of Chancery in and for the county of New Castle.

Passed at Dover, February 14, 1839.

CHAPTER CCVII.

AN ACT to incorporate a bank in the city of Wilmington under the name of the *The Union Bank of Delaware*.

SECTION 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 Price, James Canby, Edward Tatnall, John Gordon, Alfred du Pont, Thomas Stockton, Archibald Hamilton, Nicholas G. Williamson, William Chandler, Merrit Canby, W. Hemphill Jones, William P. Brobson, David C. Wilson, John H. Price, Samuel Canby, John Elliot, John Connell, Eli Hillis, John R. Latimer, James A. Bayard, Henry Latimer, William Lea, Isaac Starr, Allan Thompson, John Hemphill, John J. Milligan, Dr. James W. Thompson and Mahlon Betts, be and they are hereby appointed commissioners, to do and perform the things hereinafter mentioned, that is to say: they or any three of them, shall on or before the first Monday of November next, procure a sufficient number of suitable books, one of which shall be opened in the city of Wilmington, and the other, if it shall be deemed advisable by the said commissioners, at such other place or places as they shall think proper, in each of which books, they shall enter as follows:—"We whose names are hereto subscribed, do promise to pay to 'The Union Bank of Delaware' the sum of fifty dollars, for each and every share of stock set opposite to our respective names, in such manner, sums, and at such times as shall be directed by the president and directors of the said bank." and shall thereupon give notice in two of the newspapers printed in the said city of Wilmington, and in such other papers as they may deem proper, at least twenty days, of the time and place or places, when and where the said books shall be opened to receive subscriptions for the capital stock of the said bank; at which time and place or places, two or more of the said commissioners shall attend, and permit all persons of lawful age who shall offer, to subscribe 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 on the second day on which the said books shall be opened, the same restrictions shall apply; and if, at the expiration of the second day, the whole number of six thousand shares shall not have been subscribed, 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 in his 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 commissioners shall keep the 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; upon ascertaining which, they may close the books. And if it should so happen that more than six thousand shares shall be subscribed, then the commissioners or a majority of them, are hereby authorized and directed to deduct from the highest subscription or subscriptions, until the shares be reduced to the proper number.

Comm'rs. to
open books.

When and
where, &c.

Notice to be
given.

Manner of
subscribing.

Books to be
kept open,
how long.

Capital stock. SECTION 2. *And be it enacted,* That the capital stock of the said company, shall not exceed the sum of three hundred thousand dollars, divided into six thousand shares, of fifty dollars each.

Subscription money, how paid. SECTION 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 subscribed; and it shall be lawful for the directors of the said company, appointed in the manner hereinafter directed, 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 per share, upon giving thirty days' previous notice to the stockholders, in two newspapers printed in the city of Wilmington, and in such other newspapers as the said directors shall deem proper: 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 occurred, and the interest or dividends on all monies previously paid, may be forfeited by the said directors for the benefit of the corporation:—or in case they shall not elect to forfeit the said share or shares, it shall and may be lawful for the said corporation to sue either at law, by action of debt or assumpsit, or in equity, for the recovery of any sum or sums of money due or to become due as aforesaid from any subscriber: and in all suits, either at law or in equity, in the courts of this State, by or against the said company, this act shall be deemed and taken to be a public act, and need not be set forth in the pleadings or given in evidence.

'This act to be a public act.

Subscribers incorporated. SECTION 4. *And be it further enacted,* That as soon as the whole amount 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 Union Bank of Delaware" 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 law and equity; and to purchase, receive, have, hold and enjoy to them and their successors, lands, tenements, and hereditaments, goods, chattels and effects, of whatsoever kind, nature or quality; and the same to sell, grant, demise, alien or dispose of; and also to have a common seal, and the same to break, alter or renew at their pleasure.

Name.

Continuance.

Powers.

May commence business, when. SECTION 5. *And be it further enacted,* That the said bank shall have power to commence business as soon as the sum of ninety thousand dollars shall have been actually paid in and deposited in its vaults, and not before; one-half of which sum shall be in specie, and the other half in the notes of the banks of this State, or of Philadelphia, paying specie. And it shall be the duty of the directors to make a statement, under oath or affirmation, of the description and amount of such deposits, and transmit the same to the Governor of this State, previous to the bank going into operation.

SECTION 6. *And be it further enacted,* That for the proper management of the business and affairs of the said corporation, there

shall be thirteen directors, who shall be elected by the stockholders in the manner and at the times hereinafter directed, and who shall choose a president from among their number. Three of the said directors shall not be eligible for more than two years in succession; they shall be stockholders at the time of their election, and also during the term of service; and a majority of them shall be residents of this State. Directors and president.

SECTION 7. *And be it further enacted,* That the commissioners aforesaid, as soon as conveniently may be, after the capital stock has been subscribed as aforesaid, shall give ten days' notice, in two newspapers printed in the city of Wilmington, and in such other newspapers as they may deem advisable, of the time and place in the city of Wilmington, at which the subscribers shall meet, in order to organize the said company; and the said commissioners, or any two of them, may hold the election; at which time and place the said subscribers shall choose, by a majority of the votes present, to be given in person or by proxy, thirteen directors: and the said directors shall, at their first meeting after the election, choose one of their number president; and shall manage and conduct the business and affairs of the company, until the first Monday in January, in the year one thousand eight hundred and forty: and there shall be another meeting of the stockholders, on the said first Monday of January, in the year one thousand eight hundred and forty, and on the same day, in every year thereafter, in the city of Wilmington, of which twenty days' notice shall be given as aforesaid, at which meeting and meetings the stockholders shall choose, by a majority of the votes present, given in person or by proxy, thirteen directors who shall continue in office for one year, and until others be chosen; and the said directors shall at the first meeting after the election, choose a president from among their number. Meeting of stockholders to organize company. Election of directors. President. Gen'l. meeting of stockholders annually. Special meetings. Voting. Corporation not dissolved by failure to elect directors. Special meetings of the stockholders, of which notice shall be given as aforesaid, shall be called by the directors, upon the request, in writing, of stockholders owning five hundred shares of stock, or when the directors shall deem it necessary: and on all occasions of voting, each stockholder shall be entitled to one vote for each share held by him, which has been so held by him three calendar months before the day of voting. At every election of directors, two stockholders not being directors, shall be appointed judges of said election by the stockholders present, who shall decide upon the qualifications of voters, and declare who has been elected, and certify the same to the existing board of directors. In case it should happen, at any time, that an election of directors shall not be made on the day above mentioned, the corporation shall not therefore be dissolved, but it shall be lawful to hold the said election at a special meeting to be called immediately, by the directors, according to the provisions of this act.

SECTION 8. *And be it further enacted,* That all the corporate powers of the said company shall be exercised by the directors and such officers and agents as they shall appoint. The directors shall have power to make all by-laws, rules and regulations necessary and proper for the government of the company, and not repugnant Corporate powers exercised by whom. By-laws,

to the constitution and laws of this State, nor of the United States; but no by-law shall be enacted or repealed, unless by a vote of two thirds of all the directors. On all questions before the board, the president shall vote as a director. Meetings of the directors, either special or stated, shall be held or called as the by-laws shall prescribe; and five directors shall constitute a quorum for the transaction of business. The directors shall allow such salaries to the president and other officers, as they shall deem reasonable; but no director shall be entitled to any salary, unless the same shall have been allowed by the stockholders.

Banking
powers.
Fundamen-
tal articles.

SECTION 9. *And be it further enacted,* That the said corporation is hereby vested with banking powers, and that in the exercise of the same, the following shall be fundamental articles of its government, that is to say:

What lands
corporation
may hold.

1. The said corporation shall hold no lands, tenements nor hereditaments but such as shall be required for the convenient transaction of its business; or such as shall be *bona fide* mortgaged or pledged to it as security for debts, or purchased at sales upon judgments which have been obtained for such debts:—

Rate of in-
terest.

2. The said corporation shall not take more than at the rate of one per centum for every sixty days, upon its loans and discounts:—

Bills & notes,
by whom
signed.

3. All bills and notes, not under the corporate seal of the company, shall be signed by the president, and by such other officers of the bank as shall be appointed by the directors for that purpose:—

Banking
house to be
kept in Wil-
mington—
notes payable
there.
Co. to be sub-
ject to Dig.
67.

4. The said company shall keep their banking house in the city of Wilmington, and their notes shall be made payable there, in reference to which, it is hereby declared to be subject to the operation of the second section of the act, entitled "An act securing payment by the banks of this State of their notes in specie," passed at Dover, the 30th day of January, in the year one thousand eight hundred and twenty-four.

Stock assign-
able.

5. The stock of the said corporation shall be assignable and transferable in such manner as shall be prescribed by the by-laws:—

Amount of
debts.

6. The total amount of debts which the said corporation, shall at any time owe, whether by note, bill or otherwise, shall not exceed double the amount of capital actually paid into the bank.

Bond and se-
curity from
Cash'r. &c.

7. The directors shall require from the cashier and accounting officers of the bank, such bond and security for the faithful performance of their duties, as shall be prescribed by the by-laws.

Tax to the
State.

SECTION 10. *And be it further enacted,* That the said corporation shall, semi-annually pay into the treasury of this State for the use of the State, a tax of one-fourth of one per centum per annum, on the amount of capital actually paid in.

SECTION 11. *And be it further enacted*, That the said corporation shall pay into the treasury for the use of the State, the sum of forty-five hundred dollars as a consideration for the granting of this Bonus. act; which sum shall be paid in three equal annual payments, viz: fifteen hundred dollars on the first day of January one thousand eight hundred and forty, and a like sum on the first day of January, in each of the two succeeding years.

SECTION 12. *And be it further enacted*, That the power of revoking, or repealing this act, is hereby reserved to the Legislature. Power of revocation reserved.

Passed at Dover, February 15, 1839.

CHAPTER CCVIII.

A SUPPLEMENT to the act entitled "*An act to enable the owners and possessors of the meadow, marsh and cripple, lying on both sides of the north-west branch of Duck-creek, emptying into the main branch of Duck-creek, below the Eagle's-nest landing, effectually to embank and drain the same, and to keep the banks, dams, sluices, canals and drains in repair, and to raise a fund to defray the expence thereof.*" 4 vol. p. 348 Chap. CXXVIII.

Private act.

Passed at Dover, February 15, 1839.

CHAPTER CCIX.

A SUPPLEMENT to the act entitled "*An act to incorporate a company to erect a draw-bridge over the river Christiana at Wilmington, and for other purposes therein mentioned.*" 4 vol. 59 Chap. XXVIII. Dig. 581.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the twenty-third section of the act to which this is a supplement, be and the same is hereby repealed; and that all and every the claims and demands now existing against "The Wilmington Bridge Company" on the part and behalf of this State, or the fund for establishing schools in this State, or the trustee of said fund for and on account of net profits under the said twenty-third section of said act, to which this is a supplement, be and the same are hereby released and relinquished to the said Wilmington Bridge Company; and that the suit in Chancery, instituted in behalf of this State, against the said company and others in the court of Chancery, in and for New Castle county, for the recovery of said claims and Rep'l. of Sec. 23. Certain claims of State or S. fund released to company. Suit in Chancery for recovery of, discontinued.

demands, be and the same is hereby discontinued, and so directed and ordered to be: *Upon this express condition precedent nevertheless,* That the said Wilmington Bridge Company do and shall pay to the State, for the use of the said school fund, a tax of one-half of one per cent., per annum, on the capital stock of the said company, yearly and every year from and after the passing of this act, and during the existence of the said company; and that the said company do and shall assent to, and accept of this act, and duly certify such their assent and acceptance to the Governor of this State, by a certificate in writing under their corporate seal, within six months from the passing of this act; otherwise this act shall be void and of none effect.

On condition.

Co. to pay
tax for use of
school fund.

Acceptance
of this act to
be signified
to Governor.

Bridge to be
passed on
right hand
side in a
walk.

Penalty.

Index board.

SECTION 2. *And be it further enacted,* That every person passing said bridge, either with stage, wagon, cart, coach, gig, chaise, or other carriage of burden, or pleasure, and all persons riding, driving or leading horses, mules or cattle of any description, shall pass the same on the right hand side thereof, in a walk; and if any person or persons shall intentionally and wilfully offend against this provision, every person for such offence, shall forfeit and pay a sum not exceeding five dollars, to be recovered before any justice of the peace in and for New Castle county, and applied one moiety thereof to the person suing, and the other moiety to the poor of New Castle county, and paid to the treasurer thereof. And it shall be the duty of the said company to put up an index-board at each end of said bridge, explanatory of the aforesaid provision.

Passed at Dover, February 15, 1839.



CHAPTER CCX.

AN ACT regulating the commissions to be received by the collector of taxes of Appoquinimink 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 the collector of Appoquinimink hundred in New Castle county, shall be entitled to receive, for paying over state, county, road or poor taxes, a commission to be stipulated between the State Treasurer, or Levy-court and Court of Appeal, or other authority making the appointment, and the person appointed collector, not exceeding ten per centum of the sum which the collector shall collect and account for.

Col. of App.
hun'd. to re-
ceive stipula-
ted com. not
exceeding 10
per cent.

Passed at Dover, February 15, 1839,

CHAPTER CCXI.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act 8 vol. 62—
to incorporate The Wilmington and Downingtown Rail Road Chap. LXXXIII.
Company.*"

SECTION 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 the said company, be extended to the period of five years from the passage of this act; and that in addition to the commissioners named in the said section, the following persons be, and they are hereby appointed commissioners, viz: James Price, John Hemphill, David C. Wilson, W. Hemphill Jones, John H. Price, Merri Can- by, Allan Thompson, William P. Brobson, William Chandler and Mahlon Betts.

Time for opening books extend- ed 5 years.

Additional Comm'rs.

SECTION 2. *And be it further enacted,* That in locating the said rail road, the said company shall have power to begin the same at some point on or near the Brandywine creek, within the limits of the city of Wilmington, and to connect with the Philadelphia, Wilmington and Baltimore Rail Road, provided the assent of the board of directors of the said company, shall be first had and obtained; any thing in the act to which this is a supplement to the contrary notwithstanding.

Power of company in locating road.

SECTION 3. *And be it further enacted,* That the president and managers of the said company, shall have power to demand and receive such sum or sums of money, for tolls of persons or 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.

Tolls.

Not to exceed how much.

SECTION 4. *And be it enacted,* That the said president and managers shall be, and are hereby authorized to contract for, purchase and hold all such land as they may deem necessary for the purposes of the said rail road; and in case such lands as may be necessary for the location and use of the said rail road cannot be obtained by purchase, the company may apply by petition to the Superior Court, or to any judge thereof residing in New Castle county, in vacation, first giving the other party five days' notice in writing, 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 require for the use and construction of the said rail road, and assess the damages, if any, that the owner or owners thereof will sustain by reason of the said rail road passing through the same. The said five freeholders shall be sworn or affirmed before some judge or justice of the peace, or notary public, faithfully and impartially to perform the duty assigned to them; and in assessing the damages, shall take into consideration the advantages as well as the disadvantages which shall be sustained by the owner by reason of the construction of the said rail

Land necessary for road may be contracted for.

If they cannot be purchased, co. may apply to S. C. or judge &c.

C't. or judge to appoint comm'rs. to assess damages, &c.

Comm'rs. to be sworn or affirmed.

To give notice of their meeting.

To make report to sup. Court.

When judgment of confirmation and payment of damages title of land to be vested in co.

Fees to referees and prothonotary.

Repeal of parts of original act.

road; they shall give ten days' written notice to the owner or owners of the land, if he or they be within the State, and to the president of the company of the time of their meeting for the discharge of their duty, which meeting shall be held on the land required for the use of said rail road: and they shall make report in writing under their hands, or the hands of a majority of them, to the term of the Superior Court in New Castle county, next after their appointment; and the said court may either confirm the said report, or on good and sufficient reasons, refer the matter back to the same persons, or appoint five other judicious and impartial freeholders to perform the said duty in manner aforesaid. When judgment of confirmation is rendered by the said court on any report made as aforesaid, and upon the payment by the said company, of the amount of damages assessed, to the owner or owners of the said property, or upon the payment of the same into court for his or their use, whether such owner or owners be or be not under any of the disabilities of infancy, coverture, or incompetency of mind, or be in or out of the State, the title to the land and premises mentioned, in the said report, shall be absolutely vested in the said company, their successors and assigns. The fees to the referees and prothonotary, on any such proceedings, shall be determined by the said court, and be paid by the said company.

SECTION 5. *And be it further enacted*, That so much of the act to which this is an additional supplement, as is hereby amended or supplied, be and the same is hereby repealed, made null and void.

Passed at Dover, February 15, 1839.



CHAPTER CCXII.

AN ACT to incorporate the New Castle Steam-mill Company.

Company established.

Capital stock.

SECTION 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, quercitron bark and the sawing of timber in the town of New Castle. The capital stock of said company shall not exceed fifty thousand dollars, divided into shares of twenty-five dollars each.

Comm'rs. to receive subscriptions.

SECTION 2. *And be it further enacted*, That Andrew C. Gray, Samuel M. Couper, Elihu Jefferson, Howell J. Terry and Nathaniel Wolfe 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, at such places, and under such regulations as they or a majority of them shall deem proper.

SECTION 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 Steam-mill 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, plead and be impleaded in courts of law or equity.

SECTION 4. The business and concerns of the said corporation shall be managed by five directors. The directors shall be elected by the stockholders from among their number, and whenever a director ceases to be a stockholder, his office shall be vacated. They 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 quorum competent to transact business, and if the president shall be absent, a president may be appointed pro tem. Whenever a vacancy in the office of directors shall happen from any cause, the remaining directors shall by a majority of a board, choose a director to fill said vacancy. The directors shall have power to purchase such lands and erect such buildings, and procure such steam and other engines and machinery as they shall from time to time deem requisite to carry on the manufactures and business mentioned in the first section of this act, and do and perform all such acts, and use the capital and funds of said company in such manner as may be requisite to carry into effect the purposes for which the company is established, and secure its interests. All contracts, deeds or writings of the company, made in pursuance of this act, shall be binding on the property, estate, common stock and joint funds of the company, but not on the persons or separate property of the directors or the stockholders. The directors shall make by-laws for the government of said company, and the regulating the management of the business and concerns of the company, and may repeal, modify and amend them at pleasure. There shall be an annual meeting of the stockholders on the first Monday of April in each and every year, during the continuance of the corporation. An election of directors shall be held at the annual meeting before mentioned in each and every year. If said meeting shall not take place on the day appointed, the corporation shall not for that reason be dissolved, but the directors then in office, shall continue to perform all their duties, and shall retain all their powers until such annual meeting shall take place. Occasional meetings of the stockholders may be called in a manner to be prescribed by the by-laws. 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 a majority of the votes given. 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 elections and every subject and question which can come before the meetings. The shares of the capital stock aforesaid shall be personal property, and shall be assignable subject to the regulation of the by-laws. The directors

Incorporation.

Name and powers.

Directors.

President.

Quorum.

Vacancy.

Powers of directors.

Contracts to be binding, on what.

By-laws.

Annual meeting, when. Corp'n. not dissolved by failure to hold meeting on day app'd.

Occasional meetings.

Election of directors.

Voting.

Shares personal property.

Dividends. shall from time to time make dividends of the clear profits of the business of the corporation, or such part thereof as may be deemed advisable.

Meeting of subscribers after subscription of \$5000.

SECTION 5. *And be it further enacted,* That in ten days after the books aforesaid shall be opened, if five thousand dollars of the said capital stock shall then be subscribed, or as soon thereafter as the said sum of five thousand dollars of the said capital stock shall be subscribed, the commissioners aforesaid, or a majority of them, shall give notice thereof in such manner as they may deem advisable, and the said subscribers after such notice, may on the first Monday of April, A. D., one thousand eight hundred and thirty-nine, or on any other day after such notice, which may be designated by the commissioners, hold a meeting and proceed to elect directors, who shall serve until the first Monday of April next following the day of their election.

Payment at such meeting.

SECTION 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 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 ten days' notice of the manner and time which they shall appoint for the payment of the remaining instalments of said capital stock.

Notice for pay't. of remaining instalments.

Shares of subscribers neglecting to pay may be declared forfeited, or be sued for.

SECTION 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, during the time of said refusal or neglect, shall be entitled to vote at any meeting, or receive any dividend. And it shall and may 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, in such manner as they may deem advisable. And the person or persons who shall become proprietors of such shares, shall be members of the corporation as fully and effectually as the original subscribers, entitled to the same privileges, and subject to the same liabilities and restrictions.

Disposition of shares not subscribed or forfeited.

SECTION 8. *And be it further enacted,* That this act be, and the same is hereby declared to be a public act.

Public act.

Passed at Dover, February 15, 1839.



CHAPTER CCXIII.

AN ACT *empowering the Orphans' Court to direct the sale of the real estate of minors.*

SECTION 1. *Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever it shall appear to the Orphans' Court of either of the counties of this State, that it will be for the benefit of any minor, that the land owned by such minor in either of the counties of this State, or any part thereof, should be sold, it shall and may be lawful for the Orphans' Court of the county wherein such land shall be situate, and when such land shall lay in two or more counties of this State, then for the Orphans' Court of either of the counties wherein such land shall lay, to direct a sale of all or any part of such land, to be made by the guardian of such minor, or by any trustee for that purpose to be appointed by the said court, and the money arising therefrom, after deducting all the expenses allowed by the said court touching the said sale, to be accounted for by such guardian as personal estate belonging to said minor, in the regular course of his guardianship, according to the existing laws of this State; or when there is no guardian, the said court shall make investment of said money, arising from said sale, in the same manner as is directed by the second section of the act entitled "A further supplement to the act entitled 'An act concerning the probate of wills, and the administration of the personal estate of deceased persons,'" and shall have the same power over the said investment as is given to the said Orphans' Court under the second section of the act aforesaid. *Provided nevertheless,* That the land so sold as aforesaid, shall be subject in the hands of the purchaser to any lien or incumbrance properly existing against it, at the time of the said sale.

When Orphans' Court may direct sale of minor's land.

Money to be accounted for by guardian.

If no guar-
dian, C't. to
make inv. st-
ment as di-
rected by sec.
2, ante. 161.

Land subject to liens existing at time of sale.

SECTION 2. *Be it further enacted,* That after the said sale shall be returned to and confirmed by the said court, the said court shall direct the said guardian or trustee to make a deed or deeds to the purchaser or purchasers thereof; and the purchaser or purchasers, under any deed or deeds made in pursuance of the order or orders of said court, shall have as full and ample title to the land so purchased by him, her, or them as aforesaid, as the said minor had thereto previous to the said sale.

Deed to be
made to pur-
chaser, &c.

SECTION 3. *Be it further enacted,* That the power and authority granted to the Orphans' Court by the last paragraph of the ninth

Power granted to O. C't. in last paragraph of sec. 9, Dig. 423-4, extended to moneys arising under this act, &c.

section of the act of the General Assembly, entitled "An act concerning the Orphans' Court," passed the tenth day of February, eighteen hundred and twenty-nine, be and the same hereby are extended and granted to the said Orphans' Court in all cases of monies arising under this act, and in all cases of investment made under and by virtue of this act, and also to all cases of investments made under and by virtue of the second section of the aforesaid act entitled "A further supplement to an act entitled 'An act concerning the probate of wills, and the administration of the personal estate of deceased persons.'"

Moneys arising under this act to be personal estate.

SECTION 4. *And be it further enacted*, That all monies arising under the provisions of this act shall be deemed, taken and considered to be personal estate.

C't. may require from guardian additional security, and on application for sale, may app't. com'rs. to report on propr'ty, &c.

SECTION 5 *And be it further enacted*, That in every case of sale ordered under this act, the said Orphans' Court shall have full power to require the guardian to give such additional security as may be deemed necessary. And if in any application for a sale, the said court should think it proper for their information, they are hereby authorized to appoint three commissioners to view the land, and report upon the necessity or propriety of the sale.

Passed at Dover, February 15, 1839.



CHAPTER CCXIV.

Dig. 127.

AN ADDITIONAL SUPPLEMENT to an act entitled "*An act for providing for the punishment of certain crimes and misdemeanors.*"

In convic'n. for larceny of negro or mulatto, except for sec'd or subsequent offence, C't. may graduate sen'ce. as to whipping and sale.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That in every case of conviction for the crime of larceny committed by a free negro or mulatto. (other than for a second or subsequent offence,) the court of General Sessions of the peace and Gaol Delivery may in their discretion, graduate their sentence, as to such part of the punishment as consists of public whipping, and the sale to servitude. *Provided however*, That the number of lashes to be inflicted, shall not be less than twelve, nor more than thirty-nine:—*And provided further*, That such convict shall be disposed of, for the purpose of * satisfying the restitution money and costs, for a term of not less than two, nor more than seven years; the exact duration of which term shall be established by the said court.

Proviso.

SECTION 2. *And be it further enacted*, That so much of the act to

* Of omitted in the original.

which this is a supplement, as provides for the sale of white convicts, *Dig. 127,* be and the same hereby is repealed, and made null and void. And if *providing for sale of white convicts, repealed.* it shall satisfactorily appear to the court that any white convict is not able to pay the costs and fine, or restitution money, then the said court shall make such order in the premises as to them shall seem expedient in regard to the time for which such white convict shall be detained in prison, upon failure to pay such costs and fine, or restitution money. *Order of Ct. if convict be unable to pay fine, &c.* *Provided however,* That the duration of such imprisonment shall not exceed the period of three months.

Passed at Dover, February 15, 1839.

CHAPTER CCXV.

AN ACT to establish a company under the name of *The Black bird Navigation Company.*

SECTION 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 a company shall be established for the improvement of the navigation of Black bird creek in the county of New Castle; the capital stock of this company shall not exceed four thousand dollars, divided into two hundred shares of twenty dollars each; and the said company shall go into operation, and their incorporation as hereinafter provided, shall take effect whenever one hundred shares shall be subscribed, and not otherwise. *Company established. Capital stock. To go into operation when.*

SECTION 2. *And be it further enacted.* That Auly Lore, John Townsend, Samuel Townsend, jr. and Bassett Ferguson shall be commissioners, and they or any two of them, are authorized to receive subscriptions to the said capital stock, and for that purpose to open books at such time and place in the village of Black bird, as the said commissioners, or any two of them may appoint; and such books shall continue open there at least two days, and afterwards until the said commissioners or a majority of them shall deem it proper to close the same; at least ten days notice of the time and place of opening such books, shall be given by advertisement in one of the newspapers published in this State, and by written notices posted up in three of the most public places in and near the said village of Black bird. If more than four thousand dollars shall be subscribed, on the two days aforesaid, the commissioners or a majority of them shall apportion the same among the subscribers, but shall deduct the excess from the largest subscriptions, so that no share be reduced while one remains larger: subscriptions may be made by proxy, as well as in person, and the amount subscribed shall be paid as hereinafter prescribed. *Comm'rs. appointed. Their duties and powers.*

SECTION 3. *And be it further enacted,* That the subscribers to the capital stock aforesaid, their successors and assigns, shall be,

Incorporation.	and they are hereby created a corporation by the name of "The Black bird Navigation Company," and shall continue until the amount of capital stock subscribed and paid in, together with all costs and charges accruing in carrying the provisions of this act into effect, shall have been paid as hereinafter provided; and forever afterwards, provided this act shall continue to be renewed by the Legislature; and by that name shall have power and capacity to sue and be sued in courts of law and equity, to make and use a common seal, to purchase, take, sell and alien lands, tenements, hereditaments, goods, chattels, rights, credits and effects, which may be connected with, or conducive to the purpose for which said company is established, to ordain by-laws for their own government not repugnant to the constitution and laws of this State, or of the United States, and to enjoy the franchises incident to a corporation; but it shall not be lawful for said corporation to use any banking powers;—the business and concerns of said corporation shall be managed by five directors; or if at any time, the number of stockholders shall be less than five, then a less number than five shall be competent to transact the business and concerns of the said corporation, at the discretion of the stockholders: the directors shall continue in office until the annual meeting of the stockholders next succeeding their election, and until successors to them shall be duly chosen; but a vacancy occasioned by death, resignation or inability to serve in the office of director may be filled by appointment made by a majority of a board of directors; the office of a director shall be vacated by his ceasing to be a stockholder; the directors shall be elected by the stockholders; the first election shall be held as hereinafter appointed; all subsequent elections shall be held at the annual meeting of the stockholders; the directors shall choose one of their number to be president; they shall meet according to the by-laws of the corporation; a majority of them shall form a board to do business, and if the president be absent, a president may be appointed <i>pro. tem</i> : the directors shall have power to employ engineers and laborers and agree upon and pay their wages; to appoint officers and agents, and agree upon and pay their salaries and compensation; to take bond from any officer or agent as the by-laws shall require, or as may be deemed expedient, with or without surety;—to make and cut a canal for the improvement of Black bird creek from the state road at the village of Black bird in a direction towards a place called and known by the name of Matthews' landing on said creek: to construct a basin at the head of the said canal, and a lock at some convenient part of the same, and to do all other work, and construct all other fixtures and appurtenances necessary and proper to the cutting and making the said canal, so that the same may answer the end herein and hereby intended to be attained thereby: and to this end, to use and employ the capital stock and funds of the company under such regulations as the by-laws may prescribe, and to bind by their contracts, deeds and writings, under the seal of the corporation and hand of the president, all the property and estate, common stock and joint funds of the corporation aforesaid, but not the persons or separate property of themselves or any of the stockholders; and further the directors shall have power to make by-laws for the government of the said corpo-
Name.	
Continuance.	
Powers.	
Not to exercise banking powers.	
Directors & President.	
Their meetings, duties and powers.	
Engineers, laborers, &c.	
Canal.	
Basin, &c.	
By-laws.	

ration, and regulating the management of the business and concerns thereof, and to reverse, repeal and amend the same, subject always to the control of the stockholders in regular meeting; the by-laws shall prescribe the officers of the corporation, other than those of president and directors, the bonds to be taken from the officers, the place of holding the meetings of the stockholders, the manner of calling the meetings, and the mode and regulations of assigning the shares of the capital stock. *Provided.* That all meetings of the stockholders and directors shall be held at some place in the village of Black bird, where all the capital stock of the said company shall be assigned either in person or by proxy. There shall be an annual meeting of the stockholders, on the first Monday of May in every year during the continuance of the corporation; if any election shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed in any year, the corporation shall not for that cause be dissolved; but in such case, directors may be chosen at an occasional meeting regularly held. The first annual meeting shall be held on the first Monday in May in the year of our Lord one thousand eight hundred and thirty-nine, or at such other day as the stockholders shall appoint. In all meetings of the stockholders regularly assembled or held, those assembled may proceed to business; all elections for directors shall be by ballot, one vote for every share; absent stockholders may vote by proxy; a majority of votes given, shall determine all questions; no director shall be entitled to receive or demand compensation for services, except the same shall be allowed by the stockholders at a regular meeting. The shares of the capital stock shall be personal property, and shall be assignable subject to the by-laws regulating such assignment; the directors shall make yearly dividends of the clear profits of the business of the corporation, or such part of the clear profits as may be deemed advisable; the directors shall lay before the stockholders every year, at their yearly meeting a general account of the stock, funds, debts and credits of the corporation, and any by-laws by them made, shall be opened to the inspection of every stockholder.

Meetings to
be held in
Black bird.

Annual
meetings.

Elections of
Directors.

Shares to be
personal pro-
perty.
Dividends.

Directors to
lay accounts
before stock-
holders.

SECTION 4. *And be it further enacted.* That the subscribers respectively, shall pay five dollars upon each and every share by them subscribed to the capital stock aforesaid, on the day of the first meeting of the subscribers, to be held as herein provided, to the directors who shall then be chosen, and the other three-fourths of said shares in such manner, and at such time as the president and directors shall appoint, and either at one time, or in instalments, as may be deemed expedient by the president and directors; and the president and directors shall give public notice of the manner and time which they shall appoint for paying such other three-fourth parts of said amount of shares, by advertisements in one of the newspapers published in this State, at least twenty days before the time appointed for such payment to be continued in such newspaper at least two weeks, and if any subscriber or subscribers shall neglect to make payment of the sum payable by him, her, or them, for the space of thirty days after due notice as above, the president and directors may either declare the share or shares of any delinquent subscriber or subscribers forfeited, or may proceed to sue for

Subscription
money how
paid.

and recover upon each and every share or shares, as like sums are recoverable at law.

When gen'l.
meeting to
elect direc-
tors, &c.
shall be held.

SECTION 5. *And be it further enacted*, That as soon as the capital stock aforesaid, or two thousand dollars thereof shall be subscribed, the commissioners aforesaid, or a majority of them shall call a general meeting of the stockholders, to be held at the village of Blackbird, on a day in such call to be appointed, and shall give notice of such call and the time and place of such meeting, by advertisement to be inserted in one of the newspapers published in this State, and such notice shall also give information, that five dollars on each share, is on the day of such meeting to be paid; and the subscribers who shall assemble at such meeting, shall have power to proceed to business, to elect directors, to make by-laws, and to do all acts which the stockholders can do, according to this charter.

Loan.

SECTION 6. *And be it further enacted*, That the directors be, and they are hereby authorized to contract for any loan or sum of money, not exceeding one thousand dollars for the benefit of the corporation, provided they shall deem the same necessary for the carrying on and completing the said canal and other works belonging to said company.

Comm'rs. to
view lands,
&c.

Draft or plot
to be filed
where.

Surveyor to
take oath or
affirmation.

Land to be
for use of Co.
after pay't. of
damage.

Comm'rs. to
assess dam-
age.

SECTION 7. *And be it further enacted*, That the commissioners or a majority of them, named in the second section of this act, shall have full power and authority to go upon and view the lands through which it will be necessary to cut and make said canal and basin, for the purpose of surveying and locating the ground necessary for that purpose, and of fixing the metes and bounds of said canal and basin, and they shall cause an accurate draft or plot of the same to be made by some skilful surveyor, which said draft or plot, or a copy thereof, shall be filed in the office for recording of deeds in and for New Castle county, and the same shall, when so filed, be evidence of the location of said lands for the purposes aforesaid; the surveyor before entering upon the duties hereby assigned him, shall before some judge or justice of the peace, in and for New Castle county, take and subscribe an oath or affirmation, to perform the duty hereby assigned him with impartiality and fidelity: and the said lands so contained in said plot, and located by said commissioners or a majority of them, shall thereafter be and remain for the use of the said company, upon their paying to the owner or owners thereof, the value of the damages by them or either of them, sustained in consequence of the making and constructing the said canal and basin; and for the purpose of assessing and declaring such damages, Thomas Deakyn, Benjamin Caulk and James Chambers, are hereby appointed commissioners, and are hereby authorized and required to go upon and view said lands, through which said canal and basin shall have been surveyed and located, in company with the commissioners or a majority of them, named in the second section of this act, and to assess and allow to the person or persons through whose lands the said canal and basin is to be cut and made, such damages as they shall think such person or persons may be entitled

to, in consequence of the cutting and making said canal and basin, which damages shall be paid or tendered before the said improvement shall be commenced or undertaken. *Provided always*, That in case any person or persons, through whose lands the said canal or basin may be cut and made, shall be dissatisfied with the damages which shall be assessed by said commissioners or a majority of them, or with their decision, if no damages are assessed, it shall and may be lawful for him, her, or them so dissatisfied, to make the same known to the said president and directors, in writing, within twenty days after being informed of such decision by said commissioners; or if the said president and directors are dissatisfied with the damages which shall be assessed by said commissioners, the said president and directors may give the owner or owners of said lands upon which damages have been so assessed, twenty days' notice in manner and form aforesaid, of their dissatisfaction aforesaid, then said party or parties so dissatisfied may, and it shall and may be lawful for them, within five days of the expiration of said twenty days, to appeal from the determination of said commissioners or a majority of them, to any judge of the Superior Court residing in the county of New Castle, who is hereby authorized and required to appoint three other judicious and impartial citizens of New Castle county aforesaid, to go upon and view the said lands, whose duty it shall be to assess such damages as they shall deem proper and right, which assessment when made and returned under their hands, or a majority of them, shall be final and conclusive; all returns of commissioners under this act, for assessing damages, shall be made in writing, within five days after the day of meeting, and assessing said damages, and shall be recorded in the office for recording of deeds in and for the county of New Castle, at the proper charge and expense of the said company.

SECTION 8. *And be it further enacted*, That it shall be the privilege of the directors aforesaid, and they are hereby authorized and empowered, as soon as the said canal shall be completed, so that a vessel drawing four feet water may pass through the same, to dam up and turn the water of said creek, at or near the State road, near the village of Black bird, into the said canal, and use the said water, or any portion thereof, necessary for such purpose, to fill and feed said canal and basin; provided the water of said creek shall not be raised at said State road, higher than it ordinarily is.

SECTION 9. *And be it further enacted*, That if any person or persons shall wilfully fill up or obstruct said canal or basin, or shall injure any of the locks or works of the said company, every person so offending, shall be liable to indictment in any court of General Sessions of the Peace for New Castle county, and upon conviction of such offence, shall forfeit and pay a sum not exceeding five hundred dollars, at the discretion of said court, with costs of prosecution.

SECTION 10. *And be it further enacted*, That for and in consideration of the expenses the said stockholders will be at in cutting and making the said canal, and in the other works for the improvement

Appeal by
either party.

When and
how the creek
may be stop-
ped.

Penalty for
injury to na-
vigation.

Canal &c.
vested in Co.

Tolls.

of said Blackbird creek, and for maintaining and keeping the same in repair; the said canal, basin, works and property, with all their profits, shall be and the same are hereby vested in the said corporation forever; subject nevertheless to the conditions hereafter mentioned; and that it shall and may be lawful for the said president and directors, after the said canal shall be made navigable for vessels drawing four feet water, to demand and receive the following tolls, at such place or places in the canal as they may hereafter direct. *Provided*, The whole toll received, shall not amount to more than the rates fixed by this act, that is to say:—

	<i>Dolls.</i>	<i>Cts.</i>
Every cord of wood or bark,	-	25
Every hundred cubic feet of plank or scantling, ship or other timber,	-	40
Every thousand shingles,	-	40
Every thousand pipe staves,	-	50
Every thousand hogshead staves,	-	35
Every thousand barrel staves,	-	20
Every hundred pipe or hogshead hoop-poles,	-	25
Every ton of iron ore,	-	15
Every hundred bushels stone lime,	-	1 00
Every hundred bushels air slacked lime,	-	50
Every ton of lime stone,	-	10
Every hundred bushels of marl,	-	25
Every hogshead of ground bark,	-	25
Every hogshead of wine, brandy, molasses or other liquor or sugar,	-	25
Every barrel,	-	6
All other casks and kegs in proportion, according to the quality and quantity of their contents.		
Every hundred bushels oyster shells,	-	30
Every hundred bushels of wheat, rye, corn or other grain,	-	50

And for all other commodities in the same proportion, agreeably to the articles herein enumerated.

Compensation of commissioners.

Commissioners, & directors to be sworn or affirmed.

Power of revocation reserved.

SECTION 11. *And be it further enacted*, That every commissioner shall for each and every day's service under the provisions of this act, receive one dollar.

SECTION 12. *And be it further enacted*, That every commissioner and director as aforesaid, before entering upon the duties of their respective offices, shall be sworn or affirmed before some judge, or justice of the peace in and for New Castle county, faithfully and impartially to perform the duties required of them by this act. The constitutional power of revocation, is hereby reserved to the Legislature.

Passed at Dover, February 15, 1830.

CHAPTER CCXVI.

AN ACT for the protection of fish and game in and on the waters of the Delaware bay and river, and the streams tributary thereto, within the limits of this State.

Whereas, the citizens of this State have an interest in the protection of the fish and game frequenting and inhabiting the waters of the Delaware bay and river, and the tributary streams thereof within the limits of this State, which the labors of fishermen and sportsmen from other States, resorting to said waters, are likely to injure and impair. Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passage of this act, it shall not be lawful for any person or persons living and residing without the limits of this State, to come into or enter upon the waters of the Delaware bay and river, and the streams tributary thereto, or upon any land or lands, marsh or marshes bordering thereon, within the jurisdiction and limits of this State, for the purpose, and with the intent to rake, gather or collect any oysters, terrapins, clams, or other shell-fish, or to catch or take in any way, or by any means whatever, any shad, herring, eels, perch, trout or other fish, or to hunt, shoot, or kill any geese, ducks, fowls or birds of other kind whatever, or to place in, or upon the said waters, lands or marshes, any lure, decoy, trap, or net, to take, or facilitate the capture of the same, in order that the said fish or game when so taken, may be carried without and beyond the limits of this State, under the penalty of forfeiting all and singular the boats, vessels, guns, lures, decoys, traps, lines, seines, nets, or other implements that may be used or employed for the purposes aforesaid, together with all the fish and game taken in and with the same, and shall pay, upon conviction thereof, the further sum of two hundred dollars for each and every offence committed, to be recovered from each and every individual offending against the provisions of this section, by any person who shall sue therefor, before any justice of the peace in this State, one moiety of the said fine and forfeiture to go to the person recovering, and the other moiety to the use of the State: *Provided,* That nothing in this act contained, shall be construed to prevent the sale of such fish or game by any citizen of this State, to any other person or persons whatsoever.

Non-resid'ts. prohibited from entering upon water, or land &c. bordering thereon within the jurisdiction of this State, for fishing, shooting, &c.

Penalty.

Proviso.

SECTION 2. *And be it further enacted,* That any citizen or citizens of this State may at all times lawfully seize any boat, with her tackle, or any seine, net, or fishing tackle, or dredging machinery, in the possession of any person or persons who shall violate any of the provisions of this act, and he or they so seizing the same, may sell the same on five days' public notice in one of the most public places in the county where such seizure may be made, at public sale, and the proceeds or avails of such sale, shall be the property of the person or persons seizing the same, in equal shares or proportions.

Boat, seine &c., of offender may be seized and sold.

On information of violation of Sec. 1. J. P. to issue warrant to sheriff, &c.

SECTION 3. *And be it further enacted,* That it shall be the duty of any justice of the peace in this State, upon sight thereof, or upon information on oath or affirmation by another, that any person or persons are violating, or have violated the provisions of the first section of this act, to issue his warrant, directed to the sheriff of the county in which such justice of the peace resides, for the immediate apprehension of such person or persons, and the seizure of all property and implements by them used and employed in contravention of this act, who thereupon shall be brought before the said justice of the peace, and if such person or persons upon apprehension, being brought as aforesaid, shall be convicted of any offence against the foregoing provisions of this act, such person or persons shall incur the penalty prescribed for such offence, and the property seized by virtue of the warrant directed to the sheriff as aforesaid, shall be sold, after five days' public notice, given by advertisement posted in one of the most public places in the county where such seizure may be made, at public sale, to the highest and best bidder for the same.

Sheriff may sum'n. posse comitatus armed &c.

SECTION 4. *And be it further enacted,* That if resistance be made to, or be apprehended by the sheriff, directed as aforesaid to execute the law, by any person or persons offending against the same, it shall then be the duty of the said officer, and he is hereby required to summon to his aid the posse comitatus, armed with fire-arms, ball, shot and powder, and to charter any boat or boats, vessel or vessels that may be necessary to execute the warrant to him directed, at the expense of the county wherein the said warrant shall be issued, and he shall proceed forthwith and without delay, to execute his duty under the warrant; and if resistance be made, then and in that case, besides the forfeiture and penalty prescribed in the first section of this act, the person or persons so resisting, may be sentenced upon conviction thereof, by the justice of the peace, before whom he or they shall be brought, to confinement in the jail of said county, for a period not less than thirty, nor more than ninety days; *Provided nevertheless,* That the owner or owners of any property seized, and all and every person arrested, under and by virtue of this act, may appeal from the decision of the said justice of the peace, by giving bond with security, to be approved by said justice of the peace, in a penal sum of equal to twice the amount of the fine and forfeiture, conditioned for the prosecuting of the said appeal with effect, to the next court of General Sessions of the Peace and Gaol Delivery in the said county; the said appeal when duly entered, shall supersede the judgment and sentence of the said justice of the peace.

If resistance be made—

Additional penalty.

Proviso.

Appeal.

Persons prohibited from using gill seines or nets, where.

Penalty.

SECTION 5. *And be it further enacted,* That no person or persons whatsoever, shall hereafter float, stake, or station any gill-seine or net in or upon the waters of the Delaware bay and river, within the limits and jurisdiction of this State, for shad or herring, within or nearer than one mile to the mouth of any creek, emptying and flowing into the said bay or river, under the penalty of forfeiting such seine or net, and being obliged to pay the further sum of fifty dollars, for each and every offence committed against the provi-

sions of this section, to be recovered before any justice of the peace in and for the county where the offence shall be committed, by any person who shall sue therefor. And any person or persons who shall gather or destroy on the land or lands, marsh or marshes aforesaid, any terrapin eggs, or shall be found in possession of any terrapin eggs collected on the same, shall forfeit and pay for every offence so committed, the sum of ten dollars, to be recovered before any justice of the peace for the county where such offence is committed, by any person who shall sue for the same. This act shall be deemed and considered a public act, and may be given in evidence under the general issue, in behalf of any person or persons acting under and by virtue of the same.

Penalty for gathering or destroying terrapin eggs

This act to be a public act.

Passed at Dover, February 15, 1839.



CHAPTER CCXVII.

A SUPPLEMENT to the act entitled "*A further supplement to the act entitled 'An act concerning the probate of wills, and the administration of the personal estate of deceased persons.'*"

Antc. 160 Chap. CXX.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the provisions of the act entitled "*A further supplement to the act entitled 'An act concerning the probate of wills, and the administration of the personal estate of deceased persons.'*" be and the same hereby are extended to all cases of * bequests of personal property for life, or for a term of years, heretofore made, or hereafter to be made, so that the person or persons charged with the execution of the will, by which such bequest is made, shall be enabled to deposit the legacy therein given, in the same manner as is directed by the first section of the said act: and the Orphans' Court of the county wherein such deposit is made, shall have the same power of investment and control, for the benefit of the persons interested, as is provided by the second section thereof.

Provisions of Ante. 160—Chap 120, extended to all bequests of personal property for life or term of years, &c.

Power of investment by O. Court.

Passed at Dover, February 16, 1839.



CHAPTER CCXVIII.

AN ACT to enable Amanda Green, Jane Green and Charles Green, minors, to sell and convey certain real estate therein mentioned.

Private act.

Passed at Dover, February 16, 1839.

* The word of is omitted in the original.

LAWS OF THE STATE

CHAPTER CCXIX.

AN ACT to incorporate the Female Benevolent Society of Trinity church Wilmington, for the relief of indigent women of said church.

SECTION 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 Phoebe Bradford, Eliza Anthony, Elizabeth G. Baker, Catharine N. Robinson, Eliza Cox, Sarah O. Daniel, Mary McDowell, Sarah H. Magens, Rebecca Hootten, Elizabeth Montgomery, Catharine A. Washington, Elizabeth Hedges, Martha Harvey and such other persons as are, or hereafter shall, by a vote of two-thirds of the association, become members of the Female Benevolent Society of Trinity church, Wilmington, for the relief of indigent women of said church, he and forever hereafter shall be by virtue of this act, one body politic and corporate in fact and in law, and shall have continuance for and during the period of twenty years, under the name, style, and title of "The Female Benevolent Society of Trinity church Wilmington, for the relief of indigent women of said church."

Company.

Incorporation.

Name.

SECTION 2. *And be it further enacted.* That the said corporation and their successors shall, for and during the period of twenty years, be able and capable in law, to purchase, receive, and hold any lands, tenements, rents, goods, chattels, or any property whatever 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 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.

SECTION 3. *And be it further enacted,* That the clear yearly rents and profits of the whole real estate to be held and enjoyed by the said corporation, shall not exceed the sum of five hundred dollars; and that the clear yearly interest or income of the personal estate of the said corporation shall not exceed two thousand five hundred dollars; and the said society shall have and enjoy all the franchises incident to a corporation. *Provided,* That nothing herein contained, shall be construed so as to deprive the society from enjoying the benefits of a bequest or donation in real estate, the clear income, or rents of which, shall exceed five hundred dollars. but that reasonable time is hereby granted to hold the same for a term not to exceed one year from the time such bequest or donation is made, so as to enable the corporation to sell, or dispose of the estate aforesaid, for the benefit of the society; and the said corporation shall not have or exercise any banking powers whatever.

Limitation of income.

Provisions to bequests.

Banking powers prohibited.

SECTION 4. *And be it enacted,* That the right to revoke this act of incorporation, is hereby reserved by the Legislature.

Act may be revoked.

Passed at Dover, February 16, 1839.

CHAPTER CCXX.

AN ACT to enable Nehemiah Redden to locate certain vacant land, situate in Little Creek hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 16, 1839.



CHAPTER CCXXI.

AN ACT to incorporate the Wilmington Atheneum.

SECTION 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 Samuel Buzby, Edwin A. Wilson, William Hemphill Jones, L. P. Bush, M. D., Thomas Baynes, Hanson Robinson, Samuel B. Wheeler, John L. Robeson, John A. Duncan and all other persons as now are, or hereafter shall be, or become members of said corporation agreeably to its constitution, rules and regulations, be and they are hereby incorporated by the name, style and title of "The Wilmington Atheneum," and by that name shall have succession for and during the period of twenty years, from the time of passing this act.

Company.

Incorporation.

Name.

SECTION 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, chattels, or any property whatsoever, which may be given, conveyed, or demised to them, and also to give, grant, sell or assign the same: and also to form a joint stock company for purchasing or procuring and fitting up convenient rooms and places for their accommodation, and do all other acts, matters and things touching the same, by the name 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 or elsewhere, in all manner of actions, suits, complaints, pleas, causes and matters whatsoever, and of what kind or nature soever.

Powers.

SECTION 3. *And be it further enacted,* That the nine persons in the first section of this act named, or some of them shall call a meeting of the members at the Atheneum or some other convenient place in Wilmington, by advertisements in two of the Wilmington newspapers, at least ten days before the first Thursday in May next, or at the earliest convenient day thereafter, at which meeting the members shall proceed to choose by a majority of votes by ballot, to be given in person or by proxy, a president, secretary, treasurers, &c.

Meeting of members to be called, by whom.

To elect president, directors, &c.

surer and six directors (which nine officers shall constitute the board of directors) and shall conduct the business of said corporation, until the next annual meeting, and until like officers shall be chosen, and make such by-laws, rules, orders, and regulations as may be necessary for the well governing the affairs of said corporation.

Annual
meetings.

SECTION 4. *And be it further enacted*, That the members shall meet on the first Thursday in May next, and in every year thereafter, in the city of Wilmington, of which at least ten days' notice shall be given in the newspapers before mentioned, and choose by a majority of votes present, in person or by proxy, the officers for the ensuing year, as mentioned in the third section of this act, who shall continue in office until others are elected as aforesaid, and at such other times as they may be summoned by the board of 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 present officers are hereby vested with power to perform the duties prescribed by the existing by-laws and regulations of said Atheneum, until the annual election in May next.

Special
meetings.

Quorum of
directors.

SECTION 5. *And be it further enacted*, That not less than five of the said board of directors, shall form a quorum for the transaction of business, and in case of the absence from any cause of the president or secretary at a meeting of the board of directors, a president or secretary pro. tem. may be appointed from their number by a majority of those present.

Powers and
duties of di-
rectors. -

SECTION 6. *And be it further enacted*, That the board of directors shall have power to appoint such other officers, clerks, and agents under them, as shall be deemed necessary for executing the business of said corporation, and allow them such salaries or compensation as they may deem reasonable; they shall also keep regular books, containing full, fair and correct entries and minutes of all their business and transactions, to be open at all times to the inspection of the members, and shall require (if necessary) of all such officers or agents, including the treasurer, surety for the faithful performance of their respective trusts.

Limitation of
annual in-
come.

SECTION 7. *And be it further enacted*, That the said corporation shall not have power to have, hold or possess property of any kind, the clear annual income of which shall exceed ten thousand dollars.

Public act.

SECTION 8. *And be it further enacted*, That this shall be a public act.

Passed at Dover, February 18, 1839.

CHAPTER CCXXII.

A. SUPPLEMENT to the act entitled "*An act concerning the Orphans' Court.*" Dig. 419.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That when a minor in any other State or Territory of the United States, having real or personal estate, rights, credits or things in action in this State, but having no guardian in this State, shall have a guardian in such other State or Territory, duly appointed according to the laws thereof, and invested by such laws with the care and management of the estate of such minor, and with authority to receive, and liability as guardian to account for, or in relation to the same, such foreign guardian shall also have the possession and management of the real estate of such minor, for whom he is so appointed guardian as aforesaid, situated in this State, and shall also have power and authority to demand and receive the personal property, and all debts, rents, and things in action, of, due, or belonging to such minor in this State, as fully and amply as if the said guardianship had been created within this State, according to the laws thereof, and the receipts, discharges and transfers of such foreign guardian, made in good faith, shall be valid and effectual and binding on such minor. *Provided however,* That before such foreign guardian shall demand or receive any such personal property, debts, rents, or things in action, of, due, or belonging to such minor in this State, he shall file, or cause to be filed, in the office of the clerk of the Orphans' Court of one of the counties of this State, a certificate of his or her appointment to such guardianship, duly certified under the seal of the court, or officer making said appointment, therein setting forth that said appointment was duly made according to the laws of said State or Territory, in which the same was made, and that such guardian has given security in such guardianship, according to the laws of such State or Territory, and that such guardian is, by the laws of such State or Territory, invested with the care and management of the estate of such minor, and with authority to receive, and liability, as guardian, to account for, or in relation to the same: which said certificate being duly certified and filed as aforesaid, shall thereupon be and remain of record in said office wherein the same shall be so filed, and the same, or a duly certified copy thereof, shall be conclusive evidence of the matters therein set forth, for all and every the intents, objects and purposes contemplated in this act.

When a minor in another State has property but no guardian in this State, and has a guardian in such other State, appointed by the laws thereof, such guardian shall have care &c of minor's property in this State.

Proviso.

Foreign guardian shall first file certificate of his guardianship, &c. in the office of clerk of Orp. Court.

SECTION 2. *And be it further enacted,* That where any minor is or shall be entitled to any money, on account of any legacy or any distributive share of any personal estate or otherwise, which has been or hereafter shall be lent at interest, or invested in any stocks, or other securities, by, or in the name of any executor or executors, administrator or administrators, under and in conformity with the order or direction of the Orphans' Court of any of the counties of this State, made in pursuance of the provisions of the fourth section of the act to which this is a supplement, or other-

Where minor's money is lent or invested pursuant to Sec. 4, Dig. 421, the guardian may take from Ex'r. or Ad'r. an assign't. of stocks &c. in lieu of satisfaction.

When more than one is entitled to money lent &c., guard'n. may take assignment of ward's proportion.

In such case, O. Court on application of party interested, shall apportion stocks, &c.

Such assign't. to be binding on minor and to discharge Ex'r or Ad'r.

Repeal—
parts of Dig.
419.

wise, it shall and may be lawful for the guardian of such minor appointed according to the laws of this State, or where such minor being in any other State or Territory of the United States, has no guardian in this State, but has a guardian in such other State or Territory, duly appointed according to the laws thereof, then it shall and may be lawful for such foreign guardian to take and receive on behalf of such minor, in lieu and in satisfaction of such money so lent or invested as aforesaid, an assignment or transfer of such stocks or other securities in which the same may be so lent or invested as aforesaid. When more than one person is entitled or interested in the said money so lent or invested as aforesaid, then it shall and may be lawful for any such guardian as aforesaid, to take and receive on behalf of such minor for whom he is such guardian, assignment or transfer of so much or such part of such stocks or other securities as corresponds with such minor's share or proportion of the money so lent or invested as aforesaid, in lieu and in satisfaction of the same. If more than one is entitled, the Orphans' Court which directed the loan, or investment, shall, upon the application of any of the parties interested, or the guardian of any of them, or of the executor or administrator in whose name the loan or investment may stand, apportion the stocks or other securities to and among the parties severally entitled, according to, and corresponding with the share, or proportion of each respectively, in the money so lent, or invested, and shall direct the kind and amount of the stocks, or other securities to be assigned or transferred to each, and shall have power and authority to order the assignment or transfer of the same to be made accordingly, to the parties entitled respectively, or to the guardians aforesaid of those of them under age respectively, in lieu and in satisfaction of their several and respective shares or interests, in the said money so lent or invested in such stocks or other securities. Such assignment or transfers of such stocks, or other securities so made to any such guardian of a minor aforesaid, shall be valid and binding upon such minor, and shall constitute and be a good and sufficient payment and discharge of such minor's share or interest in the said money so lent or invested in such stocks, or other securities, and thereby the executor and executors, administrator and administrators, or other person, from whom said money so lent or invested is, or shall be due and owing shall be fully exonerated and discharged, therefrom and from all further liability for the same, to such minor, or to any other person in behalf, or in right of such minor.

SECTION 3. *And be it enacted*, That so much of the act to which this is a supplement, as is inconsistent with this act, be and the same is hereby repealed.

Passed at Dover, February 18, 1839.

CHAPTER CCXXIII.

AN ACT to confirm, concur with, and give effect to an act of the General Assembly of the State of Maryland, entitled "An act for the relief of the heirs and representatives of Joseph Vickers, late of Sussex county, in the State of Delaware, deceased.

Private act.

Passed at Dover, February 18, 1839.



CHAPTER CCXXIV.

AN ACT for the relief of Henry M. Temple and Charles Temple, minor children of Thomas L. Temple.

Private act.

Passed at Dover, February 18, 1839.



CHAPTER CCXXV.

AN ADDITIONAL SUPPLEMENT to the act entitled "An act Dig. p. 127.
providing for the punishment of certain crimes and misdemeanors."

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if any person or persons shall wilfully and unlawfully fell, cut down, break down or pull up, any mulberry tree, scion, or plant of another; or shall wilfully and unlawfully fell, cut down, break down or pull up, and take and carry away any mulberry tree or trees, scion or scions, plant or plants of another; or shall wilfully cut off the branches or pluck off the leaves from any mulberry tree or trees, scion or scions, plant or plants of another, and take and carry the same away, or shall wilfully and unlawfully bark, skin, or peel any mulberry tree or trees, scion or scions, plant or plants of another, standing or growing in the soil, and attached to the freehold, without the consent of the owner or owners of any such tree or trees, scion or scions, plant or plants, had and obtained; or if any person or persons shall wilfully and maliciously prostrate, destroy, or otherwise injure any house, shed, or other building of another, used and employed for the purpose of feeding silk worms, or reeling silk; or shall wilfully and maliciously kill and destroy any silk worms of another, or shall wilfully and maliciously destroy the eggs of the silk worm of another: every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, in the court of General Sessions of the Peace and Gaol Delivery, shall forfeit and pay to the State, a fine not less than ten dollars,

Unlawfully cutting down &c., or bark- ing &c., any mulberry trees or scions attached to freehold.

Destroying or injuring house for silk worms or destroying eggs of silk worm.

Misdemeanor.

Penalty. nor more than five hundred dollars, and may also be sentenced to suffer imprisonment for a term not exceeding six months, if the court shall deem the circumstances to require such additional punishment.

Passed at Dover, February 18, 1839.



CHAPTER CCXXVI.

Dig. 497. AN ACT to amend the act 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.*"

Dig. 497,
amended by
striking out,
&c.

Section 1.

To be read,
construed &
printed as
amended.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the "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," passed at Dover on the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and twenty-nine, be amended by striking out the words "eight hundred," in the ninth line of the first section, and inserting the words "one thousand;" also by striking out the words "one hundred and sixty," in the twenty-fifth line thereof, and inserting the words "two hundred and twenty." Also by inserting between the words "Gaol Delivery" and "shall" in the forty-seventh line thereof, the words "and each attorney at law, and each justice of the peace residing in said county:---" also by striking all the remaining part of said section, after the words "copies shall be," in the fourth line from the bottom thereof, and inserting in lieu thereof, these words, "delivered to such citizens as shall apply for the same, each receiving one." The section aforesaid shall be read and construed as amended by this act, and in any edition of the laws of this State, hereafter to be published, shall be printed as thus amended.

Passed at Dover, February 18, 1839.



CHAPTER CCXXVII.

AN ACT to enable Joshua Johnson and James F. Miller to sell certain real estate therein mentioned.

Private Act.

Passed at Dover, February 19, 1839.

CHAPTER CCXXVIII.

A FURTHER SUPPLEMENT to the act entitled "An act to incorporate 'The Wilmington Whaling Company.'" 8 vol. 309,
Chapter
CCCVIII.

SECTION 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 capital stock of the said company, which according to the provisions of the act to which this is a supplement, is not to exceed three hundred thousand dollars, divided into three thousand shares of one hundred dollars each, shall be arranged, modified and held in the manner following, that is to say:—

1. The capital stock of the said company shall not exceed the sum of three hundred thousand dollars, divided into six thousand shares of fifty dollars each. No. and val.
of shares.

2. The holders of that portion of the capital stock, upon each share of which the whole amount of one hundred dollars has been paid, shall receive two certificates of fifty dollars each, for every share by him, her, or them so held, upon which the full sum of one hundred dollars, shall have been so paid. 2 certificates
of \$50 each
for share of
\$100 paid.

3. The holders of that portion of the capital stock, upon each share of which not more than forty dollars has been called in and paid, shall receive two certificates of fifty dollars each, for every share by him or her so held. *Provided*, That each certificate so given shall express by the indorsement of the treasurer that the sum of twenty dollars alone, or one-half of the sum actually paid upon the original certificate, has been paid upon this certificate; and provided also that the holder thereof shall be liable to pay the installment or instalments due, or to become due thereon, in the same manner and subject to the same penalties for the non-payment thereof, until the whole sum of fifty dollars shall be fully paid in, as are provided by the third section of the act to which this is a supplement. *And provided further*, That nothing in this act contained shall be construed to require a separate certificate to be issued for each share of stock, but that a certificate may be issued for as many shares of fifty dollars each, as the stockholder may hold or possess. Certificates
to holders of
stock on
which not
more than
\$40 has been
paid on each
share,

SECTION 2. *And be it further enacted*, That the stockholders shall be entitled as heretofore, at all elections, to give one vote for each share of stock. Voting.

SECTION 3. *And be it further enacted*, That the directors shall have power to require the stockholders, under such penalties as may be prescribed by by-laws, to deliver up the certificates of stock now held by them, and receive new certificates under this act. Stockholders
to deliver up
certificates,
&c.

SECTION 4. *And be it further enacted*, That before this act shall go into effect, it shall be submitted to a meeting of stockholders, to be called for that purpose, in the city of Wilmington, in the month of Acceptance
of this act to
be signified
to Governor.

of April next: and the stockholders shall then and there decide by a majority of the votes present, whether they do accept, or reject this act; and in case of its acceptance, the same shall be certified to the Governor, under the seal of the company; but if rejected, then this act shall be null and void.

Passed at Dover, February 19, 1839.



CHAPTER CCXXIX.

AN ACT for the relief of Eliza Wales Ringgold, a minor.

Private act.

Passed at Dover, February 19, 1839.



CHAPTER CCXXX.

AN ACT for changing the location of a certain public road, and for other purposes.

Preamble.

Whereas it is represented to this General Assembly, that the State road, leading from Milford to the Maryland line, in Mispillion hundred in Kent county, in the part where the same is located upon the land of John Roughly, is very crooked, and making several angles in its course in such manner as not only greatly to prejudice the symetry, shape and convenience of his fields, but also to fix upon him a very heavy expense of keeping up fence: and it being further represented, that the said road may be so changed; as to cross said farm in a straight course, which will be an advantage to the public, and without prejudice to any individual. Therefore,

Comm'rs. appointed to view and change location of road on land of J. Roughly.

SECTION 1. *Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Peter Callaway, Thomas H. Baynard, and Allen Thomas, be and they are hereby appointed commissioners, and authorized and required to go upon and view the said State road mentioned in the preamble to this act, and examine the same, and if the said commissioners or a majority of them shall be opinion, that the change or changes desired by the said John Roughly, can be made in that part of the said road, which crosses the land of the said John Roughly*

ly, without material prejudice to the public interest or convenience, and without prejudice to other individuals, they shall proceed to lay out such road across said Roughly's land as will produce such change or changes, having regard to all circumstances of public or private convenience, and shall cause to be made a plot or draft of such road so laid out by them, representing the courses, distances and width thereof, and shall determine what part or parts of the original road across said land may be vacated without prejudice to the public, and shall make return of the said plot or draft, with a plot or description of so much of the said original road, as they shall determine may be vacated, and also with notes of such matters as they shall think proper to set forth, under their hands, or the hands of a majority of them, to the clerk of the peace in and for Kent county, to be kept in his office; and upon such return being made to the clerk of the peace as aforesaid, it shall and may be lawful for the said John Roughly, to open and make the said road, which said commissioners, or a majority of them shall lay out as aforesaid, according to the courses, distances and width designated in and upon said plot and return, and to enclose and hold for the only proper use and behoof of the said John Roughly, his heirs and assigns, such part or parts of the original road as the said commissioners, or a majority of them, shall have determined may be vacated: and the said road so laid out by the said commissioners, shall be and remain a part of the aforesaid State road, and after the same shall have been opened and made as aforesaid, shall be kept up and in good repair at the public expense. *Provided nevertheless*, That the said John Roughly shall not enclose, or otherwise obstruct any part of the said original road until the said commissioners, or a majority of them, shall have determined that the same may be vacated, and return their proceedings as aforesaid, and the said John Roughly, at his own proper cost and charges, shall have opened, and kept in good repair the said road which the said commissioners shall lay out as aforesaid, or cause the same to be done, and shall have paid the commissioners and such surveyor, as they may call to their assistance, for their services in the premises.

To make plot
of the road.

And return it
to C. P. Kent
county.

On return
made J.
Roughly to
open road
and enclose
parts of old
one vacated,
&c.

Proviso.

SECTION 2. *Be it further enacted*, That the said commissioners, and the surveyor employed by them, shall before entering upon the services required by this act, be sworn or affirmed before some justice of the peace in Kent county, that is to say: the commissioners to perform the duties enjoined upon them by this act, and the surveyor to perform the service for which he is employed, according to the best of their skill and judgment respectively.

Comm'rs. &
surveyor to
be sworn or
affirmed.

SECTION 3. *And be it further enacted*, That every commissioner shall, for each and every day's service under this act, be entitled to one dollar, and the surveyor, to such sum as may be stipulated between him and the said John Roughly, which expense shall be paid by the said John Roughly; and if any of the said commissioners shall die, or refuse, or neglect, for the space of one month, after called upon, to act, any judge of the Superior Court may appoint a person or persons to act in the place of such commissioner or com-

Their com-
pensation.

To be paid by
J. Roughly.

Vacancies.

missioners, and so from time to time, until the duties of the said commissioners, under this act, are fully discharged.

Passed at Dover, February 19, 1839.



CHAPTER CCXXXI.

AN ACT to authorize the construction of a rail road from the town of New Castle to the city of Wilmington.

SECTION 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 it shall and may be lawful for the company incorporated by this act, to lay out, locate and construct a rail road, with one or more tracks, from some point at or near the town of New Castle, to, near, or above the city of Wilmington, with privilege to cross the Christiana river at some eligible point at, or above the site of the Wilmington bridge; also with privilege to unite with the New Castle and Frenchtown Rail Road, with the assent of the board of directors of the New Castle and Frenchtown Turnpike and Rail Road Company. And also to unite at, near, or above the city of Wilmington, with the Philadelphia, Wilmington and Baltimore Rail Road, with the assent of the board of directors of The Philadelphia, Wilmington and Baltimore Rail Road Company. But it is hereby expressly declared, that the said company shall not construct any bridge over the Christiana river, within the limits of the city of Wilmington: *And provided further,* That they shall not construct any wharf, wharves, or fixtures, in, or upon the Christiana river, within the limits of the said city of Wilmington, without the assent of the city council shall be thereto first had and obtained in writing, and under the common seal of the said city. *And it is hereby further declared,* That the said company shall not locate the said rail road upon, or alongside of any public road or highway, between the town of New Castle and the city of Wilmington:—but nothing herein contained shall be so construed as to prevent the said company from forming a junction of the said rail road with the present public road at or near the Wilmington bridge for the purpose of crossing the Christiana river. At the place of making such junction, the rails of such rail road shall be so laid, as not to impede the passage or transportation of persons or property along the said public road.

Company in-
corporated
by this act
may locate
rail road, &c.

Co. not to
construct
bridge, wharf
&c, within
limits of Wil-
mington,
without as-
sent of city
council.

Not to locate
R. R. where,
&c.

SECTION 2. *And be it enacted,* That the capital stock of the said company shall not exceed one hundred and fifty thousand dollars, divided into three thousand shares, of fifty dollars each.

Capital stock.

SECTION 3. *And be it enacted,* That Thomas P. Cope, Henry Toland and Matthew Newkirk, of the city of Philadelphia, James

Price and Allan Thompson, of the city of Wilmington, and Thomas Stockton, James Booth and James Couper, junior, of the town of New Castle, be and they are hereby appointed commissioners to receive subscriptions to the capital stock of the said company, and for that purpose to open a book or books, at such times, at such places, and under such regulations, as they, or a majority of them, may deem proper; reasonable public notice thereof, being first given in two or more newspapers in the cities of Philadelphia and Wilmington.

Comm'rs. to
receive sub-
scriptions.

SECTION 4. *And be it enacted*, That the subscribers to the said capital stock, their executors, administrators and assigns, shall be, and they are hereby created and declared to be, a corporation and body politic, by the name and title of "The New Castle and Wilmington Rail Road Company;" and, by that name, shall have continuance, may make and have a common seal, and alter or renew the same at pleasure, shall be able to sue and be sued, implead and be impleaded in courts of record and elsewhere, and to purchase, have, hold, possess and enjoy to them, their successors and assigns, lands, tenements, hereditaments, goods, chattels and effects of any kind, nature and quality, which may be necessary or convenient for effecting the purposes for which the said company is incorporated, and for carrying on the business of the said company; 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 constitution and laws of this State, or of the United States. And also, to appoint such officers and agents as may be necessary to accomplish the objects of this act, and to allow them such compensation as shall be right and proper; which, with all other expenses, shall be defrayed out of the funds of the corporation. And this corporation 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 thro' 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.

Subscribers
incorporated.

Name, con-
tinuance and
powers.

May hold
property.

Make by-
laws.

Appoint offi-
cers, &c.

Corp'n. not to
be dissolved
by failure to
hold meeting,
&c.

SECTION 5. *And be it enacted*, That the shares of the capital stock of this company, shall be personal property, and be assignable, in such manner as the by-laws may prescribe.

Shares to be
personal pro-
perty.

SECTION 6. *And be it enacted*, That when the whole of the capital stock of this company, or such part of it as may be deemed sufficient by a majority of the commissioners, shall have been subscribed, then the said commissioners, or a majority of them, shall call a meeting of the subscribers to the said capital stock, to be held at such time and place as the said commissioners, or a majority of them shall designate, and shall give notice of such meeting, and the time and place thereof, at least ten days before the time of such meeting, in two or more newspapers published in the cities of Philadelphia and Wilmington; and the subscribers who shall assemble in such meeting, and the proxies of such as shall be absent, shall elect seven directors by ballot, and plurality of votes given; and the

When gen'l.
meeting to
elect direc-
tors &c. shall
be held.

directors so elected shall be stockholders, and shall continue in office until the first annual meeting of the stockholders, and until successors to them shall be duly chosen. The commissioners, or any two of them, shall act as judges of the aforesaid election.

Annual
meetings.

Election of
directors.

Occasional
meetings.

President
chosen.
Quorum of
directors.
Their powers
and duties.
To appoint
officers, &c.

To purchase
buildings &c.

To use cap'l.
stock, make
contracts &c.

SECTION 7. *And be it enacted*, That there shall be an annual meeting of the stockholders on the first Tuesday in June, of each and every year, for the purpose of electing seven directors, who shall be stockholders, and for transacting such other business as may be brought before them. In all meetings of the stockholders regularly held, those assembled may proceed to business. The election of directors shall be determined by 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 or she may hold; and absent stockholders may vote by proxy. Occasional meetings of the stockholders may be called by the directors.

SECTION 8. *And be it enacted*, That the directors elected as aforesaid, shall choose one of their own number to be president of the board. Any four of them shall constitute a quorum. The directors are hereby authorized to appoint or remove all such officers, agents, laborers and workmen, as they shall deem necessary, and fix and pay the salaries and compensation of such officers, agents, laborers and workmen, and if necessary or expedient, to take bond with security from them, or any of them, for the proper and faithful performance of their duties or contracts. They shall also have power to purchase and employ such buildings, materials, steam and other machines and carriages, as may be requisite to the execution of such plan or plans as they may deem most advantageous for the interests of the corporation. They shall have full power to do all acts that are necessary to effect the purposes for which the company is established: and to this end, to use the capital stock and funds of the 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 funds of the corporation. They may make and alter by-laws; prescribe the officers of the corporation, other than the president and directors; the bonds to be taken from any of the officers, and the mode of assigning the shares of the capital stock.

Land for road
how obtain-
ed.

If not by pur-
chase, Co.
may petition
S. C. or judge
in N. C. C'y.
for app't. of
freeholders to
assess dama-
ges, &c. &c.

SECTION 9. *And be it enacted*, That the said directors shall be, and they are hereby authorized to contract for, purchase and hold all such land as they may deem necessary for the purposes of the 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 by petition to the Superior Court, or to any judge thereof residing in New Castle county, in vacation, first giving the other party five days' notice in writing 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 require for the use and construction of the said rail road, and assess the damages, if any, that the owner or owners thereof will sustain by reason of the said rail road

passing through the same. The said five freeholders shall be sworn before some judge, justice of the peace or notary public, faithfully and impartially to perform the duty assigned to them. They shall give ten days' written notice to the owner or owners of the property, if he or they be within the State, and to the president of the company of the time of their meeting for the discharge of their duty, which meeting shall be held on the land required for the use of said rail road; and they shall make report in writing under their hands, or the hands of a majority of them, to the term of the Superior Court in New Castle county, next after their appointment; and the said court may either confirm the said report, or on good and sufficient reasons, refer the matter back to the same persons, or appoint five other judicious and impartial freeholders to perform the said duty in manner aforesaid. When judgment of confirmation is rendered by the said court, on any report made as aforesaid, and upon the payment by the said company of the amount of damages assessed to the owner or owners of the said property, or upon the payment of the same into court for his or their use, whether such owner or owners be, or be not, under any of the disabilities of infancy, coverture, or incompetency of mind, or be in, or out of the State, the title to the land and premises, mentioned and described in the said report, shall be absolutely vested in the said company, their successors and assigns. The fees to the referees and prothonotary, on any such proceedings, shall be determined by the said court and be paid by the said company.

Freeholders
to be sworn
or affirmed.

To give notice of meeting and make report.

Ct. may confirm or reject report, &c.

When con'd. title of land vested in Co.

Fees to referees and prothonotary.

How R. Road shall be constructed.

SECTION 10. *And be it enacted*, That the said rail road shall be so located and constructed, as to do the least damage to private property, having due regard to public convenience, the interests of the stockholders, and to the situation and nature of the ground, and of the buildings thereon. And when it shall be necessary in the construction of the said rail road to cross or intersect any established road or way, it shall be the duty of the directors of the said company, so to construct the said rail road, across such established road or way, as not to impede the passage or transportation of persons or property along the same, and when it shall be necessary to pass through the land of any individual, it shall also be the duty of the said directors to provide for such individual, proper wagon-ways across the said rail road.

Proviso, in case it cross public road or land of an individual.

SECTION 11. *And be it enacted*, That the directors of the said company may procure and use, on the rail road to be constructed by virtue of this act, all machines, cars, carriages, and other vehicles which they may deem proper and necessary for the purposes of the said road; and they shall have power to demand and receive for the conveyance of passengers and transportation of merchandize, such sum or sums of money, or such tolls as they shall from time to time think reasonable; but they shall not charge more than five cents per mile for any passenger, including customary baggage of not more than one hundred pounds weight. 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 transport persons or property of any description thereon, without the license or permission of the board of directors.

Directors to procure cars, &c. and demand toll.

No other Co. to use road without license, &c.

Payment on
subscribing.

SECTION 12. *And be it enacted,* That the subscribers to the capital stock of the said company shall respectively pay to the aforesaid commissioners, an instalment of five dollars on each share of stock so subscribed for, at the time of subscription. And the said commissioners or a majority of them, are hereby authorized to receive and issue certificates, or receipts, for the said sum of five dollars on each share of stock, and are required to pay the same over to the treasurer, immediately upon his election by the board of directors chosen as aforesaid. The residue of the amount subscribed for, shall be paid in such manner, and in such instalments, and at such times, as the president and directors shall appoint, who shall give at least, twenty days' notice by advertisements in two or more newspapers, in the cities of Philadelphia and Wilmington, of the manner and time which they shall appoint for the payment of the remaining instalments of said capital stock; and shall also give such notice to the stockholders, by circulars addressed to each of them.

Of balance of
subscription
money.

Shares of do-
faulters may
be forfeited,
or sum due
sued for &c.

Disposition
of forfeited
shares.

SECTION 13. *And be it enacted,* That if any of the instalments which may be called for by the president and directors, shall not be paid within twenty days next after the time appointed in said call for the payment thereof, the said president and directors may either forfeit such share or shares, or may in the name of the corporation, sue for and recover the sum or sums so due as aforesaid; and no stockholder, who shall refuse or neglect to comply with any call so made as aforesaid, shall, during the time of such neglect or refusal, be entitled to vote at any meeting of the stockholders, nor shall he demand or receive any dividend. Forfeited shares may be disposed of for the benefit of the corporation.

Dividends.

SECTION 14. *And be it enacted,* That the said president and directors, shall from time to time, make dividends of the clear profits of the business of the company, or such part of such profits as they may deem advisable. The time of making dividends, shall be fixed by the by-laws and public notice thereof shall be given by the said president and directors.

This act, a
public act.

SECTION 15. *And be it enacted,* That this act shall be held in all courts of law and equity in this State, as a public act, and shall be considered as evidence, without setting it forth in pleading.

Power to re-
voke it-reser-
ved.

SECTION 16. *And be it enacted,* That the power to revoke this act, is hereby reserved by the legislature.

This act not
to effect
rights of N.
C. & F. T.
Co. &c.

Not to take
effect, until
said Co. sig-
nify their as-
sent thereto,
&c. &c.

SECTION 17. *And be it further enacted,* That nothing contained in this act, shall be construed to affect the rights of the New Castle and Frenchtown Turnpike and Rail Road Company, or to affect any contracts or obligations existing between this State and the said company; And further, That this act shall not take effect, until the said New Castle and Frenchtown Turnpike and Rail Road Company shall signify their assent thereto, with a declaration that this act shall not, in anywise, impair any contracts or obligations, existing between this State and the said company, or be construed to, release the said company from such payments to the State of Dela-

ware and to the trustee of the school fund, as they are now required to make, by virtue of an act entitled "A further supplement to the act entitled 'An act concerning the New Castle and Frenchtown Turnpike and Rail Road Company,'" passed the twenty-second day of January one thousand eight hundred thirty-three. Such assent and declaration shall be in writing, under the common seal of the said New Castle and Frenchtown Turnpike and Rail Road Company, attested by the signature of the president, and delivered to the Governor of this State, and recorded in the office of the Secretary of State.

Assent &c. to be in writing &c. delivered to Governor, and recorded where.

SECTION 18. *And be it further enacted,* That nothing contained in this act, shall be construed to interfere with the rights of the Delaware Rail Road Company; but the said rail road authorized by this act, shall be considered and taken to be part of the Delaware Rail Road, if the Delaware Rail Road Company will assent thereto; and shall belong to the Delaware Rail Road Company, upon the latter company making a reasonable compensation to the stockholders of the New Castle and Wilmington Rail Road Company, for their said road and property thereto belonging, according to a valuation to be made by five judicious and impartial commissioners, to be appointed by the Superior Court, upon the application of the said Delaware Rail Road Company. And if the said Delaware Rail Road Company shall not assent, to the rail road authorized by this act, being part of said Delaware Rail Road, they shall be at liberty to form a junction with the road, authorized by this act, or to tap it at any point they may think proper.

This act not to effect rights of Del. R. R. Co. but road authorized by it, to be part of D. R. R. if Del. R. R. Co. assent, &c. &c.

SECTION 19. *And be it further enacted,* That nothing in this act contained, shall be construed to authorize the said company to construct a bridge over the Christiana river, at any point, without a draw in the said bridge, but that in case any such bridge be constructed, the same shall be a draw-bridge; and the draw of which shall be of the same plan and dimensions, and shall be kept subject to the same regulations for the accommodation of vessels, passing up and down the stream, and to the same penalties and forfeitures for neglect, or violation of the said regulations, as are provided in the eighth and twentieth sections of the act entitled "An act to incorporate a company to erect a draw-bridge over the river Christiana at Wilmington, and for other purposes therein mentioned."

Bridge over Christiana R. to be a draw bridge.

Draw to be of same dimensions &c. as are provided in Sec. 8 and 20 of Dig., 581.

SECTION 20. *And be it further enacted,* That as a further condition of the passing of this act, the said rail road company shall semi-annually, after the said rail road shall be in complete operation, 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.

Tax to the State.

Passed at Dover, February 19, 1839.

CHAPTER CCXXXII.

AN ACT respecting the partition of the lands and tenements of Miers Burton, late of Dagsborough hundred, in the county of Sussex, deceased.

Private act.

Passed at Dover, February 19, 1839.



CHAPTER CCXXXIII.

AN ACT to revive, re-enact and re-establish an act passed in this State, in the eighth year of the reign of king George the third, entitled "An act to enable the owners and possessors of the marsh meadow, on the north side of Christiana river, called Brandywine Marsh, and of a tract of marsh meadow and cripple, on the south side of said river, called Holland's Creek Marsh, and also of a tract of marsh meadow, near Newport, called Conrad's Cripple, to keep the bunks, dams and sluices in repair, and raise a fund to defray the expense thereof."

Private act.

Passed at Dover, February 19, 1839.



CHAPTER CCXXXIV.

AN ACT to provide for the preservation of the records in the office of the Register for the probate of wills and granting letters of administration, and in the office of the Recorder of Deeds, in Sussex county.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Levy-court of Sussex county, or a committee thereof, may go into the office of the register for the probate of wills, and granting letters of administration of said county, and there inspect and examine the records and papers thereof, and if, in the opinion of the said Levy-court, or of the committee thereof, any measures are necessary to be taken, in order to preserve the records and papers of the said office, and if the finances, of the county aforesaid, will admit of the same, without inconvenience or detriment, then, it may be lawful for the said Levy-court to order and direct the said register for the probate of wills and granting letters of administration, as

Levy Court, or committee thereof, in Sussex Co. to examine records in Register's office.

If necessary &c. may order books to be procured &c. &c.

soon thereafter as conveniently may be, to provide two good, substantial and well bound books, in one of which the said register shall transcribe, record and insert, or cause or procure to be transcribed, recorded and inserted, in alphabetical order, the names of the several wards, the names of the several guardians of such wards, the respective dates of the appointments of such guardians, and of the several guardian accounts, and the balance thereon, whether unappropriated or overpaid, and in the making of the said books; the said register shall commence on the first day of January, in the year of our Lord one thousand eight hundred.

What to be transcribed &c.

SECTION 2. *And be it further enacted*, That the aforesaid Levy-court, or a committee thereof, may go into the office for recording of deeds in said county, and there inspect and examine the records and papers thereof, and if, in the opinion of the said Levy-court, or the committee thereof, any measures are necessary to be taken to preserve the records of said office, and if the finances of said county will admit of the same without inconvenience or detriment, then it may be lawful for the said Levy-court to order and direct the recorder of deeds, to cause to be procured, as soon thereafter as conveniently may be, two good, substantial and well bound books, in one of which he shall make a full, complete and direct index to all the records in his said office, other than indentures or deeds of apprenticeship, and in the other of said books, shall make a full, complete and reverse index, to all the records in his said office, other than indentures or deeds of apprenticeship.

L. C. or com. to examine records in Recorder's office. If necessary &c. may order books to be procured, &c.

Books to contain, what.

SECTION 3. *And be it further enacted*, That the Levy-court be and they are hereby required to appoint commissioners, whose duty it shall be to examine the said books, after they shall have been completed, and in case they, or a majority of them, shall approve of the execution thereof, then and in such case, the said commissioners, or a majority of them, shall certify the same to the Levy-court of Sussex county aforesaid, and the said register and recorder, shall be repaid the costs of said books by the said Levy-court, and shall receive, for their other services in and about the premises, a just and reasonable compensation, to be allowed by the said Levy-court.

Comm'rs. to examine books.

Certificate.

Compensation of Reg'r. and Rec'r.

SECTION 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 a judge or justice of the peace of the said county, faithfully to perform the said duties; and 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 the county aforesaid, at their first meeting thereafter.

Comm'rs. to be sworn or affirmed.

Their compensation.

Passed at Dover, February 20, 1839.

CHAPTER CCXXXV.

AN ACT to provide for the removal of the seat of justice for New Castle county, from the town of New Castle to the city of Wilmington.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That on the third Tuesday of May next, an election shall be held in the county of New Castle, at the usual places of holding elections in the respective hundreds, which shall be conducted in the same manner, and subject to the provisions of the act entitled "An act regulating the general election," and the supplements thereto, so far as the same are applicable to, or are not altered by this act, under the superintendence of the same inspectors, who served at the general election in November last, whose duty it shall be to give at least *thirty days'* public notice, in their respective hundreds, of the object of the said election, and to attend, open and preside at, the said election, as aforesaid, or, in case of their absence at the time and place of opening the polls, under the superintendence of such persons as shall be then and there chosen, according to the provisions of the fourth section of the said act, entitled "An act regulating the general election."

SECTION 2. *And be it further enacted,* That at the election provided for, in the first section of this act, the citizens of New Castle county, entitled to vote for representatives to the General Assembly, may vote by ballot, for, or against, the removal of the seat of justice, from the town of New Castle to the city of Wilmington, which shall be indicated by the words "For removal," or, "Against removal," written or printed on the said ballots; and it shall be the duty of the sheriff or other presiding officer of the board of canvass, to be held at the Court-house in New Castle, on the Thursday immediately following the said special election, and of the inspectors present at the said board of canvass, to make out under their hands, or the hands of a majority of them, two certificates of all the votes given for the removal of the seat of justice, and also, of all the votes given against it, particularly designating the number of votes given both "For removal" and "Against removal," in each hundred of said county, and in the city of Wilmington, one of which said certificates the said sheriff or other presiding officer, shall deliver into the office for recording of deeds in and for New Castle county aforesaid, to be there recorded and filed among the papers of said office, and the other shall, by the said sheriff or other presiding officer or such person as he may depute for that purpose, be delivered to the Secretary of State, to be kept by him as records and public papers belonging to the Executive Department, are kept, and a duly certified copy of said certificates, or of either of them, shall be competent evidence in all the courts in this State.

SECTION 3. *And be it further enacted,* That if it shall appear, by the certificates aforesaid, that a majority of all the citizens of

New Castle county aforesaid, having right to vote for representatives, have voted for removal, it shall be the duty of the Levy-court of said county, at the proper costs, charges and expenses of the said county, forthwith, to purchase in some public and convenient place or places, in the city of Wilmington, a lot, or lots of land, containing together not less than one, nor more than four acres, and shall cause to be erected and built thereon, within two years after the first day of June next, and at the proper costs, charges and expenses of the said county, a court-house, offices and jail, for the use of said county, with a dwelling-house attached to the jail, for the use of the sheriff or keeper thereof.

The court-house shall be two stories high, and not less than fifty feet in front, by forty-five feet deep; there shall be a cellar under it, with furnaces sufficient to warm the building. The foundation walls shall be of stone, and at least two feet in thickness—the walls of the superstructure shall be of brick, and not less than eighteen inches thick. The roof shall be flat at the top, and the flat part shall be covered with copper, zinc or tin, and surrounded with a ballustrade. There shall be a cupola, of proper size and proportions, which shall be furnished with a rod, gilt ball and vane, and with a good and suitable bell. The dome of the cupola shall also be covered with a metallic covering. The second story of the court house shall contain suitable rooms for the grand and petit juries. The offices shall be one for the Prothonotary of the Superior Court, one for the Recorder of Deeds, one for the Clerk of the Orphans' Court, one for the Register for the probate of wills, and granting letters of administration, one for the Register in Chancery and Clerk of the Peace, and one for the Sheriff of New Castle county. Each of the said offices shall be at least twenty feet square. They shall be contained in two separate buildings, to be erected adjoining to and at, two sides of the court-house. Each building to be two stories high, and the height of each story at least ten feet, in the clear,—they shall respectively have entries, not less than nine feet wide, with suitable stairways and stairs, for the purposes of convenient access, and a communication from each building, by the entry or passage with the court-house, with a door from each of fire into one of the passages. Each building shall have a cellar, with foundation walls of stone, not less than twenty-two inches thick: the walls above ground shall be of brick, the outside ones not less than eighteen inches, and the inner or partition walls not less than twelve inches thick. The gaol shall be of stone or brick, and shall not be less than the gaol now at New Castle, with at least the same thickness of walls, and like the gaol at New Castle, it shall contain separate apartments, one for debtors, and another for persons charged with, or convicted of, crimes or misdemeanors. The gaol yard for debtors shall be separated from the other by a wall, which, together with the outer walls, shall be of stone, and at least as high and thick as the walls of the gaol yard now at New Castle, and the said gaol and yard walls shall be built and finished in a manner deemed best adapted to the purposes of a secure prison, and with due regard to the health and comfort of prisoners. All the said buildings shall be erected and finished in a substantial and

If it appear from certificates, that a majority &c. have voted for removal, L. C. to purchase lot in Wilm'n. and cause court-house &c. to be erected thereon.

Size, material, of court house.

Roof.

Cupola, bell, &c. Dome.

Jury rooms.

Offices.

To be in two separate buildings.

Their height, arrangement, &c.

Gaol.

Gaol yard.

Buildings to fire proof etc.

Dwelling
house for
Sheriff.

Majority of
votes, how
ascertained.

Expenses of
election.

Buildings
when com-
pleted to be
conveyed to
whom.

In trust, for
the use of N.
C. County.

Deed to be
submitted to
whom.

If certified
sufficient, to
be recorded.
When city of
Wil. to be
seat of jus-
tice.

After record-
ing deed, etc.
Recorder to
give notice to
Levy Court.

workmanlike manner, and of the best materials; they shall all be fire-proof and completed and furished in a manner considered best adapted to the public convenience. The dwelling-house for the sheriff also shall be of brick, substantially built of the best materials, and as large, at least, as that at New Castle now occupied by the sheriff. The majority of the citizens of New Castle county having right to vote for representatives shall be ascertained, by reference to the highest number of votes cast in said county, at any one of three general elections, next preceding the said special election, to be held by authority of this act, unless the number of votes cast at such special election, shall exceed the highest number cast in said county at any of the said preceding general elections; and in case of such excess, the majority shall be ascertained by reference to the number of votes which shall have been cast at the said special election. All the expenses of the said special election shall be defrayed by the said county of New Castle.

SECTION 4. *And be it enacted*, That as soon as all the buildings and fixtures aforesaid shall have been erected and completed, as aforesaid, according to the true intent and meaning of this act, and shall be prepared and ready for use as aforesaid, the Levy-court of said county shall cause the said lot of land, and buildings thereon erected as aforesaid, to be well and sufficiently granted, conveyed, and assured, in fee simple, by some sufficient deed or deeds (to be duly executed according to law,) to James Canby, James Booth, James Gardener, Richard Mansfield and Thomas Deakyne, all of New Castle county, aforesaid, their heirs and assigns, to have and to hold the same to them, the said James Canby, James Booth, James Gardener, Richard Mansfield and Thomas Deakyne, their heirs and assigns forever, in trust to, and for the only proper use, behoof and benefit of the said county of New Castle, for the uses, purposes and intents in this act, in that behalf provided, and for no other use, purpose or intent whatsoever, which said deed or deeds, when executed, acknowledged and delivered, shall be submitted to the Chief Justice of this State, for inspection; and if he shall be of opinion that such deed or deeds of conveyance is or are sufficient, in law, for the purposes intended, he shall certify such his opinion under his hand, by endorsement upon the said deed or deeds, which said deed or deeds, so certified, shall be delivered to the recorder of deeds, in and for New Castle county, to be by him recorded in the office for recording deeds aforesaid. And when the said deed or deeds shall have been so certified and recorded as aforesaid, and from thenceforth, the said city of Wilmington shall be the seat of justice in and for New Castle county.

SECTION 5. *And be it further enacted*, That, immediately after the recording of the said deed or deeds, and certificate endorsed thereon, the said recorder of deeds shall give notice thereof, to the Levy-court and Court of Appeal of the said county, at their next meeting thereof, who shall inspect and examine the said courthouse, fire-proof offices and jail; and if the said Levy-court and Court of Appeal, upon such inspection and examination, shall con-

sider the said court-house, fire proof offices and jail, fully sufficient for the purposes designed, then the said Levy-court and court of Appeal, shall forthwith, cause to be removed the books, papers, records and other public moveable property, belonging to, or in any wise connected with, the offices enumerated in the third section of this act, or with the administration of justice, from the said town of New Castle to the said city of Wilmington; whereof public notice shall be given in such manner as the said court shall direct; and from and after said public notice, the respective courts, held in said county, (now held at the court-house in the town of New Castle) shall be held at the court-house so erected built and furnished in the city of Wilmington; and the said public offices, enumerated in the third section of this act, and all others connected with the administration of justice in the said county, shall be kept in the said fire-proof offices in the said city of Wilmington; and the said court-house and jail, so erected, built and furnished, shall be deemed, used, and taken to be, the legal and proper court-house and jail of the said county of New Castle; and all the process of the respective courts of the said county shall be tested at, and be returnable to, the said court-house at Wilmington; and the said city of Wilmington shall thenceforth become and be the seat of justice of the said county of New Castle; and in all cases, whereby any law of this State, any act, ministerial, judicial or otherwise, having relation to the general administration of justice, is directed to be done in the said town of New Castle; the said act shall henceforth be done in the said city of Wilmington, and all laws of this State having reference to the general administration of justice in the said county of New Castle, shall be read and construed accordingly.

L. C. to inspect C. H. &c., and cause records to be removed.

Notice whereof to be given.

After notice, courts to be held and offices kept in Wilmington, &c. &c.

SECTION 6. *And be it enacted*, That any allegations of fraud or illegality, in relation to any vote or votes given in either of the hundreds of the said county, shall be heard and determined in a summary manner by the Superior Court sitting in and for the county aforesaid. And the said court shall have full power to reject and disallow any such vote or votes, or if sufficient cause be shown, to reject and disallow the whole vote given in such hundred or hundreds, or to order a new election to be held in such hundred or hundreds, and all votes so rejected and disallowed, shall be deducted from the aggregate of votes upon the side on which said votes appear to have been cast; and if the vote of a whole hundred shall be rejected and disallowed by the said court, such vote shall not enter into the computation of votes given, but in such case a rejection of the vote of a hundred or hundreds shall not interfere with the principle established by this act, in relation to the mode of ascertaining the majority. And the said court is hereby authorized to inspect the ballot boxes, and examine the inspectors and other officers and such other persons as to them shall seem proper. And all fines, forfeitures, and penalties, and modes of proceeding therefor, established by the act entitled "An act regulating the general election," are hereby expressly extended to the election to be held under the provisions of this act. *Provided nevertheless*, That such allegations of fraud or illegality, shall be laid and sustained, at the subsequent

Allegations of fraud in relation to votes to be determined by S. Court.

C't. to inspect ballot boxes and examine Inspectors, &c.

Fines &c. established by Dig. 173 extended.

Allegations of fraud to be laid, &c. when.

session of the said Superior Court, next after the said special election.

Passed at Dover, February 20, 1839.



CHAPTER CCXXXVI.

AN ACT to divide School District No. 54, in New Castle county.

Comm'rs. to
divide dis-
trict into two
parts.

Plot &c. to
be returned
to L. Court.

SECTION 1. *Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That John W. Evans, Asa Haines, William McConaughy, Joseph Griffith and William Megett, all of Pencader hundred in New Castle county, be and they are hereby appointed commissioners under this act; and they or a majority of them are hereby authorized, as soon as convenient after the passing of this act, to take with them, if by them, or a majority of them, it be deemed necessary, a skilful and impartial surveyor) to go upon the lands embraced within the limits of school district No. 54, in New Castle county aforesaid, and divide the said district into two parts, in such manner as they, or a majority of them, may think most conducive to the interest of the citizens of said district, for the purposes of education, and it shall be the duty of the said commissioners, or a majority of them, after the said district shall have been by them laid out and divided, to make out a correct plot and return, if surveyed, and if not surveyed, to make a correct return of their proceedings under this act, and cause the same to be returned to the Levy-court and court of Appeal of said county at its next session, after the said plot and return, or other proceedings, shall have been so made as aforesaid, for confirmation by the said court. The said return shall be signed by a majority of the said commissioners, and the said plot or other return shall designate the divisional line of the said district.

Duty of trustee of school fund, in case the return be confirmed.

SECTION 2. *And be it enacted,* That the trustee of the school fund, in case the return and proceedings of the said commissioners be confirmed by the Levy-court as aforesaid, shall, in the distribution next after the confirmation aforesaid, and annually thereafter, at the annual distribution of the school fund to and among the several districts of this State, divide the share of said district No. 54 into two equal parts, so that each part of said district may receive an equal share, as is hereinafter provided by this act.

Provisions of Dig. 486 and supp'ts. extended, how far.

SECTION 3. *And be it enacted,* That the provisions of the act entitled "An act for the establishment of Free Schools," with the several supplements thereto, be and the same are hereby extended to each of the districts formed by the division of the said district, No. 54, so far as it regards the election of commissioners and clerks in each of the said districts, and their powers and duties in receiving

and paying monies, employing teachers, collecting taxes, and all matters necessary for maintaining and supporting a free school, in each of the said districts.

SECTION 4. *And be it enacted*, That after the proceedings and returns aforesaid, of the commissioners appointed by this act, shall have been made to the said county commissioners of the Levy-court, and they shall have confirmed the same, the said returns or plot, shall be filed among the papers belonging the said Levy-court, and the clerk thereof, shall immediately notify the trustee of the school fund of the same. And the said Levy-court are hereby authorized to make such reasonable allowance to the commissioners appointed by this act, and also to the surveyor or other persons employed in the premises, as to them may seem right and proper; the said allowance to be deducted from the distributive share or portion of said school district No. 54.

Return to be filed, where.
Compensation of commissioners & surveyor.

Passed at Dover, February 20, 1839.



CHAPTER CCXXXVII.

AN ACT for the investment of certain monies therein mentioned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the trustee of the fund for establishing schools in the State of Delaware, be and he is hereby authorized to invest, by loan or otherwise, such part of the twenty-five thousand dollars allotted and appropriated to the use of the fund for establishing schools in the State of Delaware, by the act entitled "An act authorizing a lottery for the benefit of Delaware College, and for other purposes therein mentioned" as has been, or hereafter shall be paid over by the managers of the said lottery in said act appointed: *Provided however*, That such investment shall be made in such manner, and for such times, and upon such security, or in such stocks, or other securities, as shall be approved of, and directed by, the commissioners appointed in the first section of the act entitled "An act to incorporate the Delaware Rail Road Company."

Trustee of school fund to invest moneys appropriated by chap. 372, 8 vol. 355.
Security to be approved by whom.

Passed at Dover, February 20, 1839.



CHAPTER CCXXXVIII.

AN ACT to create an additional school district in the county of Sussex.

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

Comm'rs. to
divide dist'ct.
No. 25, Sus-
sex County.

Plot &c. to
be returned
to L. Court.

Duty of trustee of school fund in case return be confirmed.

Comm'rs. &
surveyor to
be sworn or
affirmed.

Their com-
pensation.

Plot and re-
turn to be
filed where.

ward Dingle, Peter R. Waples, George H. Aydelott, Benjamin Gray and Selby Hickman be, and they are hereby appointed commissioners under this act, and they, or a majority of them, are authorized and required as soon as convenient, after the passing of this act, after having first taken to their assistance a skilful surveyor of the county of Sussex, to go upon the lands embraced within the limits of school district No. 25 in said county, and divide the lands in said school district into two equal portions or districts; and the said commissioners or a majority of them, after the said additional district shall have been so located and laid out, shall make out a correct plot and return of their proceedings under this act, and cause the same to be returned to the Levy-court and court of Appeal of said county, at its next session after the said plot and return shall have been so made as aforesaid, for confirmation by the said court. The said return shall be signed by a majority of the said commissioners, and the said plot shall represent by lines the form of the said district No. 25, and shall also show the lines of the additional school district, so to be created out of the said district as aforesaid.

SECTION 2. And be it further enacted, That the trustee of the school fund, in case the return and proceedings of the said commissioners be confirmed by the Levy-court as aforesaid, shall, in the year 1840, and annually thereafter, at the time of the annual distribution of the said fund to and among the several districts of this State, divide the share of said district No. 25 into two equal parts, so that the share or proportion of said additional district of the distribution of the school fund of this State, shall be composed entirely of the one-half of the share of said district No. 25, out of which the said district is to be formed and created.

SECTION 3. And be it further enacted, That the said commissioners and surveyor, before they enter upon the discharge of the duties assigned them by this act, shall be severally sworn or affirmed to do and perform all the matters and things herein required of them, faithfully and impartially according to the best of their skill and judgment. The said commissioners and surveyor shall receive for their services under this act, such reasonable compensation as to the said Levy-court may seem meet and proper, which said allowance shall be paid by the trustee of the school fund as aforesaid. If the return and proceedings be not confirmed as aforesaid, then the whole amount or share of said district No. 25 shall be paid over as heretofore. The said plot and return shall be filed among the papers belonging to the Levy-court aforesaid, and if the same be confirmed, the said trustee of the school fund shall be notified thereof immediately by the clerk of said court.

Passed at Dover, February 20, 1839.

CHAPTER CCXXXIX.

A SUPPLEMENT to the act entitled "*An act for regulating the construction and use of weirs in Spring creek.*" 6 vol. 55, Chap. XLV.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the second section of the said act, to which this is a supplement, be and the same is hereby altered, amended and supplied by striking out of the said section, the words "*twenty rods,*" and by inserting in lieu thereof, the words "*three hundred yards,*" and that the said section of said act, shall be read and construed according to the foregoing amendment, and in any edition of the laws of this State, hereafter to be published, the said section shall be printed as above amended.

Sec. 2 amended by striking out &c.

SECTION 2. *And be it further enacted,* That it shall not be lawful for any person or persons to make, construct and place any wear or fike in any bend of the said Spring creek, or within one hundred yards of such bend:—and that every person so offending, shall for every such offence, forfeit and pay the sum of twenty dollars, to be recovered, with costs of suit, before any justice of the peace of Kent county in this State, to be applied, one-half thereof to the use of the person suing for the same, and the other half thereof to the use of the poor of Kent county aforesaid.

Penalty for placing wear or fike within 100 yards of any bend of Spring creek.

SECTION 3. *And be it further enacted,* That every person offending against any of the provisions of the second section of the said act to which this is a supplement, shall for every such offence, forfeit and pay the sum of twenty dollars, to be recovered with costs of suit, before any justice of the peace of Kent county aforesaid, to be applied, one-half thereof, to the use of the person suing for the same, and the other half thereof, to the use of the poor of Kent county aforesaid.

Penalty for offending against sec. 2 of original act.

Passed at Dover, February 20, 1839.



CHAPTER CCXL.

AN ACT to change the draw-bridge over Spring creek in Kent county, into a pivot-bridge.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the benefit of George Bonwill and other persons interested in the navigation of Spring creek, in Kent county, the said George Bonwill be, and he is hereby authorized and empowered to change, at his own cost and expense, the draw-bridge over Spring creek in said county, into a pivot-bridge. *Provided,* The said change is made and completed before the first day of November next.

G. Bonwill and others authorized to change draw-bridge into pivot bridge.

Proviso.

Duty of G.
B. to use du-
rable timber,
&c. &c.

SECTION 2. *And be it enacted*, That it shall be the duty of the said George Bonwill, and he is hereby required, in making the change in said bridge mentioned in the first section of this act, to use timber of the most durable kind that can be procured; and so to construct and secure said pivot-bridge, that the same shall be substantial and safe, without injury to the abutments, or other parts of said draw-bridge, which may be retained by him in constructing said pivot-bridge.

For injury to
bridge in con-
sequence of
change, suit
may be bro't
against G. B.

SECTION 3. *And be it enacted*, That if, in consequence of the said change to be made in said bridge, as herein before provided for, by said George Bonwill, any injury shall be done to said bridge, where- by more than ordinary expenses shall be incurred by the county of Kent, in repairing and keeping up the same, the treasurer of Kent county, for the time being, may in the name and behalf of said county, institute and prosecute in the Superior Court of the State of Delaware, for said county, an action of trespass on the case against the said George Bonwill, for the recovery of the amount of the dama- ges sustained by said county, in consequence of said injury, with costs of suit. *Provided*, Such action shall be commenced within six years from the passing of this act.

Proviso.

Passed at Dover, February 20, 1839.



CHAPTER CCXLI.

AN ACT *to incorporate a company for procuring and superintending a common cemetery in Wilmington.*

Company in-
corporated.

Name.

Succession.

Powers.

Fundamen-
tal articles.

Limitation of
property.

SECTION 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 of the Legislature,)* That Willard Hall, David Wilson, James W. Thompson, Jonas Pusey, John R. Latimer, Samuel Canby, Benjamin Webb, James Canby, Henry Hicks, George Jones, N. G. Williamson, John Wales, E. W. Gilbert, Merritt Canby, Mahlon Betts, Edward W. Gilpin, William Chandler and John Cleland, of Wilmington and vicinity be, and they are hereby constituted a corporation by the name of "The Trustees of the common Cemetery of Wilmington," to have perpetual succession, with capacity and power to take and hold by contract, transfer, devise, gift, or conveyance, land, money and estate, real and personal, and to alien, transfer and dispose of, the same; to make contracts, sue and be sued, make by-laws, and enjoy the franchises incident to a corporation.

The following shall be the fundamental articles of this charter.

1. The corporation shall not hold money or property beyond the value of twenty thousand dollars, over the land appropriated for the cemetery with the appurtenances, and the proceeds thereof.

2. The corporation shall have no banking powers.

Banking
powers pro-
hibited.

3. The corporation may, from time to time, receive subscriptions to an amount not exceeding twenty thousand dollars, in shares, the sum of which and the terms of payment shall be determined by the members, at their first meeting, or afterwards, by the board of directors; but a share shall not be less than twenty-five dollars. Every subscription shall be a valid contract to pay the corporation the sum subscribed, according to the terms of payment.

Subscriptions

Shares.

4. The business and affairs of the corporation shall be conducted by a board of directors; there shall be seven directors; a majority shall constitute a board; the board of directors shall choose from their own number the president, secretary and treasurer of the corporation; they may take bond from the treasurer; the by-laws may prescribe this bond. The board of directors may appoint other officers and employ agents. The board of directors shall keep a true and faithful register of their proceedings and transactions. A copy of it, certified under the seal of the corporation and signed by the president, and countersigned by the secretary, shall be competent evidence in any court.

Directors and
President.

Secretary,
treas'r. &c.

Register of
proceedings.

5. It shall be within the province and duties of the board of directors, to select and procure a parcel of land for a cemetery; to cause the same to be enclosed and laid out; to arrange and dispose of lots and rights therein; to make regulations, and do all proper things in respect to the same. They may give the cemetery a name; but this shall not effect the legal name of the corporation.

Directors to
procure ce-
metery, &c.

The board of directors shall have in charge all the funds of the corporation, and employ the same for the purposes of the corporation, according to their judgment and discretion. They shall render, once a year, and as the by-laws may appoint, an account of their receipts and expenditures, and make a report of their proceedings. They shall manage all the business and affairs of the corporation.

To have
charge of
funds, &c.

To render ac-
count, &c.

Dividends shall be declared, according to their discretion, of the net proceeds of burial lots, or rights disposed of.

Dividends.

All grants and contracts of the corporation of and concerning burial lots and rights in the cemetery, shall be made by the board of directors, and a minute thereof shall be entered in the register of their proceedings. An exemplification or copy of this minute, under the seal of the corporation, and signed by the president, and countersigned by the secretary, shall be a valid title paper, and received in evidence without further proof, in the same manner as the record or office copy of a recorded deed: and transfers, under the hand and seal of the party of such title paper, or any right or interest under the same being entered in said register shall be effectual; and a copy or exemplification thereof, as aforesaid, shall in like manner be received in evidence. Executors and administrators shall be competent to grant, by way of assignment or transfer, lots and rights in said cemetery.

Grants and
contracts.

6. The directors shall be elected by the members of the corporation by ballot.

Election of
directors.

First meeting.

7. The first meeting of the members of the corporation, shall be on the first Tuesday of March next, at ten o'clock in the forenoon, at Wilmington. This meeting may be adjourned from time to time. At this meeting, original or adjourned, the first directors shall be chosen, and by-laws may be made. The first directors shall continue in office until successors to them are duly elected. The by-laws shall provide for subsequent meetings of the members of the corporation, prescribe the meeting for electing directors, and determine the duration of their office.

Corporation perpetuated, how.

8. The corporation shall be perpetuated by the transmission or transfer of shares. The shares shall be transferable on the books of the corporation by person or attorney according to the by-laws.

Shares transferable, &c. &c.

The shares shall also be transmissible to executors and administrators. Every shareholder shall be a member of the corporation, and after the first day of April next, no person but a shareholder shall be a member, and no one but a member shall be a director.

Voting.

Every shareholder shall have as many votes as he has shares, unless there be a sum in arrear upon a share that ought to have been paid, according to the terms of payment: in which case, there shall be no vote for that share until payment. This mode of voting shall apply to every question coming before the members.

Public improvement.

9. It is declared, that this is an incorporation for public improvement.

Revocation.

10. Power is reserved to the General Assembly, to revoke this charter.

Road not to be laid through land for cemetery.

SECTION 2. *And be it further enacted*, That, after a parcel of land shall have been procured for a cemetery, as aforesaid, no road or street shall be laid out, in or over the same, by order of the court or other public authority: and the same shall be exempt from all taxation.

Exempt from taxation.

Burial lots, how held, &c.

SECTION 3. *And be it further enacted*, That the burial lots or rights purchased or held in the cemetery, aforesaid, shall belong to the proprietors in a qualified manner, that is to say: the same shall not be liable to be seized, taken, or levied on by execution, or any legal process whatever: nor in any manner aliened without the free consent of the proprietor or proprietors, and the approbation of the board of directors. And the said lots and rights shall be held, subject to such general regulations as the board shall deem conducive to the well ordering of the whole. Any person contravening a regulation in any matter or thing done, formed, or put to, in or upon the said cemetery, shall be a trespasser *ab initio*; and such matter or thing may be treated as a nuisance, and abated or remedied accordingly.

Nuisance.

Directors may abate.

SECTION 4. *And be it further enacted*, That the board of directors shall have power to abate and remove any matter that may be placed in the cemetery aforesaid, in contravention of any regulation, and to remove any thing done contrary to any regulation.

SECTION 5. *And be it further enacted*, That if any person shall wilfully do any injury to the cemetery, to be procured as aforesaid, or to any ornament or monument, or to any of the trees or shrubbery therein; or shall place any matter therein in contravention of a regulation of the board of directors, or shall commit trespass, upon the same, every such person shall be liable to pay treble damages, with treble costs to be recovered by the corporation before any justice of the peace of this State, if the damages do not exceed fifty dollars; and if above that sum, in the Superior Court.

Penalty for injury to cemetery, &c.

SECTION 6. *And be it further enacted*, That this shall be a public act.

Public act.

Passed at Dover, February 20, 1839.



CHAPTER CCXLII.

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 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 and reclaim the same.*"

8 vol. 129,
Chap.
CXXXV.

Private act.

Passed at Dover, February 20, 1839.



CHAPTER CCXLIII.

A SUPPLEMENT to the act entitled "*An act to encourage the destruction of crows.*"

Ante. 179—
Chan.
CXXXII.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That wherever in the said act to which this is a supplement, the words "*four cents*," occur, the same be, and hereby are stricken out, and in lieu thereof, the words "*six and a quarter cents*" be and the same hereby are inserted therein; and that the said act shall be read and construed as herein amended, and in every edition of the laws hereafter published, the said act shall be printed as amended by this act.

Original act amended by striking out, &c.

How to be read, &c.
&c.

Passed at Dover, February 20, 1839.

LAWS OF THE STATE

CHAPTER CCXLIV.

AN ACT to confirm the title of Jane Dando, late Jane Clark, wife of Joseph Dando, and Sally Clark, to certain lands situate in Baltimore hundred, Sussex county, and releasing to them all the right, title and interest claim and demand of the State, of, in and to the said lands."

Private act.

Passed at Dover, February 20, 1839.



CHAPTER CCXLV.

AN ACT authorizing the sale of the real estate of William Custalow, late of White-clay creek hundred, in the county of New Castle, deceased.

Private act.

Passed at Dover, February 20, 1839.



CHAPTER CCXLVI.

AN ACT to erect and keep in good repair, a bridge over Broadkirk creek, where the State road crosses the said creek, at a place called Samuel Paynter's Landing.

Comm'rs. to
cause to be
built a pivot
or draw-
bridge,
where.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the purpose of carrying into effect the objects of this act John P. Paynter, Joseph Conwell and Robert Russel are hereby appointed commissioners, and it shall be the duty of the said commissioners, or a majority of them, to cause to be built, erected and finished of the best materials, and in a good workmanlike manner, a pivot or draw-bridge, over and across Broadkirk creek in the county of Sussex, where the State road, leading from the town of Milford to Lewestown now crosses said creek, at a place called Samuel Paynter's Landing, and where the old bridge now stands. And the said commissioners, or a majority of them, are hereby authorized to make contracts, procure materials, employ workmen, and to do all other things which may be necessary to effect the objects of this act.

SECTION 2. *And be it enacted,* That in and over the deepest part of the channel of the said creek, and between the abutments, wings,

and other works, erected for the use, support and preservation of the said bridge, there shall be left the clear space of thirty feet for the accommodation of all such persons as shall have occasion to pass and repass with any boat or vessel through the said bridge; and over the clear space so left as aforesaid, shall be erected and placed, a draw or platform of the full breadth of twenty-nine feet, so made as to be turned off, or raised up for the benefit of all such masters or commanders as shall have occasion to pass and repass with any vessel or vessels through the said bridge, who are hereby commanded and required to remove and replace the said draw or platform, so that the same receive no damage thereby, under the penalty of ten dollars for each and every offence, against this act committed, to be recovered with costs of suit, by any person who shall sue therefor, before any justice of the peace in Sussex county.

Space between abutments.

Draw or platform.

Breadth of

Masters of vessels to remove and replace draw &c. under a penalty.

SECTION 3. *And be it enacted*, That after discharging the costs and expenses of building and finishing the court-house and offices at Georgetown in the said county, if any money remains out of the ten thousand dollars, to be raised by lottery under the act entitled "An act for the benefit of Sussex county," twenty-five hundred dollars of such money so remaining, shall be paid over to the commissioners, appointed by this act and shall be used and applied in the construction and completion of the said bridge authorized by this act, or so much of the said twenty-five hundred dollars, as shall be necessary for said purpose.

Part of money raised under Chap. 368—8 vol. applied to completion of bridge.

SECTION 4. *And be it enacted*, That after the said bridge shall have been erected and built as aforesaid, the costs of repairing and keeping it in good order shall be a county charge upon the said county of Sussex, and the Levy-court of the said county, after the completion thereof, shall cause the said bridge to be supported, maintained and repaired from time to time, always keeping and maintaining a draw or platform as aforesaid. And the said draw-bridge shall be deemed and taken to be a common highway, free for all persons to pass and repass over and across the same, free from all toll and pontage of any kind whatsoever.

Costs of repairing &c. to be a county charge.

Com. highway.

Free from toll.

Passed at Dover, February 20, 1839.



CHAPTER CCXLVII.

A SUPPLEMENT to the act entitled "*An act to provide for the distribution of the interest of this State's proportion of the surplus fund.*" Ante. p. 187, Chapter CXXXIX.

SECTION 1. *Be it enacted, by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That so much of the fourth section of the act to which this is a supplement, as provides that it shall be the duty of the State Treasurer to ded. Sec. 4 amended.

S. Treas'r. to pay over to the county Treasurer of the county of Sussex, the other two remaining third parts of said county's share of the dividends and interests therein mentioned, as the same shall fall due, be and the same is hereby so altered and amended, as to make it the duty of the said State Treasurer to pay over the same to the treasurer of the trustees of the poor, of the said county, as the same shall become and fall due.

Passed at Dover, February 21, 1839.

CHAPTER CCXLVIII.

Dig. 158.

A FURTHER SUPPLEMENT to the act entitled "*An act to authorize and empower the owner 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.*"

Application may be made to Sup. C't. for order to cleanse ditches, cut under original act and supp'ts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passage of this supplement, it may and shall be lawful, so often and whenever any ditch or ditches cut under and by virtue of the act to which this is a further supplement, and the several supplements to the same shall require to be cleansed or repaired, for the person or persons taxed for the cutting of the same, to apply to the Superior Court of the county, wherein the said ditches lie, for an order to cleanse and repair the same, and the said court is hereby authorized and required, upon such application, to make an order and to appoint three good and substantial freeholders of the said county, to view and examine the ditch or ditches to be cleansed and repaired as aforesaid; and the said freeholders appointed under and by virtue of this supplement, before entering upon the duties assigned them in such order, shall be duly qualified in manner and form as is prescribed in the second section of the act to which this is a further supplement: and the said freeholders, after having viewed and examined the said ditch or ditches, and determined wherein the same shall be cleansed, and estimated the probable cost thereof, shall assess, by way of tax or taxes on such person or persons respectively, whose lands shall have been benefited by such ditch or ditches, a fair and reasonable sum proportioned to the benefit and advantage derived by such person or persons, from the cutting and opening of the said ditch or ditches, so as to raise a sum sufficient for cleansing and repairing the same. The said freeholders shall, and they are hereby required to deliver to the treasurer for the time being of the said ditches, as soon as the same can be prepared for that purpose, a statement of the taxes so by them assessed as aforesaid, with the respective tax or sum which each person shall be bound to pay, which statement shall be the said treasurer's warrant for the collection of the same, and all sums so assessed shall be collected

Court to appoint freeholders, &c.

Assessment.

Statement to be delivered to Treas'r.

Warrant of Treasurer.

in like manner as other monies, by the fifth section of the act entitled "A supplementary act to the act to which this is a further supplement, are directed to be levied and collected, and the said sums when so collected by the treasurer, shall be subject to the drafts of the managers of the said ditch or ditches, as other monies in the hands of the said treasurer, are subject. Dig. 163.

SECTION 2. *And be it further enacted*, That it shall be the duty of the managers for the time being of the said ditch or ditches, when the said freeholders shall have determined that the said ditch or ditches, or any part thereof, shall be cleansed, repaired and put in order, to proceed to cleanse and repair the same, and for this purpose, they shall have full power to employ laborers, and make all other provisions that may be necessary for effecting the object intended. All persons upon whom any tax or taxes shall be assessed, for the purposes aforesaid, may discharge the same by work and labor. The said freeholders shall receive for every day's attendance in and upon the business herein provided for, the sum of one dollar. Duty of managers.
Taxes may be discharged by work, &c.
Compensation of freeholders.

Passed at Dover, February 21, 1839.



CHAPTER CCXLIX.

AN ACT *laying a tax on dogs in New Castle county.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall be the duty of the Levy-court commissioners of New Castle county, and they are hereby authorized and required, to cause an accurate return to be made biennially, by the assessors of the several hundreds in New Castle county, of all the dogs over six months old, owned or possessed by any person or persons within the county aforesaid, particularly noting the number owned or possessed by each person, or kept about any one house, and when the said Levy-court commissioners shall have so ascertained the number of dogs as aforesaid, they shall levy and cause to be collected, annually, from every person or persons owning or possessing a dog or dogs, that is to say: for the first dog the sum of fifty cents; for the second dog seventy-five cents; and for every additional dog, the sum of one dollar, to be collected by the collector of the several hundreds of the said county of New Castle, in the same manner as the county rates and levies are collected, and to be paid over, by the said collectors, to the county treasurer of said county, under the same penalties, for default, as is imposed in the collection of county rates and levies; and the collectors aforesaid, shall be entitled to eight per centum, out of moneys so collected; and it shall be the Levy Ct. to cause return to be made of dogs over 6 mo. old.
Tax thereon to be levied and collected.
Per cent to Collector.

Duty of C.
Treasurer.

Term *dog* to
apply to both
genders.

Tax on femi-
nine.

Moneys re-
ceived—for
credit of N.
C. County.
First assess-
ment.

duty of the county treasurer, to keep a separate account of the money arising from the tax on dogs, and the term *dog* in this act, shall be construed to apply to both the masculine and feminine genders; but the tax of one dollar shall be levied on each one of the feminine. The county treasurer is also hereby required, to place the moneys received in and by virtue of this act, to the credit of the said county of New Castle. The first assessment under this act, shall take place in the year one thousand eight hundred and forty, and biennially thereafter.

Passed at Dover, February 21, 1839.



CHAPTER CCL.

Dig. p. 163. **A FURTHER SUPPLEMENT** to the act entitled "*An act to prevent injury by dogs in New Castle county.*"

Provisions of
Sec 1 of ori-
ginal act ex-
tended.

SECTION 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 provisions contained in the first section of the act to which this is a further supplement, be and the same are hereby extended and applied to the counties of Kent and Sussex; any thing contained in the said act to the contrary notwithstanding.*

Passed at Dover, February , 1839.



CHAPTER CCLI.

AN ACT to extend the provisions of the insolvent laws of this State, to Leonard Short, a non-resident prisoner.

Private Act.

Passed at Dover, February 21, 1839.



CHAPTER CCLII.

AN ACT for the payment of claims against the State.

S. Treas'r. to
pay claims to

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

the State Treasurer be, and he is hereby authorized and directed to pay the following claims: to Benjamin Enos, for taking charge of the furniture belonging to the Senate, thirty dollars; to David M. Smith, for taking charge of the furniture belonging to the House of Representatives, and preparing the room, thirty-five dollars; to E. Cowgill, for wood furnished for the use of the Court of Errors and Appeals and the General Assembly, forty-five dollars; to Joseph Buckmaster, for services as crier to the court of Errors and Appeals and ringing the bell, thirty-six dollars and eight cents; to Thomas L. Temple, late sheriff of the county of Kent, for attendance on the court of Errors and Appeals, nineteen dollars and fifty cents; to Peter S. Parker, late State Treasurer, for postage and publishing the distribution of the school fund, thirty dollars; to Joseph Marsh, for balance of claim for printing the Journal of the House of Representatives of 1837, under contract with the late clerk, ninety dollars and eighty cents; to Pennewill, Clarke & Co., for articles furnished for fitting up the chambers of the Senate and House of Representatives and for painting, one hundred and fifty-eight dollars and forty-five cents; to John H. Eccleston, for stationery furnished the court of Errors and Appeals, and for his attendance on the said court, fifty dollars; to Charles Marim, Secretary of State, for making index to the eighth volume of the Laws and Acts of 1837, and examining the proof sheets and superintending the printing of the same, one hundred and twenty-five dollars; to David H. Stayton, sheriff of Kent county, for attendance on the court of Errors and Appeals, twenty-one dollars; to William Walker, for expenses and services, as agent for the State, in demanding from the Executive of Pennsylvania, Benjamin Corcker, a fugitive from justice, fifty-six dollars and ninety-nine cents; to George S. Adkins, late Auditor of Accounts, for postage and expenses and services in investigating the accounts of the Wilmington Bridge Co., under a resolution of the Legislature, thirty-two dollars and ninety-two cents; to Joseph P. Comegys, for taking charge of the books and papers belonging to the State, in the Senate chamber and the hall of the House of Representatives, and for balance of his account for the purchase of a coal-grate for the Senate chamber and sundry matters, and for superintending printing, &c., one hundred and twenty-five dollars and thirty-three cents; to P. & E. Spruance, for coal furnished for the use of the General Assembly, twenty-one dollars; to John McDowell, for coal furnished, for same use, five dollars; to John M. Darby, for coal furnished for same use, twelve dollars; to William H. Cooper, for recording certain evidences of public debt, five dollars and fifty cents; to James Rogers, Attorney General, for filing bill in equity and argument of demurrer, in case of the State against the Wilmington Bridge Company, one hundred dollars; which said sum is to be refunded to the State, by the said company, under the provisions of an act entitled "A supplement to the act entitled 'An act to incorporate a company to erect a drawbridge over the river Christiana at Wilmington, and for other purposes therein mentioned,'" passed the fifteenth day of February, one thousand eight hundred and thirty-nine; to Archibald Hamilton, for services and expenses as member of a commit-

B. Enos.

D. M. Smith.

E. Cowgill,

J. Buckmaster.

T. L. Temple

P. S. Parker.

J. Marsh.

Pennewill,
Clark & Co.

J. H. Eccleston.

C. Marim.

D. H. Stayton.

W. Walker.

G. S. Adkins.

J. P. Comegys.

P. & E. Spruance.

J. McDowell.

J. M. Darby.

W. H. Cooper.

J. Rogers.

A. Hamilton.

LAWS OF THE STATE

tee, appointed under a joint resolution of the Legislature in 1837, relative to the tomb over the remains of Col. John Haslett, fifteen dollars; to William Herdman, for services and expenses as member of same committee, fifteen dollars.

Secretary of State. SECTION 2. *And be it enacted*, That the State Treasurer be, and he is hereby authorized to pay to the Secretary of State, the sum of three 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 Assembly, at the next biennial session.

Passed at Dover, February 22, 1839.

RESOLUTIONS.



CHAPTER CCLIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the commissioners appointed by the act passed at the last biennial session, entitled "An act to provide for a geological and mineralogical survey of this State," be and they are hereby authorized to cause to be printed and distributed such a number of copies as to them shall seem advisable, of the Memoir of the Geology and Mineralogy of the State, to be transmitted by the State Geologist, according to the provision of the said act, and all maps which they may deem expedient to have appended to the said memoir, as soon after the receipt thereof as may be practicable; and that the expenses of the said printing shall be defrayed out of such balance, as may remain in their hands, of the appropriation heretofore made by the act aforesaid.

Comm'rs. appointed by Chap. 121, Ante. p. 163 to have printed the memoir of geology, &c.

Expenses thereof.

Adopted at Dover, January 10, 1839.



CHAPTER CCLIV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Nehemiah Clark of Kent county, be and he is hereby released, acquitted and fully discharged of and from the balance, or sum of one hundred and thirty-six dollars and four cents, which is set forth and stated to be due from him to the said State, in the report of the Auditor of Accounts, made to this General Assembly, at the present session thereof. And that the Auditor of Accounts of this State be, and he is hereby authorized and required, to audit the accounts between the said State, and the said Nehemiah Clark, and to allow to him an abatement or credit for, and to the amount of the said balance, so as to close said accounts, and to liquidate and square the said balance.

N. Clark released from a balance in Auditor's report.

Adopted at Dover, January 24, 1839.

CHAPTER CCLV.

Appropriation for procuring a sword for Col. S. B. Davis.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the sum of one hundred and fifty dollars, is hereby appropriated out of any money in the treasury, not otherwise appropriated, for the purpose of procuring and presenting to Colonel Samuel B. Davis, a sword, with suitable inscriptions, as a testimonial of the respect which this Legislature entertains of his gallant and meritorious conduct in defence of his country, during the last war with Great Britain; particularly his skilful and efficient defence of the town of Lewes, in this State.

Governor authorized to procure sword, &c.

Resolved, That the Governor of this State, is hereby authorized to cause to be procured as soon as practicable, for the purpose aforesaid, a sword with such suitable devices as he may deem proper, inscribed thereon; and the State Treasurer is hereby authorized and directed to pay to the order of the said Governor, the aforesaid sum of one hundred and fifty dollars, out of any money in the treasury, not otherwise appropriated.

Adopted at Dover, February 15, 1839.



CHAPTER CCLVI.

Sec. of State to transmit to president of N. A. College copy of laws, &c.

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 authorized and required to transmit to the president of Newark College, a full and complete copy of the laws of Delaware, including the Digest, the 8th volume, and the acts in pamphlet, subsequent to 1835, together with such Journals of both branches of the Legislature, as may conveniently be spared, and a series of such federal Executive documents, of which triplicate copies may now be in possession of the State, to be placed and kept in the library of said college.

Copy of session acts, journals and Executive documents.

Resolved, That the Secretary of State for the time being, be and he is hereby required to transmit as aforesaid, a copy of the acts passed at each session of the General Assembly, and the Journals of both Houses, as soon as convenient after the publication: and also such Executive documents, of which triplicate copies may from time to time be received from the General Government.

Adopted at Dover, February 18, 1839.

CHAPTER CCLVII.

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 and required to cause to be published (in two or more newspapers printed in the city of Wilmington, for the space of three months from and after the first day of March next) the bill entitled "An act for the preservation of fish and game, in and on the waters of the Delaware bay and river, and the streams tributary thereto within the limits of this State;" and the said Secretary is also hereby required to cause the publication in two or more newspapers as aforesaid of the act entitled "An act to provide for the removal of the seat of justice for New Castle county, from the town of New Castle, to the city of Wilmington" from and after the time aforesaid, until the special election provided for by that act shall have been held.

Sec. of State
to publish in
newspapers

Chap. 216,
anto. p. 263.

Chap. 325,
ante, p. 284.

Adopted at Dover, February 21, 1839.



CHAPTER CCLVIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the sum of fifty dollars be and is hereby appropriated for the purpose of fitting up and furnishing by and with the consent of the Levy-court of Kent county, the north room of the state house, (adjoining the Representatives' chamber) for a committee room, and that the same when so arranged, shall be used for the office of the Auditor of Accounts.

Appropriation for fitting up committee and Auditor's room.

Resolved, That the State Treasurer pay to the Auditor of Accounts the said sum of fifty dollars, to carry into effect the above resolution, who shall render an account thereof at the next biennial session of the General Assembly.

S. Treas'r to pay Auditor 350, &c.

Adopted at Dover, February 21, 1839.



CHAPTER CCLIX.

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 instructed to purchase three copies of the De-

Sec. of State
to purchase
3 copies of
Del. Reg'r.

laware Register, one for the use of the Senate, one for the use of the House of Representatives, and one to be retained in the State library; and he is further authorized and required to draw upon the State Treasurer for the sum of fifteen dollars, to pay for the same, out of any money in the treasury not otherwise appropriated.

Adopted at Dover, February 22, 1839.



CHAPTER CCLX.

S. Treas'r.
to borrow
from school
fund.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized and required, immediately after the passing of this resolution, to borrow of the trustee of the fund for establishing schools in this State, the sum of six 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 towards the payment of the expenses of the present session of the General Assembly, and towards the payment of claims against the State, and for the support of government during the present year; and that the faith of this State be, and the same is hereby pledged for the repayment of said sum of money within one year from the date of the loan, or as soon as he may have sufficient funds in hand.

Adopted at Dover, February 22, 1839.



CHAPTER CCLXI.

Committee to
settle with S.
Treas'r. &c.
&c. in Jan.
1840.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That W. H. Jones, Thos. A. Rees and Jos. W. Neal of the House of Representatives and Thos. Deakynce and Ch. Polk of the Senate, 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 forty (1840,) 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 the 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
statement of
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 indexes thereto; and to make such allowances 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 ac-
counts of
Clerks of two
houses.

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 State Treasury not otherwise appropriated. And the chairman of said committee shall have power and authority to draw orders for the incidental expenses, arising out of the session of said committee, to be paid in like manner.

Compensa-
tion of com-
mittee.

Adopted at Dover, February 22, 1839.



CHAPTER CCLXII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Joseph P. Comegys be and he is hereby authorized to purchase chandeliers for the Senate chamber, and the hall of the House of Representatives, the cost of which shall not exceed two hundred and fifty dollars, which sum the State Treasurer is hereby authorized and directed to pay on his order.

J. P. Come-
gys to pur-
chase Chan-
daliers for
Senate and
H. Represent-
atives.

Adopted at Dover February 22, 1839.



CHAPTER CCLXIII.

Resolved by the House of Representatives of the State of Delaware, with the concurrence of the Senate, That Elijah Cannon be and he is hereby appointed State Treasurer.

E. Cannon
State Treas-
urer.

Adopted at Dover, January 17, 1839.

LAWS OF THE STATE

CHAPTER CCLXIV.

J. L. Harper
Auditor of
Accounts.

Resolved by the House of Representatives of the State of Delaware, with the concurrence of the Senate, That Joseph L. Harper be and he is hereby appointed Auditor of Accounts.

Adopted at Dover, February 14, 1839.

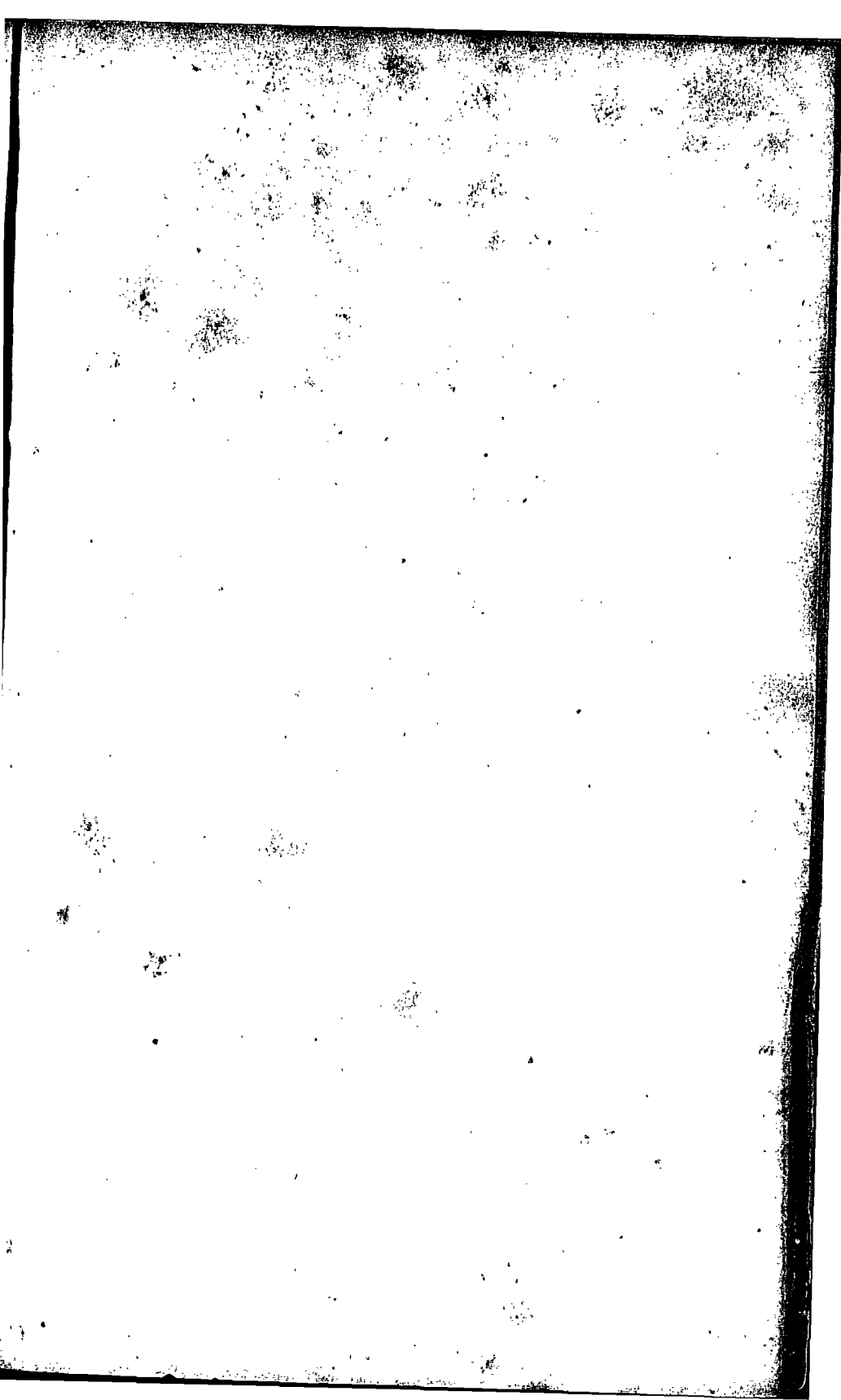
SECRETARY'S OFFICE,

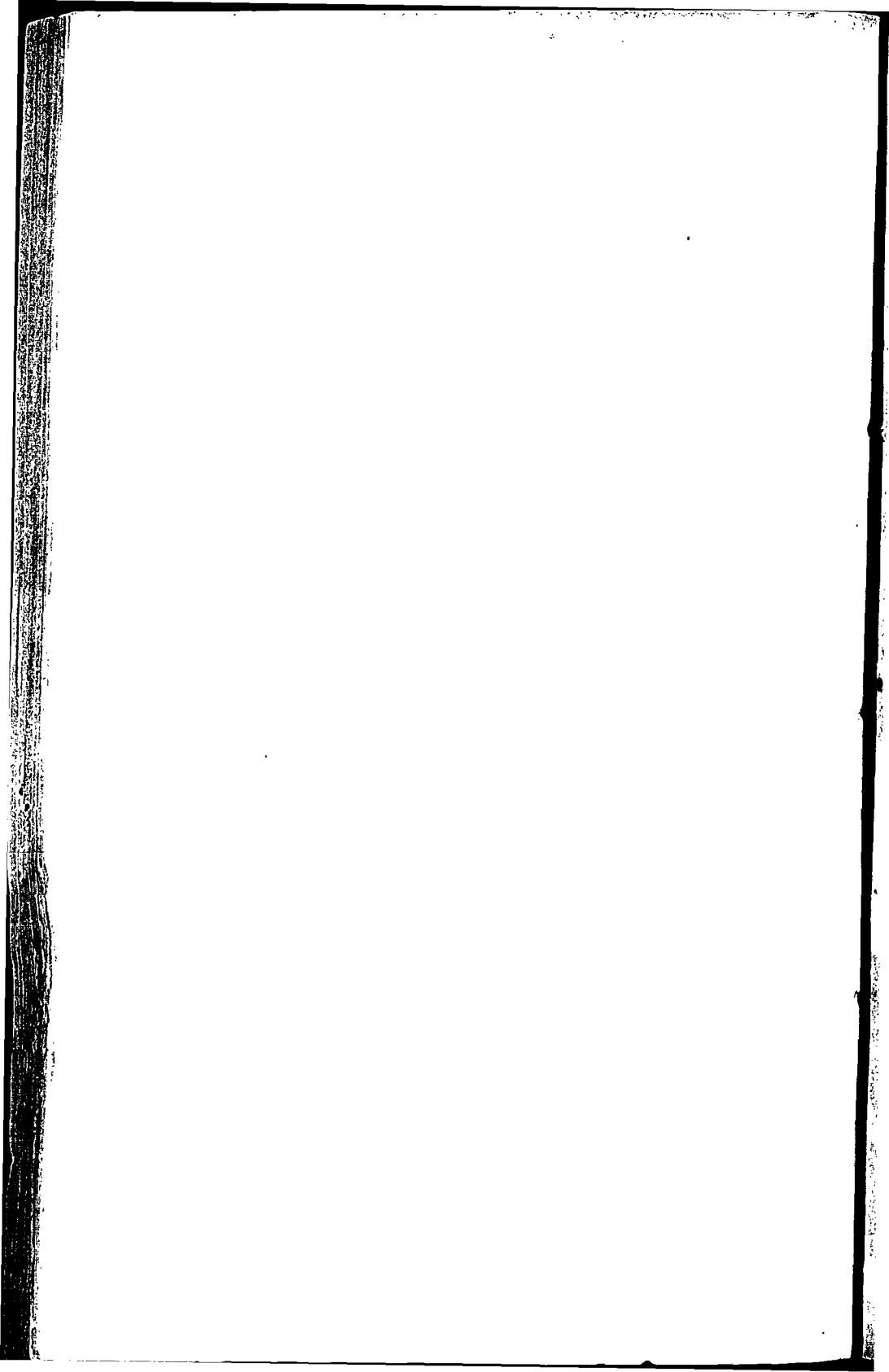
Dover, April 8, 1839.

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 first day of January, and closed on Friday, the twenty-second day of February, in the year of our Lord one thousand eight hundred and thirty-nine.

CH. 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 FORTY-ONE

AND OF THE

THE INDEPENDENCE OF THE UNITED STATES

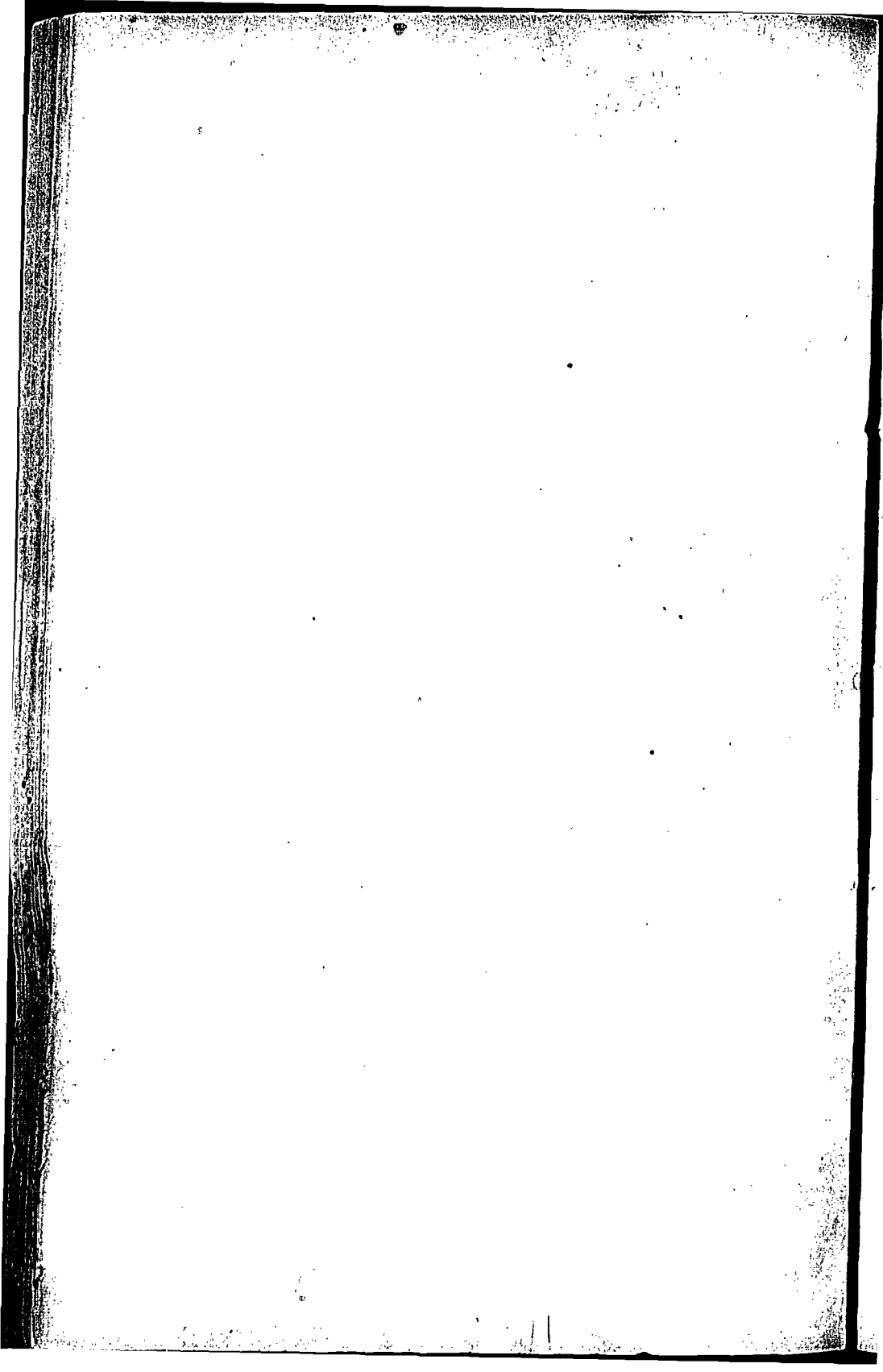
THE SIXTY-FIFTH.

BY AUTHORITY.

DOVER, DELAWARE:

S. KIMMEY, PRINTER.

1841.



LAWS

OF THE

STATE OF DELAWARE.

CHAPTER CCLXV.

AN ACT directing the time, place and manner of holding elections for Senators from this State in the Senate of the United States.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Legislature of this State shall, at their biennial meeting in January in the year of our Lord one thousand eight hundred and forty-one, and every sixth year thereafter, and at their biennial meeting in January in the year of our Lord one thousand eight hundred and forty-five, and every sixth year thereafter, in the hall of the House of Representatives, in joint meeting of the Senate and House of Representatives, hold an election by ballot, for the purpose of choosing a senator from this State in the Senate of the United States, for the constitutional term, to commence on the fourth day of March next ensuing said session or sessions, respectively: and a majority of all the votes given shall be necessary to a choice.

Time of election.

Place and manner of holding the election.

What to constitute a choice.

SEC. 2. *And be it further enacted,* That three certificates of every election of senator as aforesaid, shall be made and signed by the speaker of the Senate, and by the speaker of the House of Representatives, and attested by the clerks of the said Houses respectively; and the speaker of the Senate shall transmit one of the said certificates by mail to the president of the Senate of the United States, one to the senator elected, and one to the Secretary of State of this State, to be filed in the secretary's office, which said certificates shall be according to the following form, viz:

Certificates of election.

By whom & to whom, to be transmitted.

Delaware, ss. *Be it known, that the Legislature of the State of Delaware did on the — day of — in the year of our Lord one thousand eight hundred and — at an election in due manner held according to the form of the act of the General Assembly of said State in such case made and provided, choose — to be a senator from the said State in the Senate of the United States, for the constitutional term to commence on the fourth day of March next. Given under our hands in obedience to the said act of the General Assembly, the day and year aforesaid.*

Form of certificate.

SECTION 3. And whereas, the office of one of the senators from this State in the Senate of the United States has become, and is now vacant, by reason of the failure of the Legislature of this State to elect a senator for the constitutional term at their last biennial session, when such senator should have been elected: *Be it further enacted*, That the Legislature shall at the present session of the General Assembly, hold an election for the purpose of choosing a senator to fill such vacancy; and such election shall be conducted and held in the manner and upon the principles provided in the first section of this act, in relation to the election therein mentioned: and certificates shall be made and transmitted in manner aforesaid; and the form of the certificates shall be the same as provided in the second section of this act, excepting only, that in lieu of the words "to commence on the fourth day of March next," the words "*from the third day of March, in the year of our Lord one thousand eight hundred and thirty-nine*" shall be inserted.

SECTION 4. *And be it further enacted*, That if the office of senator from this State, in the Senate of the United States shall hereafter become vacant by reason of the failure of the Legislature of this State to elect a senator at the biennial session when such senator should have been elected, the Legislature shall at the next session of the General Assembly after such vacancy shall happen, hold an election for the purpose of choosing a senator to fill such vacancy; and such election shall be conducted and held in the manner and upon the principles provided in the first section of this act, in relation to the election therein mentioned; and certificates shall be made and transmitted in manner aforesaid; and the form of the certificates shall be the same as provided in the second section of this act, excepting only that in lieu of the words "to commence on the fourth day of March next," the words "*from the third day of March in the year of our Lord one thousand eight hundred and —*" shall be inserted.

SECTION 5. *And be it further enacted*, That if the seat of a senator from this State in the Senate of the United States, shall become vacant by death, resignation or otherwise than by the regular expiration of the term, the Legislature shall at the next session of the General Assembly after such vacancy shall happen, and if the vacancy shall happen during a session, then at such session, hold an election for the purpose of choosing a senator to fill such vacancy; and such election shall be conducted and held in the manner and upon the principles provided in the first section of this act, in relation to the election therein mentioned; and certificates shall be made and transmitted in manner aforesaid; and the form of the certificates shall be the same as provided in the second section of this act, excepting only, that in lieu of the words "for the constitutional term to commence on the fourth day of March next," the words "*to fill the vacancy occasioned by the — of — —, late a senator from said State,*" shall be inserted.

SECTION 6. *And be it further enacted*, That the act entitled "An act directing the time, place and manner of holding elections for

senators from this State in the Senate of the United States," passed at Dover, January 28, 1825, and the act entitled "An act to amend the act entitled 'An act directing the time, place and manner of holding elections for senators from this State in the Senate of the United States,'" passed at Dover, January 9, 1837, be, and the same are hereby repealed, made null and void. Other acts repealed.

Passed at Dover, January 12, 1841.

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CHAPTER CCLXVI.

AN ACT to divorce Elender M'Gee and Edward M'Gee from the bonds of matrimony.

WHEREAS sufficient cause hath been disclosed to the General Assembly by the said Elender M'Gee at the present session, for a divorce from her husband Edward M'Gee, and that the bonds of matrimony between the said Elender M'Gee and her husband should be dissolved. Therefore—

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the* The parties
said Elender M'Gee and Edward M'Gee be, and they are hereby divorced, divorced from the bonds of matrimony, and the marriage by and between them contracted and solemnized, is and shall be dissolved, annulled and made void and of no effect from and after the day of the passing of this act.

Passed at Dover, January 16, 1841.

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CHAPTER CCLXVII.

AN ACT to enable James Scott to locate certain vacant land situated in Broad Creek hundred, in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, January 19, 1841.

LAWS OF THE STATE

CHAPTER CCLXVIII.

AN ACT to enable Josiah Carey to locate certain vacant land situate in Baltimore hundred, Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, January 19, 1841.



CHAPTER CCLXIX.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act to extend the time for recording of deeds.*"

Time for recording all deeds sealed and delivered on or before the 1st day of January, 1841, extended to the 1st day of January, 1843.

SECTION 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 on or before the first day of January one thousand eight hundred and forty-one, 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 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 situated, if lodged in such office on or before the first day of January, in the year of our Lord one thousand eight hundred forty-three, and the said record or a copy thereof, shall be sufficient evidence; and from and after the first day of January, in the year last aforesaid, no deed, or letter of attorney, sealed and delivered before the said first day of January, in the year of our Lord one thousand eight hundred and forty-one, shall be recorded.

The Secretary of State to publish this act, for the space of two months, in two newspapers.

SECTION 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 newspapers printed in this State.

Passed at Dover, January 20, 1841.



CHAPTER CCLXX.

A SUPPLEMENT to the act entitled "*An act to enable Amanda Green, Jane Green and Charles Green, minors, to sell and convey certain real estate therein mentioned.*"

Private act.

Passed at Dover, January 21, 1841.

CHAPTER CCLXXI.

AN ACT to enable John Watkins to locate certain vacant land situate in North West Fork hundred, in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, January 28, 1841.



CHAPTER CCLXXII.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act to amend the act entitled 'An act concerning the constitution of the Levy Court and Court of Appeal.'*"

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if the office of Levy Court commissioner shall hereafter become vacant by death, resignation or otherwise than by regular expiration of the term, in either of the counties of this State, the Governor shall appoint some suitable person residing in the hundred where such vacancy shall happen, a Levy Court commissioner to supply such vacancy, whose office shall continue until the General Election next succeeding his appointment, and no longer; at which said election the electors of said county shall, according to the laws of this State in such case made and provided, elect some suitable person for the remainder of the term of such Levy Court commissioner, if any portion of said term shall be then remaining.

Vacancies in the Levy Court to be filled by the Governor.

The appointment to continue until the next General Election.

Passed at Dover, January 29, 1841.



CHAPTER CCLXXIII.

AN ACT to amend the supplement passed January 25, 1830, to the "*Act for the establishment of free schools.*"

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the power to collect school taxes in the school districts in the several counties of this State, instead of being restricted to collectors of the districts according to the third section of the supplement amended by this act, shall be extended to the collectors appointed by the Levy Court and Court of Appeal in each county, for the several hundreds

Tax to be collected by the collector of the hundred.

in their county; and the school committee or any two of them of every school district and united school district in each county shall have right and authority to issue and direct to the collector of the hundred in which their school district is situated, their warrant under the hands and seals of them or any two of them, with the duplicate of the assessment list for their district annexed, for collecting the rate by them determined on every hundred dollars of the amount of the assessment; which warrant may be in the form prescribed by the said third section of the said supplement, varying from the said form by omitting in the direction the words "the said district," and substituting therefor the word hundred, preceded by the proper name. When a school district or united district is situated in several hundreds, the school committee thereof or any two of them shall have right and authority to issue several warrants, to wit: a warrant to the collector of each of said hundreds, in that case annexing to each warrant the part of the duplicate of the assessment list for their district, containing all the taxables in said list belonging to the hundred to the collector of which the warrant is directed; but in case of a person liable to pay taxes in several hundreds, the whole of his assessment and rate may be inserted in the duplicate or the part thereof annexed to either warrant, or the assessment and rate in each hundred may be in the part of the duplicate appropriate thereto, at the election of the school committee or any two of them; and it shall be the duty of every collector of a hundred, to whom a warrant shall be issued and directed as aforesaid, to receive and faithfully execute the same, and within sixty days after the issuing and delivering of it to him to pay to the school committee or any two of them issuing it, the balance of the amount required to be collected by virtue of said warrant and duplicate annexed thereto, after deducting delinquencies to be allowed by said school committee or any two of them, and the rate of ten per cent. on the sum actually collected when it does not exceed fifty dollars, and eight per cent. when it exceeds that sum for his commissions; and every collector of a hundred and his sureties, by virtue of the bond given by him with them to the State of Delaware, according to the ninth section of the "Act concerning the Levy Court, Clerk of the Peace, Assessors, Collectors and County Treasurers," shall be liable for every failure of duty and default in the premises; and the condition of the said bond is hereby extended and declared to comprehend all duties and defaults, and to answer for all breaches of duty and failures under this act, and shall be proceeded on at the instance of the school committee of the district aggrieved or any two of them; and the Levy Court and Court of Appeal may increase the penalty of bonds of collectors in their discretion with a view to the responsibility under this act, not enhancing said penalty more than one-fourth.

And every collector of a hundred for executing the warrant issued and directed to him according to this act, shall proceed in the same manner and use the same means as in collecting and levying the rates in his duplicate issued to him according to the "Act concerning the Levy Court, Clerk of the Peace, Assessors, Collectors and County Treasurers," and shall have all the powers prescribed

Right of the committee to direct their warrant to such collector.

Form of the warrant.

When the district lies in several hundreds, right of the committee to issue several warrants.

But a person liable for tax in several hundreds, may be included in either warrant.

Duty of the collector.

Liability of the collector and his sureties.

Levy Court may increase the penalty, &c.

How the collector shall proceed.

in the eighth section of the said act, and shall have for levying by distress and sale of goods or otherwise executing the warrant to enforce payment, the same fees as for like proceedings in case of other taxes. His fees.

SECTION 2. *And be it further enacted,* That notwithstanding any thing in the preceding section, the school committee of every school district or united school district or any two of them, may appoint their own collector, and issue to him their warrant in conformity to the third section of the supplement to be amended by this act, and said collector for executing said warrant shall have all the powers granted by the said third section: and he shall be allowed the same fees for collection, and the same fees for levying by distress and sale and other proceeding, as are allowed to the collector of the hundred according to this act. The committee may appoint their own collector.
His fees.

SECTION 3. *And be it further enacted,* That whenever the line between two school districts runs betwixt a dwelling house and out houses and tenements appurtenant thereto and occupied therewith, or crosses the farm or other property of any person held and occupied in one body, so that the dwelling house of the holder of the said farm or property shall be in one school district and a part of said farm or property in another, the whole of such out houses and tenements, and of such farm and property shall be assessed in the school district in which the said dwelling house of the holder of the whole is situated, and no part in the other school district. When the line between two districts crosses a farm, the whole to be assessed in the district in which the dwelling house is situated.

SECTION 4. *And be it further enacted,* That the school committee now in office or any two of them, of any school district in either county of this State may avail themselves of this act, immediately upon the appointment of a collector or collectors of the hundred or hundreds in which their district is situated the present year, and may issue and direct their warrant or warrants to such collector or collectors for collecting all school taxes or rates or balances thereof of their district remaining unpaid, and the same shall be within the provisions of this act. This act to extend to committees now in office.

SECTION 5. *And be it further enacted,* That if any collector shall refuse or neglect to pay to a school committee or any two of them, the balance of money collected by him on their warrant according to the requirement of this act, and if said balance shall not exceed fifty dollars, such school committee or any two of them, may cause action to be instituted against him before any justice of the peace in their county in the name of the school district, and prosecute the same to judgment and execution, and the jurisdiction of justices of the peace and the corporate powers of school districts, are extended to such cases, and upon judgment against a collector herein, double costs shall be allowed to the school district. Remedy against collectors before Justices of the Peace.

SECTION 6. *And be it further enacted,* That if the secretary of a meeting of school voters, stated or occasional, in any school district, shall refuse or neglect to prepare two true certificates of the proceedings of said meeting, or to duly sign the same, or if the chairman of such meeting shall refuse or neglect to sign such certificate. Remedy against the secretary and chairman of school meeting.

When the meeting shall be void.

Duty of the clerk and commissioners in office at the time of such meeting.

tificates when so prepared, or to cause the same to be delivered when signed, one to the clerk of the district, and the other to the clerk of the peace of the county within thirty days from the day of holding such meeting, the said secretary or chairman so refusing or neglecting shall be guilty of a misdemeanor, and on conviction, shall pay to the State a fine not exceeding fifty dollars with costs. And if a certificate properly signed of a meeting of school voters shall not be delivered either to the clerk of the district or clerk of the peace of the county within the time above specified, the proceedings of such meeting shall be void. And the clerk and commissioners in office immediately previous to the meeting shall continue in office, so far as to call another meeting, and the said clerk and commissioners or either of them, shall proceed to call another meeting by advertisements, specifying the day, hour and place thereof, posted in five or more of the most public places of the school district, at least five days before the day of meeting; which day and hour the persons or person calling the meeting shall appoint; it shall be sufficient to state in the advertisements, that the certificate of the proceedings of the last meeting have not been returned according to law; and at such meeting so called the school voters shall have power to do all the acts and things that they could do at the preceding meeting; and the meeting shall be regulated by the law applicable to the preceding meeting, and be a substitute therefor.

Passed at Dover, January 29, 1841.



CHAPTER CCLXXIV.

AN ACT for the relief of Esther Coverdill.

Enabled to act in her own name.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Esther Coverdill of Cedar Creek hundred, in Sussex county, now the wife of a certain David B. Coverdill, shall and may, notwithstanding her coverture, have, hold, take and receive, whether by purchase, descent or otherwise, in her own name, and for her own separate use, any real and personal estate whatever, to which she now is, or shall in any manner, legal or equitable, become entitled; and also shall and may, in her own discretion, and in her own name, sell and dispose of the same, either by deed, last will and testament or otherwise; and further, that she, the said Esther Coverdale shall and may from henceforth, have, receive and enjoy, all and singular the rights, liberties, privileges and immunities which a free unmarried woman may or can have, enjoy and receive by the laws and customs of this State. Provided always nevertheless, That it shall not be lawful for the said Esther Coverdill to marry again, or become the wife of any other man during the natural life of her said husband, the said David B. Coverdill.*

SECTION 2. *And be it further enacted,* That the said Esther Coverdill, from henceforth, shall and may, and she is hereby declared to be capable in her own name, notwithstanding her coverture aforesaid, 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.

To sue and
be sued in
her own
name.

SECTION 3. *And be it further enacted,* That the said Esther Coverdill shall and may in her own name as aforesaid, and for her own separate use as aforesaid, have and hold all real and personal estate, to which she is, or hereafter shall be in any manner, legal or equitable entitled, free and clear, and absolutely freed and cleared of and from any claim, control or management of the said David B. Coverdill, and also freed and cleared of and from any debt, lien or incumbrance whatsoever, now had, made or created, or hereafter to be had, made or created by the said David B. Coverdill.

Her property
secured
to her.

Passed at Dover, January 30, 1841.



CHAPTER CCLXXV.

AN ACT to divorce Foster Donovan and his wife Avis Donovan from the bonds of matrimony.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the bonds of matrimony heretofore existing between Foster Donovan and Avis Donovan his wife, of the county of Sussex, be and the same are hereby declared to be dissolved to all intents and purposes whatever; and the said Foster Donovan and Avis his wife are hereby declared to be set free from their matrimonial contract, as fully as if they had never been joined in matrimony: *Provided nevertheless,* That the said Foster Donovan restore to the said Avis Donovan, all the lands, tenements and real estate which belonged to the said Avis, before and at the time of the marriage of the said Foster Donovan to the said Avis, and in which he acquired a right in virtue of the marriage aforesaid: *And provided also,* that the said Foster Donovan restore to the said Avis all the personal estate, rights and credits, which belonged to the said Avis at the time of said marriage, and which now remain in the possession and under the control of the said Foster Donovan.

Parties di-
vorced.

The husband
to restore to
the wife all
the property
acquired by
her.

Passed at Dover, January 30, 1841.

LAWS OF THE STATE

CHAPTER CCLXXVI.

A SUPPLEMENT to the act entitled "*An act to enable the owners and possessors of the meadow, marsh and cripple, lying on both sides of the north west branch of Duck creek, emptying into the main branch of Duck creek, below the Eagle's Nest landing, effectually to embank and drain the same, and keep the banks, dams, sluices, canals and drains in repair, and to raise a fund to defray the expense thereof.*"

Private act.

Passed at Dover, February 1, 1841.



CHAPTER CCLXXVII.

AN ACT to repeal the act entitled "*An additional supplement to the act entitled 'An act providing for the punishment of certain crimes and misdemeanors.'*"

Act of Feb.
18, 1839,
repealed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "An additional supplement to the act entitled 'An act providing for the punishment of certain crimes and misdemeanors,'"* passed at Dover, February 18, 1839, be and the same is hereby repealed, made null and void.

Passed at Dover, February 1, 1841.



CHAPTER CCLXXVIII.

AN ACT to continue the reports of adjudged cases and for other purposes."

Judge Har-
rington to
continue his
reports.

SECTION 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 Judge Harrington to continue his reports of decisions in the Superior Court, Court of Oyer and Terminer, and Court of Errors and Appeals, on all such points as to him shall seem important to be known and understood by the people of this State; and as soon as a sufficient quantity of matter shall accumulate to form a volume of corresponding size with the volumes already printed, that he cause the same to be printed and published.*

SECTION 2. *And be it enacted, That while he continues to dis-*

charge this duty, the said Judge shall continue to receive the same ^{His compensation therefor.} increase of his salary as was made by the act of 22d. February, 1837, namely, the annual sum of two hundred dollars in addition to the amount of salary as fixed by the act to carry into effect the amended constitution and for other purposes, passed January 17, 1832, to be paid in the same manner.

SECTION 3. *And be it enacted,* That on the publication of a volume of reports, one hundred copies thereof shall be deposited in the office of the Secretary of State; and the Governor shall be authorized to pay for the same at the price of five dollars per copy, by draft on the State Treasurer, payable out of any money in the treasury not otherwise appropriated. ^{The State to receive 100 copies of every volume.}

SECTION 4. *And be it enacted,* That the copies so deposited in the Secretary's Office, shall be distributed and disposed of by the Secretary of State in the following manner: one copy to the Governor, one copy to the Secretary of State, nine copies to the Senate and twenty-one copies to the House of Representatives; one copy to the Library of "Newark College," one copy to the Executive of each State and Territory of the United States, one copy to the Prothonotary, one to the Clerk of the Peace, one to the Clerk of the Orphans' Court, one to the Register in Chancery, one to the Recorder of Deeds, and one to the Register for the probate of wills and granting letters of administration in each county, to be retained in their respective offices and delivered over to their successors in office, ten copies shall be retained for future distribution to new States and Territories, and the remaining copies shall be distributed to such Justices of the Peace in the several counties of this State as the Governor shall designate for that purpose. A list of such Justices of the Peace shall be entered upon the register of the Governor's official acts, and each Justice with whom a copy shall be deposited, shall sign a receipt for the same, obliging him to deliver it over with his official records to his immediate successor in office. This mode of distribution shall apply to the first volume so far as the same has not been already distributed conformably hereto. ^{Distribution thereof.}

SECTION 5. *And be it enacted,* That the "Act to secure a report of cases adjudged in this State," passed February 22, 1837, and the "Resolution concerning the distribution of Harrington's Reports of cases adjudged in the Superior Court and Court of Appeals," adopted February 21, 1837, be and the same are hereby repealed. ^{Other laws repealed.}

Passed at Dover, February 2, 1841.



CHAPTER CCLXXIX.

AN ACT for the relief of Alexander Johnson.

Private act.

Passed at Dover, February 2, 1841.

LAWS OF THE STATE

CHAPTER CCLXXX.

AN ACT to incorporate the Wesleyan Female Collegiate Institute.

Private act.

Passed at Dover, February 2, 1841.



CHAPTER CCLXXXI.

AN ACT to enable Samuel G. Smith to locate certain vacant land in North West Fork hundred, in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 2, 1841.



CHAPTER CCLXXXII.

A SUPPLEMENT to an act entitled "*An Act to incorporate the Wilmington Fire Insurance Company.*"

Tax of one-fourth of one per cent imposed upon the company.

Act to be published as herein amended.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the fourteenth section of the act entitled "An act to incorporate the Wilmington Fire Insurance Company," be and the same is hereby altered and amended by striking out the following words, commencing in the second line and ending in the eighth line, to wit: "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 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, on the stock actually paid in, for and during the continuance of the present charter; and'" and in any edition of the laws of this State hereafter to be published the said act shall be printed as herein amended.

Passed at Dover, February 3, 1841.



CHAPTER CCLXXXIII.

AN ACT to amend the "*Act to establish a College at Newark.*"

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 the act entitled "An act to establish a College at Newark" passed at Dover, February 5th 1833, be and the same is hereby amended by striking out of the tenth line of the first section, the words "no member of the faculty shall be a trustee" and inserting in lieu thereof the words: *the President of the College shall, ex officio, be President of the Board of Trustees.* The act aforesaid shall hereafter be read and construed according to the foregoing amendment; and in any edition of the laws of this State hereafter to be published, the act aforesaid, shall be printed as hereby amended.

Act amend-
ed.

To be pub-
lished as
herein amen-
ded.

Passed at Dover, February 3, 1841.



CHAPTER CCLXXXIV.

AN ACT to amend the act entitled "An act supplementary to the act entitled 'An act for the preservation of certain shell fisheries within this State.'"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That* from and after the passage of this act, the provision contained in the first section of the act entitled "An act for the preservation of certain shell fisheries within this State," passed at Dover, February 4th 1835, which prohibits the taking or gathering of 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," shall not extend to Broad Kiln Creek in the County of Sussex.

The first sec-
tion of the act
herein men-
tioned, not to
extend to
Broadkiln
Creek.

Passed at Dover, February 3, 1841.



CHAPTER CCLXXXV.

AN ACT to enable the owners and possessors of the marsh, meadow and cripple on both sides of Swan Creek in Milford Hundred, Kent County, to repair and raise above the rise of the tide-water, and old causeway over the mouth of said creek, and for other purposes therein mentioned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That* Charles T. Fleming be and he is hereby appointed overseer, and authorized to purchase materials, employ workmen, and all things necessary for the repairing and raising of a certain old causeway,

Power of
the overseer.

beginning at the new wharf on Mispillion Creek in Milford Hundred in Kent County, thence over the mouth and marsh of Swan Creek to fast land, over which the public road formerly passed, and to proceed as hereinafter directed, to repair and raise said causeway above the rise of tide-water, with a sufficient width that a cart may pass thereon; and to repair or make new the sluice therein so as to keep off the tide-water, and to keep the same in repair, and erect and keep up a gate at some convenient place thereon.

Authority of
the overseer
to take dirt,
&c.

SECTION 2. *Be it further enacted*, That the overseer aforesaid shall have full power and authority to take and have hauled the dirt from some convenient place of the fast land at either end of said causeway, sufficient to repair and raise said causeway as aforesaid. Also, cedar and other brush for the use of said causeway, free from damage, charge or cost, provided one-half of the quantity of dirt required is taken from one end of said causeway, and the other half from the other end.

Isaac Davis,
W. Thompson
and John
Owens, com-
missioners.

Their duty.

SECTION 3. *Be it further enacted*, That Isaac Davis, Captain William Thompson and Doctor John Owens, all of said Milford Hundred, be and they are hereby appointed Commissioners, whose duty it shall be, when called upon by the said overseer—being first sworn or affirmed faithfully and impartially to execute the duties hereinafter required of them, to enter upon the marsh, meadows and cripple on both sides of said Swan Creek, or such parts thereof as to them may be deemed necessary, from said causeway up so far as they may have reason to think will be benefitted by the keeping off of the tide-water, and ascertain of the owners and possessors of the said marsh, meadows and cripple, the number of acres owned by each to the best of their knowledge, without an actual survey, and make a true statement thereof; and after the statement has been made out showing the number of acres of marsh, meadow and cripple, or of each as they may be, belonging to each owner respectively, to proceed to assess and rate the value of each and every owner's part of marsh, meadow or cripple agreeably to quality, quantity, situation, and taking into consideration the benefits to the owners of the upland and wharf by the use of said causeway as a private road: And when the aforesaid rate of assessment is made out by the Commissioners, and by them or a majority of them signed, they shall, or some one for them, return the same to the Recorder's Office at Dover, for Kent County in the State of Delaware, and have the same recorded there; and when so recorded, all costs, charges and expenses of repairing and raising said causeway as aforesaid, and hereafter to keep the same in repair, and the repairing or making new the sluice therein, so as to keep off the tide-water, and hereafter to keep the same in repair, and to erect a gate thereon, and hereafter to keep the same in repair, and all other costs, charges and expenses shall be paid by the said owners and possessors in proportion to the number of acres they severally hold and occupy, according to the rate of assessment made by the said Commissioners, or a majority of them, respect being had to the quality as well as quantity, and also the benefits to the owners of the upland and wharf by the use of said causeway as a private road.

The costs of
raising and
maintaining
the cause-
way, to be
borne by the
owners of the
land.

SECTION 4. *And be it further enacted,* That the rate of assessment made out and recorded as aforesaid, shall be and remain good for ten years from and after the date thereof, and longer, unless some one or more of the owners and possessors shall desire a new assessment, and if so, they are to proceed as hereinafter directed; the last assessment shall always remain good until a new one is made out and recorded as aforesaid.

Assessment to continue for ten years.

SECTION 5. *And be it further enacted,* That after the assessment is recorded as aforesaid, it shall and may be lawful for the overseer to proceed forthwith, or as soon as practicable, to notify the owners and possessors aforesaid, who shall at all times have the preference and privilege of doing the work, furnishing the materials and all other things necessary for the repairing and raising said causeway, and the sluice therein, and gate thereon as aforesaid, to the amount of their proportionable part of the cost respectively, provided they and each of them attend on the day and time appointed, of which they shall have at least five day's notice, with such workmen or materials, as is necessary for said work, and at such prices as is commonly paid at the time, otherwise the said overseer is hereby authorized to purchase materials, employ workmen and procure all necessary things for the doing of said work, on the best terms for which the same can be had, and of whom, and where the same can be obtained, and thereby proceed to do all things necessary for the completion of said causeway, sluice therein and gate as aforesaid; and the overseer shall in a book or books, to be provided at the expense of the owners and possessors aforesaid, keep a just and true account of all work done and materials furnished, and all other things necessary as aforesaid, and by whom and at what price, with vouchers, so as to show the amount of the cost of the repairing and raising said causeway, sluice therein and gate thereon as aforesaid, when the same shall have been completed; adding thereto all other expenses incurred under this act: the amount of the whole cost so ascertained shall be equally proportioned among the said owners and possessors according to the general rate of assessment made out and recorded as aforesaid, on every acre of marsh, meadow and cripple within the limits aforesaid. But after said causeway and sluice therein and gate thereon is finished and completed as hereinbefore directed, to keep up all repairs on said causeway, sluice therein and gate thereon *ever after*, and to keep the same in substantial order, it shall and may be lawful for said overseer, whenever such repairs shall not amount to more than five dollars, to proceed at all times to have the same done and keep a regular account thereof, which accounts shall be proportioned as aforesaid, and settled annually from the date of the first settlement hereof.

Owners to have the privilege of doing the work, &c.

Right of the overseer to do the work in case the owners refuse.

Overseer to keep an account of work done, &c.

Costs incurred to be divided among the owners according to the rate of assessment.

Power of the overseer in certain cases,

SECTION 6. *And be it further enacted,* That if any of the said owners and possessors shall have refused or neglected, or otherwise left unpaid his or their proportionable part or parts of the whole cost as aforesaid, or any balance thereof, when the same shall have been completed as aforesaid, or his or their proportionable part of the repairs annually thereafter, it shall be the duty of the overseer

Made in which the overseer shall cause rates to be levied in certain cases.

Duty of the
Constable of
Milford hun-
dred.

When the
receipt of the
Constable
shall be evi-
dence of title.

Constable's
fees.

Right of ap-
peal to Jus-
tices of the
Peace.

Mode of pro-
ceeding on
appeal.

to notify such owner or possessor by a written letter or advertisements, set up in two or more public places in said Milford hundred, requesting the said owners or possessors to meet the overseer at some time and place in said Milford hundred, for the purpose of settling said accounts, and if said owners or possessors shall refuse or neglect so to do, and the same is not paid to said overseer within fifteen days after such notice by said owners or possessors, or some one for them, the overseer is hereby authorized to place the same in the hands of the Constable of Milford hundred for the time being, for collection, who is hereby authorized and required to levy the same, or balance thereof by distress and sale of the personal property of such owner or possessor so neglecting or refusing, which may be found upon said marsh, meadow or cripple, and also of the grass or timber which may be thereon growing: but before such sale shall be made, at least ten day's notice thereof shall be given by advertisements set up in three of the most public places in said Milford hundred, and a copy of the same advertisements to be given to the delinquent owner or possessor: and in case the proceeds of said sale shall not be sufficient to pay said amount, or balance due as aforesaid, or that there shall not be found thereon any such personal property aforesaid, it shall be lawful for the said Constable to levy the same or residue thereof, by distress and sale of the marsh, meadow and cripple of said delinquent owner or possessor, notice of said sale to be given in manner aforesaid; and all such meadow, marsh and cripple sold as aforesaid, the receipt of the Constable so selling describing the location, bounds and about the number of acres thereof, and payment recorded in the Recorder's Office at Dover in Kent county aforesaid, shall be sufficient evidence of a good title and right thereto, by the purchaser or purchasers to have and hold the same for the sole use and benefit of him, her or them, their heirs and assigns; and if there be any overplus on any such sale as aforesaid, after deducting the debt and cost, it shall be paid over to such delinquent, and that the fees upon such sale as aforesaid shall be the same which a Constable may be entitled to by law for like services.

SECTION 7. *And be it further enacted*, That if the said owners or possessors, or any one of them, shall feel aggrieved by the proceedings of the overseer in any manner or case whatever, it shall and may be lawful for such owner or possessor, or any one of them, to go before some Justice of the Peace for Milford hundred, and there at his or their own proper charge and cost make application to said Justice of the Peace, who is hereby authorized to summon at his or their request, three competent, disinterested and impartial men, as referees, of said Milford hundred, to meet the said overseer at the office of said Justice of the Peace, on some day and hour by them appointed for that purpose, of which the said overseer shall have at least ten day's notice, and before whom the said overseer, or some one for him, shall exhibit all of his accounts and proceedings for their examination—they being first sworn or affirmed—and if it shall there appear that the said overseer has

charged too much for any services by him rendered, or materials furnished or any other way wronged said owners or possessors, or any one of them, the said referees shall make a statement of the same signed by all, for the owner or possessor so aggrieved, the amount of which shall be refunded to said owner and possessor within ten day's after such examination, and if not refunded within said time, the same be collected out of said overseer by said owners and possessors as debts of like amounts are by the laws of this State; but if the accounts and charges of said overseer are found lawful, right and just, he shall be released and forever after exonerated of the charge; and if the said overseer shall neglect or refuse to appear and exhibit his accounts aforesaid, or to send some one for him, he shall thereby forfeit the appointment of overseer, and the same shall thereby become vacant, and also forfeit that amount of damages that the referees, or a majority of them, deem right and just, to the party or parties thereby injured, recoverable as aforesaid.

Excess to be refunded by overseer.

Neglect of the overseer to appear, a forfeiture of his office.

SECTION 8. *And be it further enacted,* That said causeway when completed as aforesaid, shall be and remain free to each owner or possessor as a private road, over which to pass and repass at pleasure, but every person or persons hauling thereon, shall at all times haul dirt and repair or fill up holes or other places that may be cut thereby in said causeway, and repair all injuries that may happen to the gate thereby: and if such person or persons shall refuse or neglect so to do, when notified by the overseer, it shall be the duty of said overseer to proceed forthwith to have the same repaired, and the amount of cost of said repairs, shall be paid by the person or persons so offending, which the said overseer is hereby authorized to collect as debts of like amounts are by the laws of this State.

Rights and liabilities of the owners of the causeway.

SECTION 9. *And be it further enacted,* That if any person or persons shall open and leave open the gate on said causeway, or in any manner whatever wilfully injure the same, or wilfully injure said causeway or sluice therein, every person or persons so offending, upon the oath or affirmation of one or more creditable witnesses to the fact, shall forfeit and pay to said overseer five dollars each, and for every such offence, to be recovered by said overseer as debts of like amounts are by the laws of this State, and applied to the use of repairing said causeway.

Penalty for leaving open gate or damaging causeway.

SECTION 10. *And be it further enacted,* That in case the overseer appointed in this act, should resign, or otherwise his place become vacant, on the application of one or more of the said owners or possessors to one of the Justices of the Peace, for said Milford hundred, he is hereby authorized to fill said vacancy by appointing some judicious, suitable man overseer, and the overseer so by him appointed, shall have all the power and authority in all things herein the same, as the overseer hereby appointed: and also, if there should be a vacancy in the Commissioners herein appointed by death or otherwise, before they shall have done the duty assigned them, on application to one of the Justices of the Peace

Vacancy in the office of overseer, to be filled by a Justice of the Peace in Milford hundred.

Vacancy in the office of commissioner to be filled in like manner. Justice of the Peace to furnish overseer or commissioner with a certificate of his appointment.

as aforesaid, he is hereby authorized to fill said vacancy or vacancies as the case may be, by appointing other judicious men of Milford hundred, commissioner or commissioners—all of whom so appointed shall have all power in like manner as those herein appointed, and as evidence of such appointment or appointments, the said Justice of the Peace shall give the overseer or commissioner, so by him appointed, a certificate under his hand, stating the circumstances of the case, the cause of the vacancy, and by whom filled; which certificate shall be recorded by the overseer in his book of accounts.

Compensation of the overseer and commissioners.

SECTION 11. *And be it further enacted,* The the overseer and commissioners herein appointed or hereafter appointed to perform the duties herein assigned them respectively, shall be allowed the sum of one dollar each, for every day that he or they shall attend upon said duties.

This a public act.

SECTION 12. *And be it further enacted,* That this act shall be deemed and taken to be a public act.

Passed at Dover, February 4, 1841.



CHAPTER CCLXXXVI.

A SUPPLEMENT to the act entitled "*An act to incorporate the Union Bank of Delaware.*"

Vacancy in the board of directors to be filled by the remaining directors.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in case of a vacancy or vacancies in the Board of Directors of the Union Bank of Delaware, by death, resignation, removal from the State or otherwise, the remaining directors shall have power to fill such vacancy or vacancies by election from among the stockholders of the said bank.

Passed at Dover, February 4, 1841.



CHAPTER CCLXXXVII.

AN ACT to revoke the Charter of the Elk and Christiana Turnpike Company.

WHEREAS, it has been represented to this General Assembly, That the Elk and Christiana Turnpike Company which was incorporated by an act of the General Assembly, passed at Dover,

April 14, 1813, have for a number of years past, abandoned the turnpike road constructed by them, and have ceased to exercise any of the corporate rights granted by the said charter, whereby the said road has become very much out of repair, to the damage and great inconvenience of the citizens of the State who pass and repass thereon:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "An act to incorporate a company to make an artificial road or turnpike from Christiana bridge in the county of New Castle in this State to the Maryland line, in a direction towards Elkton," passed at Dover, April the fourteenth, A. D. one thousand eight hundred and thirteen, and the supplement to the said act, passed at Dover, February the first, A. D. one thousand eight hundred and sixteen, be and they are hereby repealed. And that all and singular the rights, liberties, privileges and franchises granted to the Elk and Christiana Turnpike Company by the said acts, or either of them, be and they are hereby revoked, annulled and held for naught.

Charter re-
voked.

SECTION 2. *And be it further enacted,* That the Elk and Christiana Turnpike as located and used, be and the same is hereby declared to be a public road, and that it shall be lawful for the road commissioners of the several hundreds through which the said road passes, to keep up, maintain and repair the same, as other public roads in New Castle County.

Declared to
be a public
road.

SECTION 3. *And be it further enacted,* That it shall be the duty of the Attorney General, at the next, or some subsequent term of the Court of General Sessions of the Peace in and for New Castle County, to file an information in the nature of a *quo warranto* against the said company, to which the said company shall plead during the term at which such information shall be filed, on a day to be appointed by the said court, and for want of such plea, judgment of *ouster* shall be entered by the said court against the said company; and all their privileges, immunities, franchises, rights and liberties as a corporation, shall thereby cease and determine; and in case the said company shall plead to the said information, the issue between the State and the said company shall be tried by a jury at the bar of the said court, and judgment shall thereupon be entered on the verdict of said jury according to the right of the matter and the law of the land. Notice shall be given by the Attorney General in one newspaper published in the City of Wilmington, of his intention to file said information ten days before the sitting of the court. The said information shall contain a statement of the causes for which the said company hath forfeited its charter; and the first and second sections of this act, shall not go into operation until a judgment of *ouster* shall be entered against the said company.

The Attor-
ney General
to proceed
against the
company.

1st. and 2nd.
sections of
the act not to
take effect
until judg-
ment obtain-
ed.

Passed at Dover, February 4, 1841.

CHAPTER CCLXXXVIII.

AN ACT to incorporate the Temperance Beneficial Association of Wilmington and Brandywine.

SECTION 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 of the Legislature, That John Torbert, Henry Gibbons, E. W. Gilbert, James Hollingsworth, Benjamin Benson, Aquila Pritchard, James C. Sweatman, Caleb Kimber, Jacob Pierson, George M'Corkle, James Anderson, William H. Naff, John T. Robinson, Joshua S. Valentine, Joseph Scott, John D. Pittman, Peter Kirkman, Jonas Pusey, Willard Hall, and all the other persons now being members of the Temperance Beneficial Society of Wilmington and Brandywine, be and they are hereby constituted a corporation by the name of The Temperance Beneficial Association of Wilmington and Brandywine, with capacity and power to take, receive, and hold by contract, transfer, devise, bequest, gift or purchase, lands, goods, money, stocks, credits, and property of every nature, real and personal, in possession and action, and to alien, assign, use or dispose of the same, and with all other franchises of a corporation.

The said corporation shall be continued and have succession by the election of members according to the constitution of the aforesaid Association in this particular, or such amendment thereof as shall be duly made, but power is reserved to the General Assembly to revoke this charter, and it shall not continue in force for a longer period than twenty years, without re-enactment by the Legislature.

The said corporation shall not hold money, credits or property, of a greater annual income than five thousand dollars. It shall have no banking powers. The officers of the Association hereby incorporated, shall be a President, a Vice-President, Treasurer, Secretary, and Executive Committee. The said Association shall have power to appoint and employ such other officers and such agents as shall be deemed necessary. Bond with security to the corporation may be required from the Treasurer or any other officer; and the penalty and condition of such bond and manner of approving thereof, may be determined by the by-laws or by resolution of a meeting. Warrant of attorney to confess judgment on such bond may be required, or dispensed with at the option of the Association.

The officers in office at the time of passing this act shall continue in office, and be officers of the Association hereby incorporated according to the terms and tenure of their offices respectively, under the constitution and by-laws of said Association; and the terms and tenure of the offices, the manner and time of choosing or appointing the officers, and the number of the executive committee shall be, as the constitution or by-laws of the said Association now do or hereafter shall prescribe, but if there be a failure to choose or appoint officers, or any of them, at the stated or proper time, the corporation shall not be thereby dissolved nor its capacity, or powers impaired, but in every such case the officers

Company incorporated.

Name.

Powers.

Power of revocation reserved.

To continue 20 years.

Limitation of income.

Banking powers prohibited.

Officers.

Power to appoint agents.

Proviso as to the bond of officers.

Officers heretofore appointed, to continue in office under this act.

The failure to elect officers not to work a forfeiture of their charter.

in office at the time of such failure shall continue in office, until successors to them respectively shall be duly chosen or appointed.

SECTION 2. *And be it further enacted*, That the said Association incorporated by this act shall have power to make by-laws not inconsistent with the laws of the land. Power to make by-laws.

The constitution and by-laws of the said Association in force at and immediately previous to, the passing of this act, shall continue in force as the constitution and by-laws of the said Association until the same shall be duly amended, altered or repealed. The constitution and by-laws in force at the time of passing this act, to continue in force under it.

The constitution shall be deemed the fundamental law of the Association, and it shall be amended or altered according to the provision thereof in this particular and not otherwise. Amendments or alterations of the constitution duly made shall be of the same nature and force as the constitution. This a public act.

SECTION. 3. *And be it further enacted*, That this act shall be a public act.

Passed at Dover, February 5, 1841.



CHAPTER CCLXXXIX.

AN ACT to renew the act entitled "*An act to incorporate the Washington Beneficial Society of Wilmington, Delaware, for the relief of the members thereof, their widows and orphan children.*"

Private act.

Passed at Dover, February 5, 1841.



CHAPTER CCLXC.

AN ACT to incorporate the "*Sisters of Churity of St. Peter's*" and to grant to said corporation certain lands in Mill Creek Hundred.

Private act.

Passed at Dover, February 5, 1841.



CHAPTER CCLXCI.

AN ACT to enable William W. Delaney of Sussex County to survey and locate certain vacant land, and to complete his title to the same.

Private act.

Passed at Dover, February 5, 1841.

CHAPTER CCLXCH.

AN ACT authorizing the Register for the Probate of Wills and granting Letters of Administration in and for Kent county to procure a new seal of office and press.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That William H. J. Comegys, Esq. the Register for the probate of wills and granting letters of administration in and for Kent county, be and he is hereby authorized to procure a new seal for his office, of steel or brass, to be made of the diameter of one inch at least, and engraven with the devices of the present seal or with such other device instead thereof, as the said Register shall order and direct, and with a motto or inscription descriptive of the said office; and the said seal when finished, and a particular description of the same entered on the docket of the Court of Errors and Appeals, shall be taken, adjudged and deemed to be the seal of the said register's office for the probate of wills and granting letters of administration in and for Kent county, and shall thereafter, be affixed to all writings, papers and records, where the seal of said office is required; and the present seal shall be then broken up and destroyed by the said Register.

Authorized to procure a new seal, &c.
Description thereof to be entered upon Doc't. of C't. of Appeals.
To be the seal of Register's Office, and to be affixed to all papers, &c.
The present seal to be destroyed.

SECTION 2. *And be it enacted,* That the said Register shall be and he is hereby authorized to procure a new screw or press for the use of his said office; and the Levy Court and Court of Appeal of Kent county shall pay the necessary cost and expenses of procuring the said new seal and press or screw.

Authorized to procure a new press.
L. Court to pay the expense.

Passed at Dover, February 6, 1841.



CHAPTER CCLXCIII.

AN ACT to enable Eli Layton to locate certain vacant land situate in Dagsboro Hundred, in Sussex County, and complete his title to the same.

Private act.

Passed at Dover, February 8, 1841.

CHAPTER CCLXCIV.

AN ACT to enable Nathan Fleming to locate certain vacant land situate in Mispillion Hundred, in Kent County, and to complete his title to the same.

Private act.

Passed at Dover, February 9, 1841.



CHAPTER CCLXCV.

AN ACT to incorporate the Members of the Fame Hose Company of the City of Wilmington.

Private act.

Passed at Dover, February, 9, 1841.



CHAPTER CCLXCVI.

AN ACT to incorporate the Washington Fire Company of the City of Wilmington.

Private act.

Passed at Dover, February 9, 1841.



CHAPTER CCLXCVII.

AN ACT in respect to insurance for lives, for the benefit of married women.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passing of this act, it shall be lawful for any married woman by herself and in her name; or in the name of any third person with his assent, as her trustee, to cause to be insured for her sole use, the life of her husband, for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or nett amount of the insurance, becoming due and payable, by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the re-
The right to insure.
Insurance exempt from the husband's debts.

Limitation of premium. representatives of her husband or any of his creditors; but such exemption shall not apply, where the amount of premium annually paid, shall exceed one hundred and fifty dollars.

To whom the insurance may be payable. SECTION 2. *Be it enacted by the authority aforesaid,* That in case of the death of the wife before the decease of the husband, the amount of the insurance may be made payable after her death to her children or grand-children for their use, and their guardians, if under age.

Passed at Dover, February 10, 1841.



CHAPTER CCLXCVIII.

A FURTHER SUPPLEMENT to the act entitled "*An act to alter and re-establish the Charter of the Borough of Wilmington.*"

Certain provisions of the 17th section of the supplement passed Jan. 18, 1832 repealed. SECTION 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 so much of the seventeenth 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," passed at Dover, on the eighteenth day of January, A. D. one thousand eight hundred and thirty-two, as gives to the Mayor's Court thereby established, authority to inquire of, hear, try and determine any other offences than those enumerated in the fifteenth section of the sixth article of the amended constitution, and offences against the laws and ordinances of the city of Wilmington, and so much of the said seventeenth section as takes away the jurisdiction of the Court of General Sessions of the peace and gaol delivery, of the matters thereby made cognizable in the Mayor's Court, be and the same is hereby repealed, made null and void. The prosecution in the said Mayor's Court shall be by information. The several terms of the said court shall commence on the first Monday of March, June, September and December, and be continued by adjournment if need be. One judge may open and adjourn the court. The said court shall have authority to punish contempt and to issue all process necessary for the exercise of its jurisdiction. There shall be no appeal to the Court of General Sessions of the peace and gaol delivery, but the proceedings of the said court shall be subject to the revision of the Superior Court by writs of error or certiorari, and after its judgments shall be affirmed or reversed, it may proceed to execution or otherwise as shall according to law appertain.

Prosecution in the Mayor's Court to be by information. Terms of the Mayor's Ct. One Judge may open & adjourn the said court. Authority of said court. No appeal. Proceedings of said court subject to revision in the Sup. Court.

The city divided into five wards.

SECTION 2. *And be it further enacted, &c.* That the said city of Wilmington shall be divided into five wards, as follows, that is to say, all the part of the said city west of Market street and south of Fourth street, shall be the first ward; and all the part of the said city east of Market street and south of Fourth street, shall be the

second ward; all the part of the said city west of Market street between Fourth street and Tenth street, shall be the third ward; all the part of the said city east of Market street, between Fourth street and Tenth street, shall be the fourth ward; all the part of the said city north of Tenth street, shall be the fifth ward.

Limits there-
of defined.

SECTION 3. *And be it further enacted, &c.* That the city council of the said city of Wilmington shall be enlarged, and shall consist of fifteen members appointed among the several wards, so that there shall be three members of council from each of the said wards. The members of council shall be elected for three years, according to the present provision of the city charter. A member of council from a ward must be a freeholder and resident therein, and upon any member from a ward ceasing to be a freeholder or resident in said ward, his place in the council shall be vacated, and a member shall be elected or appointed from the ward, in the manner prescribed by the present provisions of said charter for supplying a vacancy. Ten members of council shall be a quorum. No person shall be a member of council who is not a citizen of the State, and who has not resided in the said city two years next preceding his election. To complete the number of fifteen members of the said city council, there shall be chosen at the next annual city election on the second Tuesday of October next, three additional members of council, and the seat of one shall be vacated at the expiration of the first year, the seat of another shall be vacated at the expiration of the second year, and the seat of the other shall be for the regular period of three years; the seats to be so vacated shall be determined in the said city council by lot, at their first meeting after the election; any number of members assembled shall be a quorum for this purpose. The present rotation and arrangement of members of council shall continue, so that with the addition by this act, after the next city election, five members of council shall be chosen annually in regular order, besides supplying vacancies. Elections shall be by ballot as heretofore, and members of council shall be chosen by general ticket, all the voters of the city voting for the members from all the wards.

Number and
constitution
of the city
council.

Three addi-
tional mem-
bers to be
elected in Oc-
tober, next,
&c.

The succe-
sion of mem-
bers to con-
tinuo as here-
tofore.

Elections to
be by ballot,
&c.

The members of council now in office shall continue for their original terms without being affected by this act as to the tenure of their office; but in all future elections members of council shall be taken from the wards pursuant to the foregoing apportionment: and in case of either ward being deficient, the deficiency shall be supplied before any member shall be taken from a ward not deficient.

The present
of members to
continue in
office, &c.

SECTION 4. *And be it further enacted, &c.* That the said city of Wilmington shall be divided by Market street into two election districts: all the part of the city west of Market street shall be one election district, called the west election district, and all the part of the said city east of Market street, shall be one election district, called the east election district.

City divided
into two elec-
tion districts.

Names and
limits there-
of.

The place of voting for the voters residing at the time of the election in the west election district, shall be at the most northern of the windows of the city hall looking into Market street, and the

Places of vo-
ting.

Officers of
elections, and
how selected.

Officers of
elections to
take an oath
or affirma-
tion.

Form there-
of.

Vote must be
given in the
district in
which the
voter resides.

Mode of ap-
pointing
Mayor and
Alderman,
their term of
office, &c.

Qualifica-
tions.
Office vaca-
ted by remo-
val from the
city.

In all elec-
tions by the
citizens, plu-
rality of votes
to constitute
a choice.
Proviso as to
where two or
more are
equal in votes

place of voting for the voters residing at the time of the election in the east election district, shall be at the most southerly of the windows of the said city hall looking into Market street: in case of emergency the city council shall have authority to appoint other places of voting. The elections shall be conducted by persons appointed by the city council for that purpose, that is to say, by an inspector and two assistants for each district: the inspector shall preside; they shall be judges of the election. But in case the city council shall fail to make such appointment, or the persons appointed not being present prepared to open the election, the voters of either district on the spot at the time and place for opening the election, may proceed without ballot to elect an inspector for their district: who selecting two voters to assist him, the three shall be judges of the election with authority to receive, count and certify the votes. The number of votes given in each district for the respective offices voted for shall be duly returned to the city council who shall be judges of the election returns. Every person holding an election whether by appointment of the city council or by choice of the people, or selected as an assistant, shall before opening the election take the following oath or affirmation. "I do solemnly swear (or affirm) that I will this day, in conducting the city election of Wilmington, determine and act in every particular with impartiality and faithfulness, and that I will not do, nor consent to the doing of any wrong in any respect, and that I will cause to the best of my ability a true return of the election to be made." Every voter shall give his vote at the place appointed for the voters of the election district in which he shall reside at the time of the election.

SECTION 5. *And be it further enacted, &c.* That the Mayor shall be appointed by the city council every year on the third Tuesday of October, and the Alderman shall be appointed by the city council biennially on the third Tuesday of October. The Mayor and Alderman may be removed by a vote of two-thirds of the whole council: the reasons of removal shall be entered on the minutes. The terms of the Mayor and Alderman in office shall expire on the third Tuesday of October next, on which day their successors shall be appointed. No person shall be appointed Mayor or Alderman who has not resided in the city two years next preceding his appointment, and on either the Mayor or Alderman ceasing to be a resident of the city, his appointment shall be vacated and a successor appointed.

SECTION 6. *And be it further enacted, &c.* That in all elections by the citizens, in conformity with the provisions of this act or the act to which this is a further supplement, plurality or the highest number of votes shall make a choice, and that where two or more persons shall have the highest and an equal number of votes, then the city council shall choose one of them for the office for which he is a candidate.

SECTION 7. *And be it further enacted, &c.* That in all such elections, all free white male citizens of the age of twenty-one years and

upwards, having resided within the said city for one year next preceding the said election, and having been assessed for and paid the city tax for that year, and none other shall be entitled to vote. If any person who may have his domicil in the said city shall actually remove to another place, with an intention of remaining there for an indefinite time, as a place of domicil, he shall thereby lose his qualification of residence, notwithstanding he may entertain a floating intention to return at some future day.

Qualifications of voters.

SECTION 8. *And be it further enacted, &c.* That if at any such election any inspector, assistant person or persons, who shall conduct the election, shall knowingly and wilfully take and receive, or advise and consent to the taking and receiving of the vote of any person not entitled to vote at such election, or shall knowingly and wilfully reject, or advise and concur in rejecting, the vote of a person entitled to vote at such election, or shall use any fraud, falsehood or deceit in doing and performing any of the duties, matters or things required of him by the charter or ordinances of the said city, touching such election, or shall refuse or wilfully neglect to perform any of the said duties, matters or things, every such inspector, assistant person or persons, conducting such election, shall for every such offence forfeit and pay to the State a fine of two hundred dollars: and if any person not entitled to vote at any such election, shall vote at any such election, or if any person shall vote or offer to vote more than once at any such election, or if any person shall vote in the district in which he is not at the time a resident at any such election, or if any person shall influence or attempt to influence any man in giving his vote by any reward, gift or benefit, or promise of favor or advantage, every such person for every such offence, shall forfeit and pay to the State a fine of fifty dollars: and for every offence against the provisions of this section, the proceeding shall be by indictment in the Court of General Sessions of the peace and gaol delivery for New Castle county.

Receiving illegal or rejecting legal votes, and other frauds in the management of an election.

Penalty.

Illegal voting bribery, &c.

Penalty.

Recoverable by indictment.

SECTION 9. *And be it further enacted, &c.* That the eighteenth, twenty-first, twenty-second, twenty-third, twenty-fourth, and twenty-fifth sections 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," passed at Dover, on the eighteenth day of January, A. D. one thousand eight hundred and thirty-two, and so much more thereof as is repugnant to the provisions of this act, be and the same are hereby repealed, made null and void.

Inconsistent provisions of the former act repealed.

Passed at Dover, February 10, 1841.

CHAPTER CCLXCIX.

AN ACT to incorporate the Lewes Beneficial Society of Lewes, Sussex County, Delaware.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That John D. Rodney, Robert Houston, John H. Burton, John Walker, Laban L. Lyons, John W. Maull, William Evans, Jesse T. Pool, Thomas Carpenter, Purnal B. Norman, Nehemiah P. Holland, and Benjamin West, and such other persons as are or hereafter shall become members of "The Lewes Beneficial Society" be, and for twenty years hereafter shall be, by virtue of this act, one body politic and corporate in fact and in law, and shall have continuance and succession for twenty years by the name, style and title of "The Lewes Beneficial Society."

Company.

Duration.

Name.

SECTION 2. *And be it further enacted,* That the said corporation and their successors, shall for twenty years 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, devised or conveyed to them, and also to grant, let, sell or assign the same, and to do all other matters touching the same, by the name and title aforesaid: and they shall have a common seal, may sue and be sued, plead and be impleaded in any court of law or equity in this State in all manner of actions, suits, complaints, pleas, causes and matters whatsoever, and of what nature and kind soever.

General powers.

Shall have a seal, and may sue, or be sued.

SECTION 3. *And be it enacted,* That the members of this society shall have power to appoint such officers as they may deem necessary or proper to conduct the affairs of the society, and from time to time to make such by-laws, rules and ordinances, not contrary or repugnant to the laws and constitution of this State or of the United States, as they shall deem necessary and proper for the good government of the society.

Power to appoint officers, make by-laws, &c.

SECTION 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, lands or tenements, or property of any kind, the clear yearly income or revenue of which shall exceed five thousand dollars.

Restriction as to the income of personal property.

And provided also, That nothing in this act shall be construed or taken to authorize the said corporation to hold real estate, the yearly income or rental value whereof shall exceed five hundred dollars, for a longer period than one year.

The same as to real estate.

SECTION 5. *And be it further enacted,* That this act shall be a public act.

A public act.

Passed at Dover, February 10, 1841.

CHAPTER CCC.

AN ACT to vacate part of an alley and lane in the village of Georgetown, in Sussex County.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That South alley and South lane, from the southeast side of Pine street, as far as the town land extends, are deemed and are hereby held to be stopped up and done away; and the said part of said alley and lane stopped up and done away as aforesaid, shall be divided equally between the adjoining lot holders.

South alley and South lane within certain limits vacated.

Divided between adjoining lot-holders.

Passed at Dover, February 10, 1841.



CHAPTER CCCI.

AN ADDITIONAL 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 rules of liquor."

The court to grant no recommendation for a license to keep a tavern in Wilmington, without a certificate from the president of the council. The certificate to be under the seal of the city. What it shall contain. Mode of applying therefor.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passage of this act, it shall 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 a written certificate under the corporate seal of the said city, and signed by the president 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. Such written certificate shall not be granted but upon application to the city council in its legislative capacity, nor without a concurrence of a majority of all the members of the said council, which shall be entered on the journal of their proceedings. The person petitioning, shall before his petition be filed, first pay to 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.

How granted, &c. Fee for license to be paid in advance. Receipt for the same. Duty of the Clerk in case the petition shall not be recommended.

SECTION 2. And be it further enacted, &c. That the supplement to the said act, to which this is an additional supplement, passed at Dover, on the twenty-fourth day of January, A. D. one thousand eight hundred and thirty-three, be and the same is hereby repealed, made null and void.

The supplement passed Jan. 24, 1833 repealed.

Passed at Dover, February 10, 1841.

CHAPTER CCCII.

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

Applied as follows.

To the payment of salaries.

To the payment of daily allowances.

For printing the laws and journals.

And for sums due to others according to law.

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, State Treasurer and Auditor of Accounts, up to the first Tuesday of January, eighteen hundred and forty-three, 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 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.

Passed at Dover, February 10, 1841.



CHAPTER CCCIII.

A SUPPLEMENT to the act entitled "*An act for the protection of fish and game in and on the waters of the Delaware Bay and River, and the streams tributary thereto, within the limits of this State.*"

The provisions of the act to which this is a supplement, extended to all the streams within the State.

SECTION 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 provisions contained in the act entitled "An act for the protection of fish and game in and on the waters of the Delaware Bay and River, and the streams tributary thereto, within the limits of this State," passed at Dover, February 15, 1839, be and the same are hereby extended to all the rivers, creeks and waters and lands and marshes bordering thereon, within the limits of this State, anything contained in the said act to the contrary notwithstanding.*

Passed at Dover, February 10, 1841.

CHAPTER CCCIV.

AN ACT to authorize the Register for the probate of Wills, and granting Letters of Administration, in and for Sussex County, to procure a new seal of office.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Peter Parker, Esq. the present register for the probate of wills and granting letters of administration, in and for Sussex county, be and he is hereby authorized to procure, as soon as may be, a seal of steel or brass, to be made of the diameter of an inch and a quarter at least, for his office of register aforesaid, which said seal so to be made as aforesaid, shall be engraven with such device as the said Peter Parker shall order and direct, and with a motto or inscription to describe the office to which the said seal shall belong; and the said seal so to be procured, made and engraven as aforesaid, shall be taken, adjudged and deemed to be the seal of the office of the register aforesaid, and shall be affixed to all writings, papers and copies where a seal of office is required: *Provided always nevertheless,* That immediately after the procuring of the seal aforesaid, the said register shall break and destroy the old seal of office aforesaid.

Peter Parker, Reg'r., authorized to procure a new seal, &c. Dimensions, &c.

To be deemed the seal of his office.

Old seal to be destroyed.

SECTION 2. *And be it further enacted by the authority aforesaid,* That the Levy Court and Court of Appeal of Sussex county aforesaid, be and they are hereby required to defray all proper and reasonable charges and expenses of procuring the seal aforesaid.

Passed at Dover, February 10, 1841.



CHAPTER CCCV.

AN ACT to incorporate the Black Swamp Ditch Company.

SECTION 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 owners and possessors of the swamp and low grounds, situate, lying and being partly in Murderkill, and partly in Mispillion hundreds, in Kent county, and State of Delaware, commonly called and known by the name of "The Black Swamp," shall compose a company to be called "The Black Swamp Ditch Company," and shall hold a meeting on the second Tuesday of May next, and on the second Tuesday of May in every year thereafter, at the house of Gove Cox, in Mispillion hundred, or at such other place as the said company shall determine, by a resolution to be adopted at any annual meeting of said company; at which annual meeting, the

Company incorporated.

Annual meetings.

- Choosing of officers, &c.** said company shall choose by ballot and a plurality of the votes present, one treasurer, one secretary, and two 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 swamp and low grounds; and such annual meeting of said company and every annual meeting 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, at such times and places as the said managers may appoint, by giving ten days' public notice by advertisements put up at Bethel Church in Mispillion hundred, and at the store now occupied by Luff Carter, in Murderkill hundred, or at such other places as the managers for the time being may designate; and if the treasurer, secretary or managers shall not all, or any of them be chosen at the stated or annual meeting for the current year, or for any year thereafter, 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 plurality of votes; and if any treasurer, secretary or manager shall remove from the neighborhood of said swamp and low grounds, the said company may at any meeting declare the place of such officer vacant, and elect another in his place. At all meetings of the said company every white owner of any swamp or low grounds, rateable and assessed by virtue of this act, may
- Voting.** vote if present, or absent, by proxy duly attested under their hand and seal.

Terms of office. SECTION 2. *And be it enacted,* That the treasurer, secretary and managers chosen in pursuance of this act, at the first meeting of said company, shall continue in office for the term of one year from the time when they shall be so chosen, and until successors to them shall be duly chosen; and the same rule shall apply to all officers elected at any meeting other than the said first meeting.

Comm'rs., their powers and duties. SECTION 3. *And be it enacted,* That Robert W. Reynolds, John Rawley and Allen Thomas, be and they are hereby appointed commissioners to make a valuation of all the said swamp and low grounds; and the said commissioners, or a majority of them, are hereby authorized and empowered to enter upon all the swamp and low grounds belonging to the said company, and view, examine, ascertain and determine the width and depth and location of one or more ditches and drains, necessary and sufficient to drain said swamp and low grounds; and shall ascertain all the owners of said swamp and low grounds, the quantity held by each owner, or by joint owners (if any be held undivided,) and shall appraise and determine the benefit and advantage which each owner or joint owner as aforesaid, will derive and receive by reason of the cutting and making such ditch or ditches, drain or drains, having regard to the original or unimproved value of the said swamp and low grounds, and the value of the same, after the same shall be ditched and drained by the ditches or drains of the said company, so that the said appraisalment and valuation may do equal justice to all the owners and possessors of the said swamp and low grounds; and

the said commissioners or a majority of them, shall make two certificates under their hands, or the hands of a majority of them, containing the names of the respective owners of said swamp and low grounds, the quantity held by each owner, or by joint owners, if any be held undivided, and the appraisement of the benefits, profits and advantages to be derived to each owner as aforesaid of said swamp and low grounds, so by the said commissioners to be made as aforesaid, and shall deliver one of said certificates to the secretary of said company, and shall return the other of said certificates into the office of the recorder of deeds, in and for Kent county, to be there recorded by the recorder of deeds for said county; which certificate shall be final and conclusive upon all parties, and shall be and remain the true appraisement and valuation, upon which all and every the tax or taxes which may be necessary to effect the purposes of this act, shall be assessed, levied and raised, and a copy of the record thereof certified by the said recorder under his hand and seal of office, shall be good and sufficient evidence in all courts of justice, and before all justices of the peace in the State. Each commissioner, before he enters upon the duties required of him by this act, shall be sworn or affirmed before some judge or justice of the peace, in and for Kent county, to exercise the duties assigned him by this act, faithfully and impartially, according to the best of his skill and judgment. If either of the said commissioners shall die, resign, refuse or neglect to act before all or any of the duties assigned the commissioners under this act, are performed, the said company may elect another to supply his place, and so as often as it may be necessary, until all the duties of the commissioners under this act, shall be completed.

Certificates
of comm'rs.

Effect there-
of.

Oath of com-
missioners.

Vacancies
among com-
missioners.

SECTION 4. *And be it enacted,* That for the purpose of raising the sum of money, necessary to carry into execution the purposes of this act, it shall and may be lawful for the managers for the time being, and they are hereby authorized and required, after the appraisement and valuation aforesaid, shall be made and returned to the secretary and recorder as aforesaid, to lay and assess upon the value of the swamp and low grounds benefited by said ditches and drains, and mentioned in said certificates, according to and upon the value of the benefits, profits and advantages of the respective quantities or parcels of the swamp and low grounds held by the several owners thereof, a certain rate upon each and every dollar of said value, so as to raise a sum of money sufficient to cut and make all the ditches and drains necessary and proper to drain and reclaim all the said marshes and low grounds, intended to be drained and reclaimed by virtue of this act: and at any annual meeting of the company, after the said ditch or ditches, drain or drains shall have been cut and made as aforesaid, the said company, by a plurality of votes may determine by resolution, what additional sum or sums of money ought to be raised by way of tax as aforesaid, for the purpose of keeping the said ditch or ditches, drain or drains in good and sufficient repair; which said additional sum of money shall be levied and assessed according to the provisions herein-before mentioned: and the said managers shall from

Managers to
assess taxes.

Additional
sums how
levied.

Duplicate lists. time to time make out duplicate lists under their hands of all the assessments and taxes, by them made and levied as aforesaid; which lists shall contain a minute of all charges of ownership and transfers of any of the said swamp and low grounds, and one of the said lists shall be delivered to the treasurer for the time being, and the other of the said lists shall be delivered to the secretary, and such assessments and lists shall be final and conclusive upon all the parties; and the said lists so delivered to the treasurer, shall be a sufficient warrant to him or his successor, for levying and collecting all and every the sums of money and taxes in said lists mentioned. It shall be the duty of the said managers to cut and open all such ditch or ditches, drain or drains, and prong or prongs of said ditch or ditches, as the said commissioners by their return aforesaid, shall direct to be cut or opened, or cause the same to be done, and 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 from time to time given to them in relation to their said trust; for which purpose the said managers shall have power to employ such workmen as may be deemed 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 works, shall be paid by orders drawn by the managers 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, 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 of said company, as said company may direct. Each manager before he enters upon the duties by this act required of him, shall be duly sworn or affirmed before some judge or justice of the peace of Kent county, to perform the same faithfully and impartially, according to the best of his skill and judgment; of which oath or affirmation, a certificate under the hand of the person or persons making the same, shall be made and returned to the secretary, to be by him recorded in the books of said company.

Warrant of Treas'r.

Duty of Managers.

Their orders.

Their oath.

Bond of Treasurer. *SECTION 5. 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 sufficient surety or sureties; to be approved by the managers, to and for the use of the company by name, 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, so far as he shall have funds in his hands for that purpose; and shall well and truly account for all monies that may come to his hands as such treasurer, at any annual or other meeting of the said company, or otherwise, as the said company may direct; and shall pay over any balance or sum that shall be due, to his successor in office, or otherwise, as the said company shall order and direct, and shall perform all the duties of his office with fidelity.

Taxes, when payable. *SECTION 6. And be it enacted,* That the managers when they lay and assess taxes, shall appoint the time for the payment of the same,

and it shall be the duty of the owners respectively, to pay to the treasurer for the time being, the sum levied and assessed as aforesaid, at the time appointed by the managers as aforesaid, for said payment.

SECTION 7. *And be it enacted*, That the treasurer for the time being, and every treasurer 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 levied and assessed in pursuance of this act, by the said managers, according to the list of assessment delivered to such treasurer. And in case such tax or taxes so laid and assessed, or any part thereof, shall remain unpaid, for the space of thirty days after the same shall be due and payable, the treasurer for the time being, may and shall proceed to levy and make all such taxes so remaining unpaid, or any part thereof, in the same manner and by the same means as is provided by law for the recovery of county rates; and every treasurer for the time being, shall have power to levy and collect all taxes upon any list delivered to said former treasurer.

Treas'r., his
power to col-
lect taxes.

SECTION 8. *And be it enacted*, That the secretary shall procure a certified copy of this act from the Secretary of State, and record the same among the records of the said company, and shall record the certificate to be delivered to him by the commissioners as aforesaid, and the list delivered to him from time to time by the managers, and all other proceedings of said company, which said company shall direct to be recorded, he having first provided a suitable book for that purpose; and he shall file all papers belonging to said company, which 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 time; and the said secretary shall deliver all papers and records of the said company which may be in his hands, to his successor in office when demanded. He shall receive from the said company, the amount of all fees, he shall have to pay in procuring the aforesaid copy of this act, and a reasonable compensation for his trouble in procuring the same; and every secretary for the time being, shall receive one cent for every twelve words by him recorded for said company, and also the amount paid by him in procuring a book in which to record the same; and every commissioner and manager shall for each and every day's service in and about the business of the company, receive from the company one dollar; and every treasurer shall be allowed five per centum on all monies by him collected, except monies paid over to him by his predecessor in office. All expenses attending the passage of this act, shall be paid by the managers out of the funds of the company, by draft upon the treasurer.

Duty of the
Secretary.

His expenses
&c.

Compensa-
tion of offi-
cers.

SECTION 9. *And be it enacted*, That suits may be brought and prosecuted in the name of the said "The Black Swamp Ditch Company," upon any bond given to said company, or for any damages done to the ditch or ditches, drain or drains, or the banks of said company.

Suits.

Obstructing
ditches, pe-
nalty.

SECTION 10. *And be it enacted*, That if any person or persons shall wilfully fill up or obstruct the ditch or ditches, drain or drains of the said company, or shall wilfully stop, obstruct or impede the course of the water from running down the same, every person so offending, shall be liable to pay to the treasurer of the said company or his successor, for the use of said company, the sum of twenty dollars; to be recovered before any justice of the peace, in and for Kent county, in the same manner and by the same means as debts of a like amount are recoverable by the laws of this State.

Right of
owners to cut
private
ditches, &c.

SECTION 11. *And be it further enacted*, That every owner and possessor of any swamp and low grounds, rateable and assessed by virtue of this act, shall from time to time have the right and privilege to discharge the waters from their respective lands, into the ditches or drains of the company, by ditches or drains to be cut and opened through the swamp or low grounds of other owners or possessors, in such place or places, and of such width and depth as the managers for the time being shall lay out and prescribe. Such owners or possessors shall contribute such portion of the expenses of cutting, opening and keeping open such ditch or ditches as the managers for the time being shall direct; 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; and the managers so laying out and prescribing any such ditch or ditches, shall make return of all their proceedings in and about the said service to the secretary of said company, to be by him recorded; and such owners and possessors, to whom such ditch or ditches will be advantageous, shall pay to each manager so employed, the sum of one dollar for each and every day's service in laying out said ditch or ditches, and pay to the secretary one cent, for every twelve words, for recording said return. Every owner shall have free privilege to cut, open, and keep in repair any ditch or ditches, through his, her, or their own swamp or low grounds, into any ditch or ditches, drain or drains, of said company.

Limitation of
taxes and or-
ders.

SECTION 12. *And be it enacted*, That the treasurer chosen by "The Black Swamp Ditch Company," at the first meeting of the said company, or any treasurer for the time being, shall have full power and authority, by virtue of this act, to demand, receive, levy and make all taxes, remaining unpaid, or any part thereof, upon any list delivered to the said treasurer, or any treasurer for the time being, at any time within six years after the same shall be due and payable; and shall be liable to pay all orders drawn upon him by the managers aforesaid, at any time within six years from the date of said orders, or the orders drawn as aforesaid upon any former treasurer, so far forth as the said treasurer shall have in his hands, funds belonging to said company, according to the tenor of his bond given to and in the name of said company.

Election on
2nd Tuesday
of May.

SECTION 13. *And be it enacted*, That the election to be held under this act, on the second Tuesday of May next, shall be conducted by, and be under the government of the commissioners appointed in the third section of this act:

SECTION 14. *And be it further enacted*, That upon the application to the said beforenamed commissioners, by one or more of the owners of the said swamp and low grounds, the said commissioners, or a majority of them, may in their discretion, lay out and direct to be cut and opened, a prong or prongs to the said ditch or ditches, Prongs. drain or drains of the said company.

SECTION 15. *And be it enacted*, That this act shall be a public act; and the power to revoke or annul the same is hereby expressly reserved to the Legislature. This a public act, &c.

SECTION 16. *And be it further enacted*, That the act entitled "An act to authorize the owners and possessors of the swamp and low grounds, commonly called and known by the name of the Black Swamp, situate (partly) in the forest of Murderkill and Mispillion hundreds, in the county of Kent and State of Delaware, to cut a ditch or drain through the same," passed at Dover, February 18, 1800, be and the same is hereby repealed. An Act of Feb. 18, 1800. repealed.

Passed at Dover, February 10, 1841.



CHAPTER CCCVI.

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

SECTION. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That for the purpose of holding the general election according to the said act to which this is a further supplement, and the amendments thereof, the city of Wilmington be divided into two election districts; and that all the part of the said city east of Market street be one election district, to be called *Wilmington east election district*; and that the place of holding said election for said district be at the most southern window of the city hall, in said district, looking into Market street; and that the said city, west of Market street, be the other election district, to be called *Wilmington west election district*; and that the place of holding said election for said district be at the most northern window of the said city hall, looking into Market street. The said places shall also be the places of holding every special election, and every election of assessor and inspector for the said election districts respectively. The electors residing in said election districts shall give their votes at the place appointed as aforesaid, for holding the election for the election district in which they shall reside at the time of the election: and if at any election, general, special, of assessor and inspector, or congressional, any elector shall wilfully vote, or offer to vote at the place appointed for holding the election for the election district in which he shall not reside, at the time of the election, he shall be guilty of a misdemeanor, and upon conviction thereof, shall forfeit

City divided into two election districts.

Eastern district, place of voting.

Western district, place of voting.

Electors to vote in their own districts.

Illegal voting

and pay to the State a fine of not less than two hundred dollars, nor more than five hundred dollars.

Elections,
how conduc-
ted.

The said elections shall be conducted according to the laws of this State, in that behalf, in the manner, according to the regulations and subject to the penalties for malfeasance or negligence, prescribed by said laws; and accordingly all the laws of this State in respect to opening and closing the election, choosing an inspector, or presiding officer to supply the place of an inspector or collector, or presiding officer, not present at the time of opening the election; receiving, counting, and returning, illegally giving, receiving, counting or returning votes; and in respect to all other matters touching the elections, shall apply to the elections held at the places aforesaid, in the same manner as if the election districts aforesaid had been formed, and the places aforesaid of holding the election therefor had been appointed by the act to which this is a further supplement.

Presiding of-
ficers of elec-
tions in the
respective
districts.

SECTION 2. *And be it further enacted, &c.* That there shall be one collector and one assessor for the city of Wilmington, under the "Act concerning the Levy Court, clerk of the peace, assessors, collectors and county treasurers," according to the existing law; in the election according to the "Act directing the election of assessors and inspectors," and the amendments thereof, the said collector shall be the presiding officer of the election for the said *Wilmington east election district*; and it shall be the duty of the Levy Court and Court of Appeals of New Castle county, in the month of March, in the year of our Lord one thousand eight hundred and forty-two, and every second year thereafter, to appoint a person, a qualified voter in said *Wilmington west election district*, to be the presiding officer for holding the election of assessor and inspector for the said *Wilmington west election district*; and the person so appointed shall have all the powers, and be liable to all the duties of the presiding officer of such election according to the existing law; and if at any election of assessor and inspector in the said *Wilmington west election district*, a presiding officer shall not have been appointed, or shall not be present at the time of opening the election, the electors present at the time and place of opening the election, shall proceed to choose a presiding officer for holding said election, according to the second section of the "Act directing the elections of assessors and inspectors." If it shall be requisite to hold any special election for Representative to Congress or otherwise, before an inspector shall be regularly chosen for the said *Wilmington west election district*, an inspector shall be chosen by the electors at the time and place of opening the election, according to the fourth section of the act to which this is a further supplement.

Certificates
of election of
Inspector.

Immediately upon closing the election of assessor and inspector, in both of the election districts aforesaid, and counting and ascertaining the number of votes, the presiding officers and judges of the said election in each of the said districts, shall make and sign certificates according to law, of the election of inspector, varying from the form by leaving out the assessor; and in lieu of including the election of assessor in such certificate, they shall make and sign a certificate of the number of votes given for each candidate

voted for as assessor; and thereupon, without delay, the said presiding officers and judges of both the said election districts, shall assemble in the city hall aforesaid, and ascertain the aggregate amount of all the votes given in both the said districts for assessor; and the candidate having the highest number of the votes, shall be declared duly elected assessor; and the said presiding officers and judges shall make, sign and deliver certificates of said election according to law. If two candidates for the office of assessor shall have the highest and an equal number of votes, the collector or presiding officer of the said Wilmington east election district shall give a casting vote, which shall elect the one of said candidates in whose favor it is given. If any presiding officer or judge of an election of assessor and inspector shall refuse or neglect faithfully to perform the duties prescribed in this section, he shall be guilty of a misdemeanor, and upon conviction, shall forfeit and pay to the State a fine of not less than two hundred dollars, nor more than five hundred dollars.

The presiding officers and judges to meet and ascertain the amount of votes cast in both districts for Assessor. Certificates.

Casting vote.

Refusal or neglect of presiding officer or judge to perform his duties, penalty.

Passed at Dover, February 11, 1841.



CHAPTER CCCVII.

AN ADDITIONAL SUPPLEMENT to the act "for establishing the boundaries of the town of Dover, and for other purposes therein mentioned." Dig. 594, 8 vol. 170.

SECTION 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 who has been longest in commission, resident in the town of Dover, shall be *alderman* of said town; and ex officio, a town commissioner and president of the town committee. It shall be his duty to execute all laws for the peace and good government of the town which are or may be enacted for that purpose; and to carry into effect and operation all the lawful orders and directions of the town committee, made in pursuance of any law of this State, or of any ordinance that the said town committee may be empowered to make and establish.

Oldest Jus. of the Peace appointed Alderman and president of the town committee. His duty as president.

The alderman shall have all the powers of a justice of the peace of Kent county, concurrent with such justice, within the town; and shall have jurisdiction and cognizance of all breaches of the peace and other offences within said town, so far as to arrest and hold to bail, or fine and imprison such offenders; and of all fines, forfeitures and penalties, which may be proscribed by any law of this State, or by ordinance of the town committee regularly passed and established for the government of the town; and of all neglects, omissions or defaults of the town constable, assessor, collector, treasurer, town clerk, or any other officer or person whose duty it may be to collect, receive, pay over or account for any money belonging to said

His powers as Alderman.

Limitation of town; or to execute or obey any law or ordinance thereof; provided, that he shall not impose any fine exceeding ten dollars, nor have jurisdiction in civil matters exceeding fifty dollars, exclusive of costs. It shall be his duty, at the request of any citizen, to convene the town committee for any purpose connected with their duty.

When to convene town committee.

Fees of Alderman.

Where no fee is provided by law, the town committee to establish it.

But the Alderman shall have no vote in the meeting which fixes it.

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The fees of the alderman for any service under this section, shall be the same as those of a justice of the peace for a like service; the fee upon every conviction of a riotous, turbulent or disorderly person under the provisions of the supplement to the act of which this is an additional supplement, shall be one dollar; and for any service or duty for which no fee is or shall be provided by law, the fee shall be such as may be established by ordinance of the town committee; but the alderman shall have no vote in the establishing any such fees, nor upon any ordinance or question touching or concerning his compensation, or any duty to be performed by him.

Fines and forfeitures.

All ordinances to be posted in the Alderman's office.

When to take effect.

When to take effect.

When to take effect.

When to take effect.

When to take effect.

When to take effect.

When to take effect.

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When to take effect.

When to take effect.

SECTION 2. *And be it enacted*, That all fines, penalties and forfeitures imposed by law, or which may be imposed by any ordinance for the violation of any law or ordinance for the government of said town, shall be for the use of the town of Dover, and shall be subject to the orders of the town committee. All ordinances passed by the said committee shall be publicly posted in the alderman's office, and remain there for the inspection of the citizens; and no ordinance shall take effect until ten days after it shall be so posted.

Town Constable.

His duties.

Fees of town Constable.

He may be town Col.

Comm'rs.

Town committee.

Commissioners, when and how elected.

Commissioners, when and how elected.

Commissioners, when and how elected.

Commissioners, when and how elected.

Commissioners, when and how elected.

SECTION 3. *And be it enacted*, That the constable who has been longest in commission, resident in the town of Dover, shall be *town constable*. He shall be specially charged with the peace of said town, and with the execution of all process directed to him by the alderman. It shall also be his duty to execute the written orders of the town committee for the removal of nuisances, repairs of side walks, pavements, pumps, and all other matters which are or shall be provided for by law, or by ordinance of the town, lawfully made and established. His fees for any service under this act, or the act to which this is an additional supplement, shall be the same as those of a constable for like service; the fee on any conviction of a disorderly person under the supplement to that act, shall be one dollar; for any service or duty, for which no fee is or shall be provided by law, the fee shall be such as may be established by ordinance of the town committee, and for services for which no fee is provided, his compensation shall be such as may be allowed by said committee out of the funds of the town. He may be appointed the *town collector*.

SECTION 4. *And be it enacted*, That the commissioners to be hereafter elected, under the provisions of the act to which this is an additional supplement, shall be *three* instead of five; and the said three commissioners with the alderman, shall constitute the *town committee*. This committee shall have the government of the town in all matters of police and corporate regulation. The commissioners shall be elected at the time, and in the manner pre-

scribed by the said act; and shall have all the powers of the five commissioners under said act; except, that they shall have no compensation, and shall not have power to lay a tax in any one year exceeding one hundred dollars, exclusive of the tax on dogs, hereinafter provided for. The town committee shall hold four stated meetings in each year, on the first Tuesday of March, June, September and December, and shall have power at such meetings to pass all such ordinances for the government of said town (not inconsistent with the constitution or laws of this State,) as they may deem expedient and proper; to impose fines, penalties and forfeitures, and provide for the enforcement and collection of the same; to keep the town pumps in good order and repair, and to assess the cost of such repairs upon such persons as will be chiefly benefitted by the use of such pumps, in such proportions as they may deem just; and generally to provide for the peace, safety, order and good government of the town. The committee may hold occasional meetings at any time for the transaction of their business other than the passing of ordinances; and it shall be their duty to assemble at the summons of the alderman, to hear the complaint of any citizen to inspect any nuisance complained of, and to abate or remove the same, or take such other order therein, as they shall judge proper. All meetings of the town committee shall be held publicly. A majority shall have power to do any act which the whole might lawfully do. The town committee shall have power, and it shall be their duty to direct the town assessor, in making his assessment of property taxable within the town limits, to include therein all dogs owned or kept within the said town, and the owner or keeper of any dog or dogs so included within said assessment, shall be liable to pay a yearly tax of fifty cents for one dog, and the additional sum of one dollar for each and every dog more than one. An assessment of dogs shall be made during the present year, and each and every year thereafter; and the collector's powers in the collection of taxes on dogs, shall be the same as those conferred upon him by the act to which this is an additional supplement, for the collection of town taxes. The said town committee shall also have power to appoint a wood corder for said town, who shall be allowed for putting up and measuring fire wood, the rate of ten cents a cord, to be paid by the buyer and seller in equal parts. The said wood corder shall be removable at the pleasure of said committee.

Limitation of tax.

Stated meetings.

General powers of town committee.

Occasional meetings.

Meetings of the committee to be public.

A majority to have the power of the whole.

Their duty to direct the town assessor in making his assessment.

Provision in regard to dogs.

Wood corder.

SECTION 5. *And be it enacted,* That so much of the act to which this is an additional supplement, and of the supplement thereto, as is inconsistent with any of the provisions of this act, be and the same hereby is repealed.

So much of the act inconsistent with this act repealed.

Passed at Dover, February 11, 1841.

CHAPTER CCCVIII.

AN ACT to enable John D. Rodney and Jacob Forsett, of Sussex County, to erect a mill-dam across the head waters of Love's Creek, called Bundick's Branch, the boundary line between Lewes and Rehoboth and Indian River Hundreds, Sussex County, at the place therein mentioned, and to erect a saw-mill thereon.

Private act.

Passed at Dover, February 11, 1841.



CHAPTER CCCIX.

AN ACT to enable the owners of the marshes, cripples and low grounds, situated upon and contiguous to Jamison's Branch, in Little Creek and Duck Creek Hundreds, to drain and improve the same.

SECTION 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 owners of the marshes, cripples and low grounds, situated upon and contiguous to Jamison's Branch, in Little Creek and Duck Creek hundreds, in Kent county, shall compose a company to be called the "Jamison's Branch Company," and shall hold a meeting on the second Saturday in April of the present year, and on the second Saturday in April in every year hereafter, at the house of John Garman in Little Creek hundred aforesaid, or in such other place in one of the hundreds aforesaid, as the said owners shall have designated for that purpose by a resolution adopted at any previous meeting, at which said annual meeting the said company shall choose by ballot, and by a plurality of votes, one treasurer and three managers, and may do and determine all such matters and things as the said company may deem necessary for effectually draining and reclaiming the said marshes, cripples and low grounds, situated upon and contiguous to Jamison's Branch aforesaid; and such annual meeting of the said company may be adjourned from time to time, and occasional or stated meetings may from time to time be called by the managers for the time being, or the survivors of them, if any 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 Little Creek and Duck Creek hundreds aforesaid: and if the managers and treasurer shall not all or any of them be chosen at the stated annual meeting in any year, or if any manager or treasurer shall die, resign, or refuse, or neglect to act, vacancies thus happening, may be filled at an adjourned or occasional

The company incorporated.

Name.

Annual meetings of the company.

Treas'r. and managers, when & how chosen.

Occasional meetings.

Vacancies in the office of manager and treasurer, how filled.

meeting by ballot and plurality of votes as aforesaid, and all the managers, and every treasurer elected under this act, shall continue in office until the annual meeting next succeeding their election, and until successors be duly chosen; except that if any manager or treasurer shall after his election remove from the neighborhood of such marshes, cripples 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*, That said owners of the said marshes, cripples and low grounds, at any adjourned or occasional meeting, may do all such acts or things, as may or might be done at a stated meeting, and at all the meetings of the said "Jamison's Branch Company," every white owner of any marsh, cripple or low grounds, within the company's boundaries, or who pays a tax to said company, and the guardian of every infant owner may vote; and every female owner, and every owner residing out of Kent county, may vote by proxy constituted by a note in writing, signed by such female or non-resident owner.

Term of office of manager and treasurer.

Removal from the neighborhood a forfeiture of office.

The right to vote.

SECTION 2. *And be it further enacted*, That James D. Wilds, Nehemiah Clark and William Nickerson, be and they are hereby appointed commissioners, to locate and lay out such ditch or ditches as may in their opinion be necessary for the accomplishment of the objects of this act, and to make a valuation of said marshes, cripples and low grounds, and the said commissioners are hereby authorized and required to enter upon all the marshes, cripples and low grounds, which in their opinion, or the opinion of a majority of them will be benefitted or affected by the ditch or ditches, to be opened under this act, and to view and examine them, and to lay out, locate and direct to be cut and opened, a main ditch or drain from such point or place on Gravelly Run in Kent county aforesaid, as they shall determine to be the most suitable and proper point to such other point or place in the said marshes, cripples and low grounds, as will in their judgment best adapt the said main ditch or drain to the purposes of effectually draining and reclaiming the said marshes, cripples and low grounds. And if in the opinion of the said commissioners, any other ditch or ditches leading into the said main ditch, ought for the draining of the said marshes, cripples and low grounds, or any part thereof, and for doing equal justice to all concerned, to be opened and maintained at the common expense of the company, they shall lay out, locate and direct to be cut and opened such other ditch or ditches, and determine the length and breadth and depth thereof. And the said commissioners are hereby further authorized and required to ascertain all the owners of the said marshes, cripples and low grounds, which in their opinion will be benefitted or affected by the said ditch or ditches, authorized by this act, and the quantity of marsh, cripple or low grounds, held by each owner, or by joint or common owners (if any be held undivided) and to appraise the said marshes, cripples and low grounds, which in their opinion will be benefitted by the improvement, in such manner as will do equal justice to all, by having regard in such appraisement to the amount of benefit to be received by each owner, which said appraisement shall be the valuation upon which

The commissioners.

For what purposes appointed.

What they shall do.

Their appraisement.

all taxes, assessed and levied by virtue of this act, shall be assessed and levied.

If the said commissioners shall be of opinion that the owner or owners of any marsh, cripple or land, through or contiguous to which the said ditch or ditches, or any of them shall be located, will receive more injury than benefit, by the opening and keeping open the said ditches, or any of them, they shall fairly and impartially estimate the damages that such owner or owners will, in their judgments sustain, taking into consideration the advantages as well as disadvantages which will be derived by such owner or owners in the premises; and all such damages (if any be found,) shall by the said company be paid to the person or persons entitled to the same, or deposited in the Farmers' Bank of the State of Delaware at Dover, to the credit of such person or persons before the said ditches, or any of them shall be opened.

Damages assessed, when and how.

How discharged.

Main ditch located, where. Certificate of comm'rs. and what to contain.

To be recorded.

Effect thereof.

To whom the Rec'r. shall deliver the original.

Comm'rs. to estimate the expense of the work, &c

Vacancies in the office of comm'r. provided for.

The said main ditch or drain may be located in the channel of Jamison's Branch aforesaid or otherwise, as the said commissioners shall deem most beneficial to the company. And the said commissioners shall make a certificate under their hands, or the hands of a majority of them, containing a description of the ditch or ditches (if more than one,) which they shall direct to be cut or opened under this act, showing the length, width, courses and distances thereof, and containing also the names of the respective owners of the said marshes, cripples and low grounds, and the quantity held by each owner, and by joint and common owners (if any be held undivided,) and setting forth the appraisement of the several quantities or parcels, so by the said commissioners to be made as aforesaid, and what damages they have estimated (if any,) and to whom they have awarded the same; and shall return the said certificate to the office for recording deeds in and for Kent county aforesaid, there to be recorded; which said certificates shall be final and conclusive, and the appraisement and valuation therein set forth, shall be the true valuation, according to which all taxes necessary to carry into effect the provisions of this act, shall be assessed and levied. The original of said certificate, the recorder shall (after recording the same,) deliver to the managers for the time being, to be kept among the papers of the company. The record of said certificate, or a copy thereof, under the hand of the recorder and seal of his office, shall be good and competent evidence to all intents and purposes. And further, The said commissioners shall estimate the probable expense of cutting, opening and completing all such ditch or ditches, as they shall direct to be cut and opened as aforesaid, and shall certify under their hands, or the hands of a majority of them, the said estimate of probable expense, and deliver such certificate to the managers for the time being.

If any of the said commissioners shall die, resign, remove from Kent county, or refuse to act before all the said duties of the said commissioners shall have been completed, then and in that case, the said "Jamison's Branch 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 completed.

Two of the commissioners agreeing, their acts shall be good and available, and shall be deemed and taken as the acts of the whole, touching the duties herein required of the said commissioners. Acts of two comm'rs valid.

SECTION 3. *And be it further enacted,* That for the purpose of raising the necessary sums of money in the premises, it shall be the duty of the managers of the "Jamison's Branch Company" for the time being, and they or a majority of them are hereby authorized and required, after the said appraisement and valuation shall be made and returned to the recorder, and the said estimate of probable cost shall have been certified to them as aforesaid, to lay and assess upon the value of the said marshes, cripples and low grounds, mentioned in said appraisement and valuation, such sum of money as the said commissioners shall have estimated as the probable expense of cutting, opening and completing the said ditch or ditches, or such part of said sum as the said managers may deem expedient to raise in the first instance; which said sum shall be apportioned among the said several owners of the said marshes, cripples and low grounds, named in said appraisement and valuation, according to and upon the value of the respective quantities or parcels which such owners respectively hold, according to a certain rate upon and for each and every dollar of said value, and so *pro rata*; and for raising such further or other sum or sums of money as may be necessary for the completion of said improvement, or for keeping the said ditch or ditches open and in good repair, after they shall have been completed, it shall and may be lawful for the managers for the time being, or a majority of them, and it is hereby made their duty to lay and assess upon the value of said marshes, cripples and low grounds (ascertained as aforesaid,) every such sum or sums of money as the said company shall, at any of its meetings, by a majority of the votes present, from time to time determine and direct to be levied and raised; and all such sums of money shall be apportioned among the said owners as herein-before is directed for the apportionment of the said sum to be levied and raised in the first instance. 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 assessments and taxes by them laid and assessed as aforesaid; which lists shall also contain a minute of all changes of ownership (if any) by transfers or otherwise, of the said marshes, cripples and low grounds, so far forth as the same is known to the said managers; one of which said lists shall be delivered to the treasurer for the time being, and the other shall be retained by the managers, and shall be copied into the book where the records of the other proceedings of the said company are kept. Duty of Managers.

The said list shall be final and conclusive upon all parties, and the lists from time to time delivered to the treasurer as aforesaid, shall be a sufficient warrant to him, or his successor in office, for levying and collecting the sums of money or taxes in said lists mentioned. To make out duplicate lists of assessments.

To whom delivered.

General effect.
Effect in hands of treasurer.

Duty in regard to ditches of company.

General duties and powers.

Expenses, how paid, &c.

Account to be kept of all orders drawn upon treasurer, &c.

Shall appoint the time for the payment of taxes, &c.

Treasurer to give bond, &c.

Penalty and condition thereof.

Power of treasurer in regard to taxes in arrears.

Powers of the treasurer in regard to the collection of taxes.

And furthermore, it shall be the duty of the managers, and they or a majority of them, are hereby authorized and required to cut and open, or cause to be cut and opened, all such ditch and ditches, as the said commissioners shall lay out, locate and direct to be cut and opened as aforesaid; and to keep or cause to be kept the same open and in good repair; and generally the managers shall carry into full effect, all the lawful directions of the company, which shall from time to time be given to them, in relation to their aforesaid trust, for which purpose the aforesaid managers shall have power to employ such workmen and laborers as may be necessary for the cutting, opening and completing the said ditch or ditches, and for keeping the same in good order and repair, after they shall have been completed; and all hire, wages and expenses, in and about the said work, shall be paid by orders drawn by the managers, or any two of them on the treasurer. Every order shall specify the service, wages, or expenses, for which it is drawn, and an exact and true account shall be kept by the managers of all orders so drawn; and said accounts shall be laid before the annual or other meetings of the said company, as said company may direct.

SECTION 4. *And be it further 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 to be delivered to the treasurer from time to time as aforesaid,) they shall be liable to pay, at the time or times appointed by the managers for such payments as aforesaid.

SECTION 5. *And be it further 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 security to be approved by the managers or a majority of them, to the said company, by their name aforesaid, in the penalty of two thousand dollars, upon condition to be void if the said treasurer shall pay all orders drawn upon him by the managers for the time being or any two of them, so far as he shall have funds of the company for that purpose, and shall well and truly account for all monies which shall come to his hands as such treasurer, at every annual meeting of the company, or otherwise as the company may direct, and shall pay any balance or sum that shall be due from him on such accounts to his successor in office, or otherwise as the company may direct, and shall perform all the duties of his office as such treasurer with fidelity, and every treasurer for the time being, shall have the same power to collect and levy all unpaid taxes upon a list delivered to a former treasurer as the treasurer had to whom the list was originally delivered.

SECTION 6. *And be it further enacted*, That the treasurer for the time being, and every treasurer 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 or assessed, or any part thereof, shall remain unpaid for the space of ten days after the time appointed for the payment thereof as aforesaid, 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, in the same manner, and by the same means, as are provided by law for the recovery of county, road and poor taxes, except that the said treasurer shall advertise at least thirty days before the day of sale: *Provided*, That no tax shall be demanded after the expiration of three years, from the time the same is made payable by the managers as aforesaid.

No tax shall be demanded after the expiration of three years.

SECTION 7. *And be it further enacted*, That every person holding any ground adjacent to said ditch or ditches, or any of them, and rateable and liable to be assessed under this act, shall have full power and liberty, without any interruption or hindrance, to cut such other ditches or drains as may be necessary to drain such adjacent ground into the company's ditch or ditches, at such place or places as the owner or owners of such adjacent ground shall find most convenient and proper: *Provided nevertheless*, That if the said ditches or drains from such adjacent ground shall run through the lands of any other person or persons, the place for cutting the same shall be fixed and determined by two disinterested freeholders, to be appointed by any two of the managers for the time being, and the place or places so fixed and determined by the said freeholders, shall be certified by them under their hands, to the managers for the time being, and the certificate entered upon the books of the company.

Right of owners to cut ditches.

Proviso.

SECTION 8. *And be it further enacted*, That if any person shall wilfully fill up, or in any manner obstruct or injure any ditch, cut or opened by authority of this act, or shall stop, obstruct, or impede the course of the water running therein, every person so offending, shall pay to the said "Jamison's Branch Company," the sum of twenty dollars, and also the damages sustained by said company by reason of such filling up, obstructing, stopping or impeding, to be recovered before any justice of the peace in and for Kent county aforesaid, in the same manner, and by the same proceedings, as debts under fifty dollars are by law recoverable, and the jurisdiction necessary for such recovery, is hereby expressly given to all and every the justices of the peace in said county.

Penalty for obstructing ditches.

How recoverable.

SECTION 9. *And be it further enacted*, That each of the aforesaid commissioners, before he enters upon the duties required of him by this act, shall be sworn or affirmed before some judge or justice of the peace, in and for Kent county, to discharge the said duties faithfully and impartially, according to the best of his skill and judgment. And every commissioner and manager, shall for each and every day's service in and about the business of said company under this act, be entitled to receive of said company, the sum of one dollar; and every treasurer shall be allowed a commission of five per centum on all monies by him collected.

Every commissioner sworn or affirmed.

Compensation of commissioners, managers & treasurer.

SECTION 10. *And be it further enacted,* That the said owners of the said marshes, cripples and low grounds, named in said appraisement and valuation to be returned to the recorder's office as aforesaid, and their successors, are hereby declared to be incorporated for the purposes in this act mentioned, by the name, style and title of "The Jamison's Branch Company," and shall have succession, and by the same name may bring and prosecute suits upon any bond given, or debt due to said company, and for the recovery of the sum and damages mentioned in the eighth section hereof; but the power of revoking or repealing this act is hereby reserved to the Legislature.

Passed at Dover, February 11, 1841.



CHAPTER CCCX.

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

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That marriage may lawfully be solemnized or contracted, according to the forms and usage of any religious society, where either of the parties to the marriage belongs to such religious society.

How marriage may be contracted.

Passed at Dover, February 12, 1841.



CHAPTER CCCXI.

AN ACT to amend the act entitled "*An act providing for the recovery of small debts.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "An act providing for the recovery of small debts," be and the same hereby is and shall be amended by inserting in the ninety-sixth line of the forty-fifth section of the said act, immediately after the word "is" the word "not," and the said act shall be hereafter 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 amendments contained in this act.

Act amended.

Passed at Dover, February 12, 1841.

CHAPTER CCCXII.

AN ACT to incorporate the Breakwater, Lewes and Philadelphia Steam-Boat Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, and it is hereby enacted by the authority of the same, (two-thirds of each branch concurring,)* That Arthur Milby, Thomas Coleman, Henry F. Hall, Joel Prettyman, John W. Houston, George Hickman, John W. Dean, and all such persons as now are or shall become stockholders in a company now forming, for the building or procuring a steam-boat to run from the Delaware breakwater, or Lewes, to the city of Philadelphia, and their successors and assigns, be and they are hereby made and declared to be a corporation and body politic, by the name, title, and designation of the Breakwater, Lewes and Philadelphia Steam-boat Company, and by that name, may have succession, may make and have a common seal, and shall be able to sue and be sued, implead and be impleaded in all courts of record and elsewhere, and shall have full right, power and legal authority to purchase, build, hold, occupy and convey any steam-boats, lands, tenements, hereditaments and real and personal estate whatsoever, which shall be necessary to carry into effect, the objects of the said corporation.

Company incorporated.

Name.

General powers of company.

SECTION 2. *And be it enacted, by the same authority aforesaid,* That the capital stock of the said corporation shall not exceed the sum of fifty thousand dollars, which shall be divided into shares of twenty-five dollars each, and shall be employed and vested in the purchase or building of one or more steam-boats, with steam-engines, boilers and machinery, and all their rigging, furniture, tackle and apparatus, and in the repairs necessary thereto from time to time, and in the purchase of real estate, and the construction thereon of suitable store-houses, and other buildings for the safe keeping and preservation of goods, wares and merchandize, transported or owned by said corporation, and in the construction of wharves, docks and landing places for the boat or boats of said corporation, and for such other purposes as may be necessary and convenient for steam-boat navigation, and for the purpose of purchasing stages, wagons, horses, &c. for the conveyance of passengers and merchandize by land, and that the said capital stock shall be deemed personal estate, and shall be assignable and transferable upon the books of said corporation, agreeably to the by-laws for that purpose to be made and adopted.

Capital stock. Shares.

In what the capital stock shall be invested.

To be deemed personal property. How transferable.

SECTION. 3. *And be it enacted,* That the board of directors herein-after named in the fifth section of this act, shall have power and authority to open books of subscription to said stock at such time or times, and place or places, as they or a majority of them shall think proper, giving at least thirty days' notice of the time and place of their meeting, to receive subscriptions to said stock. Five dollars on each share subscribed, shall be paid to the said

Books to be opened, &c.

Notice thereof to be given.

When a company shall be considered organized. When residue of stock may be called in. Notice of the call. Power of company to make by-laws, &c.

directors in gold or silver coin, or in current bank notes, and whenever five thousand dollars shall be paid in or expended on said boat, the said company shall be considered fully organized, and may proceed to elect their officers, and the board of directors shall and may call in the residue of said stock at such times as they shall deem expedient, giving thirty days' notice before the same shall be payable, in at least one newspaper published in the city of Wilmington, and one published in the city of Philadelphia, but not more than ten dollars on each share, shall be called for at any one time; and the said corporation shall have power to make, ordain and establish such by-laws, rules and regulations for the said company, as to them shall seem expedient and not inconsistent with the laws of this State, or of the United States.

SECTION 4. *And be it enacted*, That the affairs, property and concerns of the said corporation shall be conducted by seven directors, to be chosen annually by ballot by the stockholders either in person or by proxy, and in the choice of directors, each share shall be entitled to one vote; should a vacancy at any time occur in the board of directors, the place may be supplied by an appointment by the remaining directors until the next annual election. The first election for directors under this act, shall be held at Lewes, on the first Saturday in May next after the passage of this act, twenty days' notice being first given thereof in one newspaper in Wilmington and one in Philadelphia. The stockholders when met, shall choose two disinterested persons as judges of election, and all future elections of directors for said corporation, shall be held annually at such time and place as the by-laws shall direct.

Number of directors, and how chosen. Vacancies provided for. First election when and where held. What notice shall be given. Judges of election.

SECTION 5. *And be it enacted*, That Arthur Milby, Thomas Coleman, Henry F. Hall, Joel Prettyman, John W. Houston, George Hickman and John W. Dean, shall be and they are hereby declared to be directors of the said corporation from the passage of this act until the election is held as is provided for in the foregoing section; that the board of directors for the time being shall have power to elect a president who shall be a director, a treasurer, and all such officers, and agents, and to employ such workmen, artificers and laborers as shall be necessary to carry into effect and execute all the powers by this act granted to the said corporation, and to allow such compensation as shall be agreed upon, and if they judge it necessary to exact and take from their officers and agents, bonds for the proper execution of their several duties and trusts, and for the faithful performance of their several contracts.

Directors. General powers of directors to elect officers, to employ workmen, &c.

SECTION 6. *And be it enacted*, That the president shall preside at all meetings of the said corporation, and if absent, his place may be supplied, for the time he is absent, by the appointment of any one of the directors. That the directors shall have power and authority by their by-laws to fix, determine and regulate the prices of transportation of passengers and goods, wares, and merchandize, wagons, carriages, horses, cattle, stock of every description or other articles that shall be transported in the boat or boats of said corporation; and that the board of directors shall from time to time

The president. Powers of directors.

declare dividends of so much of the profits of said corporation as they may deem advisable, and pay the same over to the person entitled thereto, but no part of the capital stock shall be divided during the continuance of this charter. Dividends.

SECTION 7. *And be it enacted,* That if any subscriber or subscribers to the capital stock of this company, shall neglect or refuse to pay any instalment or instalments on the number of shares which he or they may have subscribed, or be the holders of, for the space of thirty days after the time the same may have been called for and appointed for the payment thereof, by an advertisement published by order of the directors in one newspaper published in Wilmington, and one newspaper published in Philadelphia, for the space of thirty days previous thereto, that in such case the president and directors may either declare such share or shares forfeited, and they shall have full power and authority to sell and dispose of the same for the use, benefit and advantage of the said company, or they may in the name of the said corporation sue for and recover the sum or sums so remaining unpaid with cost and interest thereon, and that such delinquents shall not, during the time that any of the instalments aforesaid shall be due and remain unpaid, be entitled to vote at any meeting of the stockholders or to receive any dividends on the stock standing in their name. Neglect to pay instalment upon proper demand made, the share forfeited.
Or may be sued for and recovered at law.
No delinqu't. entitled to vote or receive dividends.

SECTION 8. *And be it enacted,* That if any election of directors shall not be made during the day when, pursuant to this act, it ought to be made, the said corporation shall not for that cause be deemed to be dissolved, but such election may be held at any time thereafter upon notice as aforesaid, and the directors for the time being, shall continue in all cases to hold their offices until new ones shall have been chosen in their stead, and in all elections for directors, the stockholders may vote, either in person or by proxy. Failure to elect directors, no dissolution of company.
Directors to continue in office until new ones are elected.

SECTION 9. *And be it enacted,* That the said corporation shall not use or employ any part of the capital stock or other funds for banking or other purposes, not declared or indicated in this act, under the penalty of an immediate forfeiture of their charter. Banking powers prohibited.

SECTION 10. *And be it enacted,* That whenever application shall be made for that purpose to the judges of the Superior Court in and for Sussex county, by the said company, the said judges shall appoint five commissioners, and whenever it shall be necessary for the said company to enter in and upon and occupy any lands for the purpose of constructing thereon any store-house, or houses, or other buildings for the safe keeping and preservation of goods, wares and merchandize transported or owned by the said company, and for constructing wharves, docks and landing places for the boat or boats of said company, and for such other purposes as may be necessary and convenient for steam-boat navigation, 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, the said commissioners on Commissioners appointed when and by whom.
For what purposes.
When to assess damages

Right of com-
pany upon
payment of
damages.

When to de-
posite the
same in Far-
mers' Bank.

Their right
thereupon.

Vacancy in
office of com-
missioners to
be filled by
the Governor.
Compensa-
tion of coms.

Limitation.

Power of re-
vocation re-
served.

being notified by the said company; shall go upon the said lands and assess the damages of such owner or owners on oath or affirmation fairly and impartially, and the said commissioners shall certify their finding and award to both parties; whereupon, the said company on paying the damages so assessed, shall become entitled to have, use and enjoy the said lands for the purposes by them required forever; and in case any owner or owners of any lands necessary for the purposes of the company as aforesaid, shall be a minor or non-resident, or for any cause incapable of receiving or unwilling or neglecting to receive said damages, or to call on said company for the same, the said company may deposite the amount of said damages to the credit of such owner or owners in the Farmer's Bank of the State of Delaware, subject to his, her or their order; whereupon, the said company shall be entitled to have, use and enjoy the said lands and premises, for or on account of which damages shall have been assessed, forever; and in case of the death, of any of the commissioners, the Governor shall appoint another or others to supply the vacancy. The expenses of the assessment of the said damages shall always be paid by the said company: and each commissioner shall be allowed the sum of one dollar for every day that he shall be actually engaged in the services required by this act.

SECTION 11. *And be it enacted*, That this act shall continue in force and operation twenty years and no longer, without re-enactment; and it shall be lawful for the Legislature at any time hereafter to alter, amend, modify or repeal the same.

Passed at Dover, February 12, 1841.



CHAPTER CCCXIII.

AN ACT to enable Sally Ann J. Smithers, Mary Elizabeth Smithers and Enoch J. Smithers, minor children of Joseph Smithers, to make an exchange of certain lands therein mentioned.

Private act.

Passed at Dover, February 12, 1841.

CHAPTER CCCXIV.

AN ACT to amend the act 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.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "An act 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" as the said act is printed in the revised edition of the laws, be and the same is hereby amended by striking out of the thirteenth, fourteenth, fifteenth and sixteenth lines of the second section of said act the words "provided such order shall not exceed for the Journal of the Senate, one hundred and fifty dollars, and for the Journal of the House of Representatives, with the report of the finances, two hundred and fifty dollars," and in every edition of the laws hereafter to be published, the said act shall be printed as amended by this act.*

Act amended
in relation to
payment for
printing of
the Journals.

Passed at Dover, February 12, 1841.



CHAPTER CCCXV.

A SUPPLEMENT to 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.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Governor of this State for the time being, shall have power, and he is hereby required to appoint in each of the counties of this State, two commissioners of wrecks, or wreck-masters, who shall respectively have all the powers, and be subjected to the performance of all the duties, which are conferred or imposed by the act to which this is a supplement, upon the sheriffs, and the justices of the peace of the several counties of this State, and upon the officers of the customs.*

Governor authorized to
appoint commissioners of
wrecks.

Their duties.

SECTION 2. *And be it further enacted, That each of the said commissioners of wrecks, or wreck-masters, shall before he enters upon the discharge of the duties of the act to which this is a supplement, and within thirty days after his said appointment, give bond to the State, with sufficient surety or sureties, to be approved by the Governor for the time being, in the penal sum of ten thousand*

Required to
give bond.

Penalty and
condition.

Remedy for
breach thereof.

Term of office of
commissioners.

Certain powers granted
by the former act, repealed.
And the same conferred upon com'rs. of wrecks.

Unlawful to remove any anchor or cable within certain limits unless employed by the owner thereof.
Penalty therefor.

Duty of commissioner's when vessel is stranded.

Compensation of commissioners.

By whom paid.

Secretary of State to publish this act.

dollars, conditioned for the faithful performance of all and every of his duties under this act, and the act to which this is a supplement; and for any breach of the condition thereof, suits may be brought and recovery had for the amount of the damages sustained, and the costs, in the name of the State, but for the use and benefit of the person or persons aggrieved. He shall hold his said office at the pleasure of the Governor for the time being.

SECTION 3. *And be it further enacted,* That from and after the passage of this act, it shall not be lawful for the sheriffs, justices of the peace, and officers of the customs in the several counties of this State, to exercise any of the duties imposed by the act to which this is a supplement, but the same shall be performed and discharged by the said commissioners of wrecks, or wreck-masters, as is provided in the first section of this act.

SECTION 4. *And be it further enacted,* That it shall not be lawful for any person or persons to take up and remove any anchor or cable, lost by any vessel in the bay or river Delaware, at any time within three months from the period when the same shall have been lost, unless they are employed by the owner of the same, or the agent of said owner; and every person offending against the provisions of this section, shall forfeit all claim of salvage therefor, and also all claim for services rendered, and shall restore the same to the said owner or his or her agent on demand.

SECTION 5. *And be it further enacted,* That it shall be the duty of the aforesaid commissioners of wrecks or wreck-masters, whenever any vessel is stranded upon the shores of this State, or whenever any goods or other property are cast on shore from a wreck or vessel in distress, to cause advertisements notifying the public thereof, and describing the property so stranded or cast on shore, to be posted in the nearest town or village, and in five of the most public places within twelve miles of the same, within ten days thereafter.

SECTION 6. *And be it further enacted,* That each of the said commissioners or wreck-masters, shall for each and every day's service in executing the provisions of this act, receive the sum of four dollars, to be paid by the person or persons claiming the property saved.

SECTION 7. *And be it further enacted,* That the Secretary of State cause a copy of this act to be printed for the space of three months from the first day of March next, in one newspaper printed in the city of Wilmington, and in one newspaper printed in Georgetown, Sussex county.

Passed at Dover, February 13, 1841.

CHAPTER CCCXVI.

A FURTHER SUPPLEMENT to an act entitled "*An act to prevent infectious diseases being brought into this State, and for other purposes.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That no commander, master, or other person, having charge of any ship or vessel, bound to any port or place in this State, having on board any person disordered with any infectious disease, or coming from any sickly port or place, shall bring his ship or vessel, or suffer or permit the same to be brought nearer to any port or place of landing than the distance of one mile; nor shall land or bring on shore at any port or place in this State, any such persons or any part of their goods or effects, or the goods or effects of any person whatsoever, until he shall have obtained a permit in writing for that purpose from the port physician, appointed by the act to which this is a supplement.

Duty of captains of vessels having on board any person infected with a contagious disease, or coming from any sickly port.

SECTION 2. *And be it further enacted,* That no commander, master, or other person having charge of any ship or vessel bound to any port or place in this State, shall bring or import any greater number of passengers than one to every two tons, custom-house measurement of said ship or vessel, and in such estimate two children between the ages of five and twelve years, shall be considered as equal to one full passenger; and if any commander, master, or other person having charge of any ship or vessel, shall offend in the premises, either by not providing and supplying his passengers with the necessaries, mentioned in the fifth section of the act to which this is a supplement, or shall have more passengers than one to every two tons, custom-house measurement as aforesaid, shall forfeit and pay the sum of six hundred dollars, as provided for in the fifth section of the act to which this is a supplement.

Number of passengers ho may import.

Penalty for offending against certain provisions herein mentioned.

SECTION 3. *And be it further enacted,* That it shall be the duty of the port physician, upon notice being given to him by the commander, master, or any person having command of any ship or vessel, to go on board such ship or vessel, and there thoroughly examine the crew, passengers, cargo and baggage, on board the same, and to demand answers under oath or affirmation, to be administered by said physician, who is hereby empowered to administer the same, to all such questions as shall be put to any person on board of such ship or vessel, touching the health of the crew or passengers during the voyage; and the nature and state of the cargo. But it shall be the duty of the person so examining on oath or affirmation, before he shall proceed therein, to make known to the persons to be interrogated, the penalty imposed by the act to which this is a supplement, upon the person who shall give false answers under oath or affirmation, to the questions proposed in such examination.

Duty of port physician.

Passed at Dover, February 13, 1841.

CHAPTER CCCXVII.

AN ACT to amend the act entitled an "Act directing the manner of choosing commissioners to regulate and repair the streets of Milford, and for other purposes."

Who may meet.

Place & time of meeting.

Commissioners, assessor, collector and treasurer, their term of office.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met;* That it shall and may be lawful for the inhabitants of the town of Milford, who are free white male citizens of the age of twenty-one years, 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 who are entitled to vote at any general election in this State, and living within the limits hereinafter described, to assemble at any convenient place in said town, on the first Monday in March next, after the passing of this act, between the hours of one and six o'clock in the afternoon, and on the same day and time annually in future, and then and there choose by ballot five commissioners, three of whom shall be resident freeholders in said town of Milford, one assessor, and one collector and treasurer, who shall continue in office for one year, or until others are duly elected: *Provided nevertheless,* That having paid a tax as aforesaid, shall not be required as a qualification to vote at the first election held under this act; but ever thereafter.

Oath of commissioners, assessor, collector and treasurer.

President & secretary.

Vacancies provided for.

Duty of president.

Duty of secretary.

SECTION 2. *Be it enacted,* That the same commissioners, assessor, collector and treasurer so elected, shall before one of the justices of the peace in the said town, be duly qualified by oath or affirmation, to perform the duties of their offices respectively, to the best of their knowledge respectively, and without favor or partiality; and after being so qualified, the said commissioners at their first meeting after each election shall choose a president and secretary from their number, who shall continue during their term of office; and if by death or otherwise, the place of the president or secretary shall become vacant, the commissioners or a majority of them at their next meeting thereafter, are hereby authorized to fill said vacancy out of their own number as aforesaid. And if a vacancy should occur in the office of assessor, collector and treasurer, or commissioner, during the said term of office by death or otherwise, the said commissioners or a majority of them for the time being, at their next meeting thereafter, are hereby authorized to fill such vacancy by appointing an assessor, collector and treasurer, and commissioner, or either, as the case may be, to fill the unexpired term of said office or offices, and all such appointments made by said commissioners authorized as aforesaid. The officer so appointed after being qualified as aforesaid, shall have all power in like manner, and be subject to all penalties the same as those first duly elected to said office or offices. It shall be the duty of the president chosen as aforesaid, to preside at all meetings of said commissioners, and in case of his or the secretary's absence, an officer pro tem. shall be appointed to act in his or their place. It shall be the duty of the secretary to record all the proceedings

of the said commissioners, and keep a correct journal of the same in a book or books, to be provided for that purpose, and also the papers relative to said town, all of which are to be carefully preserved and delivered to his successor in office.

SECTION 3. *Be it enacted*, That the said commissioners for the time being, shall have full power and authority to cause the streets, lanes, alleys, and bridges in said town to be repaired, supported, regulated and amended, in any manner they may deem most proper for the convenience and interest of the citizens of said town, and shall cause a fund to be raised by way of tax, upon persons authorized to vote for commissioners by this act, and upon all lands and tenements, and interest in such lands and tenements within the limits of said town hereinafter described, to discharge the expenses of repairing the said streets, lanes, alleys, and bridges, or for any other purpose that will contribute to the safety, convenience and prosperity of said town: *Provided always*, That the said commissioners in case no tax shall be assessed and levied for the purposes herein-before mentioned, shall not be compelled to support or repair the streets, lanes, and alleys, &c. as aforesaid. Nor when such tax shall be assessed and levied, to repair any streets, roads or bridges, beyond the limits of the occupied houses of said town, now deemed public highways, and subject to be supported by the county of Kent; nor roads or walks on mill-dams or bridges of any mill or mills, that may be included in the extension of the limits of said town by this act.

General powers of com's.

Proviso.

SECTION 4. *Be it enacted*, That in four weeks after the first Monday in March annually, the said assessor shall make a true and impartial assessment on all the persons qualified to vote under the provisions of this act, and on all lands and tenements, and interest in any manner whatever in the same within the limits of said town as hereinafter described, for the purpose of raising a general fund for defraying the expenses incurred for the purposes aforesaid; and the said assessor shall forthwith, after making the assessment, cause a duplicate thereof to be put up in the most public place of said town, notice whereof he shall give by at least two advertisements; and if any person shall conceive himself to be aggrieved or overrated by the said assessor, he or she may, within fifteen days after putting up said duplicate, appeal to the board of commissioners for the time being, and the said commissioners or a majority of them, shall hold a court for that purpose, and their decision thereupon shall be final.

Duty of assessor to make assessment, &c.

Appeal therefrom.

SECTION 5. *Be it enacted*, That after the expiration of fifteen days from the putting up of the said duplicate, the collector and treasurer so elected, shall proceed to collect the taxes herein-before directed to be assessed and levied by the said assessor, and corrected by the said commissioners or a majority of them in case of appeals; and the said collector and treasurer is hereby authorized and empowered in case of neglect or refusal to pay the said tax, to proceed to collect the same, in the same manner, as is provided for the collector of county rates and levies; and also all fines and

Col. and treasurer to collect taxes.

forfeitures that may accrue under any of the provisions of this act, and the proceeds that may arise from the sale of swine impounded, and all other sums due said town, as debts of like amounts are collected by the laws of this State; and the said collector and treasurer shall, before he enters on the duties of his office, give bond with sufficient security to the said commissioners, conditioned for the faithful discharge of the trust reposed in him; and he the said collector and treasurer shall discharge himself of all monies in his hands, by orders drawn on him by said secretary, and inspected by the president, who shall see that all accounts presented him for approval are just, and were necessary to be expended to defray the expenses incurred by said commissioner or commissioners who have preceded them, for the use of said town as aforesaid, and when examined by said president and found just and right, he shall endorse upon the bill, order or draft, *allowed*, together with the day of the month and year of the said endorsement, and sign his name thereto; and the said bill, order or draft thus endorsed by the president, and attested by the secretary, shall be forthwith paid by the collector and treasurer out of the funds of said town in his hands. And the said collector and treasurer shall annually in the month of February, settle his accounts with the commissioners for the time being, or as often as a majority of them shall notify him for that purpose; and it shall be the duty of the said collector and treasurer aforesaid, to pay over to his successor in office within fifteen days after his election, the money remaining in the treasury at the expiration of his office, and in case of his neglect or refusal so to do, the said successor is hereby authorized to sue for any balance that shall be due from his predecessor in office, and recover the same as like amounts are by the laws of this State recoverable.

His bond.

Accounts.

How endorsed.

By whom payable.

When the col. shall settle.

To pay over to his successor in office, &c.

SECTION 6. *Be it enacted*, That it shall and may be lawful for the commissioners, and they are hereby authorized and required to make and provide a suitable pound or place, and to keep the same in order, for the purpose of impounding any swine which may be found running at large within the seventh described limits of the act entitled "An act to restrain persons from suffering swine to go at large within certain limits," passed at Dover, January 22, 1829; and in case any swine shall be found running at large within said limits, contrary to the provisions of the said act, and generally to carry into effect all and every the provisions of said act; it shall be the duty of the constable of Kent county, residing in and for Milford hundred for the time being, to take up and impound in the said pound all swine, which may be found running at large within the limits aforesaid; and in case any swine shall be taken up and impounded in the said pound by the said constable as aforesaid, and sale of such swine shall be made under the provisions of the said act, the proceeds of such sale shall be paid by said constable to the collector and treasurer of said town, and by him accounted for to the commissioners aforesaid, to be appropriated to the purposes aforesaid, the said constable first retaining out of said proceeds of such sale for his own use, all such fees and compensation as are by said act allowed to constables in such cases.

Comm'rs. to provide a pound, &c.

Constable to impound swine, &c.

Proceeds of sale of swine to be paid to collector.

SECTION 7. *Be it 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 authorize 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; 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.

Deputy constable.

His powers.

SECTION 8. *Be it enacted*, That if any person or persons shall attempt to let out his, her, or their swine impounded as aforesaid, in the pound or place provided by said commissioners for that purpose, without the consent of the constable, or person having charge of said swine, or cut, or in any other manner or way whatever injure the said pound, every such person or persons so offending shall, upon the oath or affirmation of one or more creditable witness to the fact, forfeit and pay to the said collector and treasurer, for the use of said town as aforesaid, the sum of ten dollars, for each and every such offence, and by each and every person so offending.

Injuries to pound.

Fine.

SECTION 9. *Be it enacted*, That it shall and may be lawful for the said commissioners and they are hereby authorized and empowered to make and provide some safe and suitable place as a temporary place of confinement within the said town, and the said constable shall be the keeper of such place of confinement; and any justice of the peace residing in the limits of the said town as hereinafter described, shall be and he is hereby invested with full authority in all lawful cases of commitment to commit to the said place of confinement any person guilty of a breach or disturbance of the peace, or any person guilty of any felony, or any person bound over to keep the peace and who shall not enter into the proper recognizance to keep the same, until such person or persons can be conveniently removed to the common gaol of the county, and it shall be the duty of the said constable upon any such temporary commitment as aforesaid as keeper of said temporary place of confinement to receive all and every person so committed as aforesaid, and there keep securely confined until they can be conveniently removed to the common gaol of the county.

Comm'rs to provide a place of temporary confinement. Keeper.

Constable's duty in cases of commitment.

SECTION 10. *Be it enacted*, That it shall be the duty of said commissioners at all times to see that the gutters, side-walks and streets, alleys and lanes of said town are kept clear of wood and unnecessary lumber. All lumber actually required for the time being for building or repairing houses of said town, is hereby excepted, and of all and every other thing which they or a majority of them may consider a nuisance and (during the sickly season of the year) to act as a board of health, to cause all filth and other substances that would tend to endanger the health of the inhabitants of said town to be removed: and that every person or persons suffering his or their wood or unnecessary lumber as aforesaid to remain in any of the said streets, lanes or alleys of said town or on the side-walks of the same, or any filth, or substance that may tend to endanger the health of the inhabitants of said town as aforesaid, longer

Duty of commissioners.

When and how a nuisance or obstruction may be removed.

than twelve hours after being requested to move the same; by any one of said commissioners, the commissioner so having requested the person or persons offending as aforesaid, may call the attention of the other commissioners to the same, and if a majority of them shall deem the offence complained of, a violation of the provisions of this section, they may direct their secretary to notify the said constable of the offence, and where; whose duty it shall be, on receiving such notice, to proceed forthwith to notify such person or persons so offending, to have the wood, lumber, or other thing complained of, removed, and if not removed within twelve hours after such notice, if a saleable article, to seize upon and sell the same at public sale, after giving five days' previous notice thereof, by advertisements set up in three of the most public places in said town, and after deducting the cost of such removal and his usual fee for selling, to pay the balance over to the said collector and treasurer, for the use of said town as aforesaid; but if not a saleable article, to have the same forthwith removed off to some suitable place out of said town, and all costs and charges thereby incurred to be paid to said constable, and by him collected out of such person or persons so offending, as debts of like amounts are by the laws of this State; and for every second wilful offence of a like nature shall incur like penalties, with such a fine as the commissioners shall adjudge, of not more than five dollars, nor less than fifty cents, payable to the said collector and treasurer for the use of said town as aforesaid.

Penalty for second offence.

Poultry.

SECTION 11. *Be it enacted*, That it shall and may be lawful for all persons whatsoever, residing within the limits as hereinafter described, to shoot, or in any other way kill all poultry that may be found running at large and trespassing on the premises of any person residing within the said limits, and to give notice thereof, within one hour thereafter to the owner, provided the owner is known, and not otherwise.

Election of comm'rs. assessor, collector and treasurer.
Notice.

Officers of elections.

What shall constitute a choice.

SECTION 12. *Be it enacted*, That the said assessor for the time being, is hereby empowered and required on the first Monday in the month of March in every succeeding year, to hold an election for five commissioners, one assessor, and one collector and treasurer of the town of Milford, after giving ten days' previous notice of the time and place of holding said election; he shall take to his aid two judicious citizens of the said town to assist him in holding said election, and the five citizens for commissioners, three of whom shall be resident freeholders in said town as aforesaid, who shall have the highest number of votes given in at any such election, shall be the commissioners of the said town of Milford; and the two citizens for assessor, collector and treasurer, who shall have the highest number of votes respectively given at such election, shall be the assessor, and the collector and treasurer for the said town of Milford duly elected; and when qualified as aforesaid, shall enter upon the duties of their offices respectively, as herein-before directed. The assessor aforesaid shall administer the following oath or affirmation, to the citizens whom he shall call to aid him in holding such election; after which, one of said citizens shall administer the

same oath or affirmation to the assessor, and the said oath or affirmation shall be administered to each respectively, before the opening of said election, or the receiving of any vote. "You—— do solemnly swear on the Holy Evangelists of Almighty God, (or you do sincerely and truly declare and affirm, as the case may be,) that you will discharge the duties of a judge of this election with fidelity, and that you will not consent to the receiving or rejecting of any vote through favor, fear, affection, malice or the hope of reward: So help you God, (or so you declare and affirm.)" And the said assessor and those called to his aid, shall make out a return of the names of the commissioners, assessor, and collector and treasurer so elected, and to which each shall sign his name, and the same return shall be taken to the justice of the peace in said town as aforesaid, (before whom the said officers so elected shall appear,) and receive thereon his certificate of their qualification respectively; after which the same shall be copied by the secretary aforesaid, into the journal of the commissioners, and the return filed among the papers of the town; which copy shall be evidence of the matters therein contained, in any court of justice in this State. And if the said assessor for the time being should refuse, or otherwise neglect to advertise and hold said election as aforesaid, for every such offence he shall forfeit and pay to the said collector and treasurer, for the use of said town as aforesaid, the sum of ten dollars.

Oath of officers of elections.

Return of elections.

Certificates.

Penalty for not holding an election.

SECTION. 13. *Be it enacted*, That in case of a failure on the part of the said assessor to advertise and hold the election for the town officers as aforesaid, or in case the office of the said assessor shall be vacant at the time of advertising and holding said election it shall be the duty of the said constable of Milford hundred for the time being, and he is hereby authorized and required on giving five days' previous notice and at all times annually in future, in such cases, to hold said election in the same manner as is directed in the twelfth section of this act, and do all the same as is there required of the assessor.

When the duty of constable of M. H. to hold an election.

Notice.

SECTION 14. *Be it enacted*, That if any person or persons shall light or keep up any bon-fire or bon-fires, or throw any fire ball or fire balls, or make or erect any kind of fires whatever for amusement in any of the streets, lanes, alleys or roads of the said town of Milford, or within the limits hereinafter described, every person or persons so offending and thereof convicted by one or more credible witness, shall forfeit and pay to the collector and treasurer, for the use of said town as aforesaid, any sum not more than ten dollars nor less than two dollars.

Bonfires, fire-balls, &c. prohibited.

Penalty.

SECTION 15. *Be it enacted*, That the commissioners of the town of Milford to be elected as herein-before prescribed shall be, and they are hereby created a body politic and corporate in law; and the said commissioners of the town of Milford and their successors shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever in this State by the corporate

Comm'rs. incorporated.

Name.	name of The Commissioners of the town of Milford, and may have and use a common seal with such device or devices as they shall think proper, with power to alter or change the same as may be deemed expedient, to purchase, take, hold, receive and enjoy any messuages, lands, tenements, or hereditaments in fee simple or otherwise, and also goods and chattels, rights and credits, and to alien, grant, demise, sell and dispose of the same in such manner and form as they may deem expedient: <i>Provided nevertheless,</i>
Powers.	That there is hereby reserved to the Legislature the power and authority to repeal this act or any part thereof, or any other law which may hereafter be enacted respecting the said town of Milford.
Right of re- vocation re- served.	

Limits of the town.	SECTION 16. <i>Be it enacted,</i> That the limits and bounds of the town of Milford shall be and remain as follows, viz: Beginning at Mispillion Creek below the said town of Milford at a landing known as "Paul Knabb's," thence partly with a lane leading there- to north fifty three degrees, west two hundred and thirteen perches to the road leading out Church street of the said town of Milford to Frederica, thence south thirty-four degrees, west a straight line to the Milford mill-pond crossing the road leading from the said town of Milford to Cullentown at a deep wash and small bridge over said road, thence down the water-course of said mill-pond and Mispillion Creek to the place of beginning: <i>Provided,</i> that the mill property and appurtenances thereunto belonging, contained within the limits of said town, as herein set forth, commonly called Milford Mills and now belonging to John M. Darby, and also all that part of the farm and premises whereon Col. Benjamin Potter now resides, which is included within the limits of the town as herein set forth, shall forever hereafter be exempt from taxation for the use and purposes of the said town of Milford.
Proviso.	

Commiss'rs. may appoint superinten- dents of streets, &c.	SECTION 17. <i>Be it enacted,</i> That it shall and may be lawful for the said commissioners to appoint any two of their number to superintend the repairing of the streets, lanes, alleys and bridges, &c. of said town as aforesaid, who shall always do the same in accordance with the direction of a majority of said commissioners: <i>Provided,</i> any one so appointed shall not regard the direction of a majority as aforesaid. he or they shall thereby forfeit such appointment, and others of their number may be appointed to superintend as aforesaid. The two so appointed shall each be allowed for every day when engaged in the duties thereof the sum of one dollar. And the said commissioners may and they are hereby required to appoint some suitable person to put and keep in order the fire engine and to take charge of the house where the same is kept; and see that the person so appointed for that purpose performs his duty in all things thereof required, for which he shall be allowed annually such compensation as a majority of said commissioners shall deem just and right; and the said commissioners also may allow the assessor, and their secretary, such sums as they shall deem a just compensation for their services rendered respectively. The said collector and treasurer shall be allowed ten per cent. on all monies by him actually collected.
Their com- pensation.	
Fire engine.	
Commiss'rs. to allow the assessor and sec'y. com- pensation.	

SECTION 18. *Be it enacted*, That "An act directing the manner of choosing commissioners to regulate and repair the streets of Milford and for other purposes," passed at Dover, February 14, 1829, and "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,'" passed at Dover, January 28, 1830, and "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,'" passed at Dover, February 3, 1835, be and the same are hereby repealed, made null and void. Former acts repealed.

Passed at Dover, February 13, 1841.



CHAPTER CCCXVIII.

A SUPPLEMENT to the act entitled "*An act to erect and keep in good repair a bridge over Broadkiln Creek where the State road crosses the said creek at a place called Paynter's Landing.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the commissioners or a majority of them appointed under the act to which this act is a supplement, for the purpose of building a bridge over Broadkiln Creek to enable them to finish and complete said bridge, may in addition to the "twenty-five hundred dollars" already received and expended in erecting said bridge, draw upon the commissioners of the lottery authorized by the act entitled "An act for the benefit of Sussex county" for the further sum of three hundred dollars to enable them to finish said bridge; and the commissioners of the said lottery are hereby directed and required to pay to the commissioners named in the act to which this act is a supplement, the said sum of three hundred dollars, for the purpose aforesaid: *Provided*, So much money remains in their hands after discharging the costs and expenses of building and finishing the court-house and offices at Georgetown in Sussex county. Comm'rs. of bridge authorized to draw upon the comm'rs. of the lottery.

Passed at Dover, February 15, 1841.



CHAPTER CCCXIX.

A SUPPLEMENT to the act entitled "*An act empowering the Orphans' Court to direct the sale of the real estate of minors.*"

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

Act extended
to all cases of
land owned
by minors.

the said act to which this is a supplement, and the several provisions therein contained, shall extend and apply to all cases of land owned by a minor, and to all and every share, estate and interest, owned by a minor in lands, whether the same be so owned in severalty, joint-tenancy, coparcenary, or in common, or in possession, reversion, or remainder, or any manner howsoever.

Passed at Dover, February 15, 1841.



CHAPTER CCCXX.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act to enable William Inskeip of New Castle County, to raise his mill-dam, and for other purposes therein mentioned.*"

Private act.

Passed at Dover, February 15, 1841.



CHAPTER CCCXXI.

AN ACT to enable Abraham Dazey of Sussex County, State of Delaware, to locate certain lands, situate in Baltimore Hundred, and to complete his title to the same."

Private act.

Passed at Dover, February 15, 1841.



CHAPTER CCCXXII.

AN ACT to repeal certain parts of acts therein mentioned, and for other purposes.

The act of
1818, and the
act of 1820,
repealed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the "Act to prohibit the issuing and circulation of small notes," and the "Act for the continuance of certain banks therein mentioned, and for securing payments in specie by the said banks to persons holding their notes," be and the same are hereby repealed: and that the "Act securing payment by the banks of this State of their*

notes in specie," be and the same hereby is suspended from operation, and shall cease from having force or effect, until the banks of the city of Philadelphia and Commonwealth of Pennsylvania, and the banks of the city of Baltimore and State of Maryland, shall have resumed specie payments; nor shall the said last mentioned act be again in force, or have operation or effect until the General Assembly on the fact of resumption as aforesaid being announced by the Governor, shall order that the said suspension shall cease.

The "Act securing payment, &c." suspended until the banks of Philadelphia and Baltimore resume.

SECTION 2. *And whereas*, The preceding section is required by the present condition of the banks of Pennsylvania and Maryland having suspended specie payments, and is enacted in consequence of the confidence of the General Assembly in the soundness, correct management, and good faith of the banks of this State, *Be it enacted and declared*, That the tax payable to the treasurer of this State by each of the banks, namely: the Bank of Delaware, the Farmers' Bank of the State of Delaware, the Bank of Wilmington and Brandywine, the Bank of Smyrna, and the Union Bank of Delaware, shall be at the rate of one-fourth of one per centum per annum, payable semi-annually, upon the capital stock of said banks actually paid in; it being the intent of this section not to impose any new tax, but to declare the fact, that each of said banks is taxed to the State at the same rate, and therefore equally recognized as its institution and entitled to its care.

Banks in the State taxed at the rate of one fourth of one per cent.

SECTION 3. *And be it further enacted*, That it shall not be lawful to put in circulation, or pass in this State as money, or to pay or receive as money, any note, draft, check, obligation, order, bill of exchange, or paper for payment of money, issued by, or pursuant to the order of any rail road company, turnpike company, bridge company, canal company, or any company or corporation not restricted to banking operations, whether such company or corporation be of this State or any other State, by any person or on account of such company or corporation; nor shall it be lawful to put in circulation, or pass or receive as money in this State, or pay or receive as money any note, order, check, draft, or paper for payment of money, for a less sum than one dollar issued by any individual, individuals, or copartnership; and any person offending against this section shall be guilty of a misdemeanor, and on conviction, shall forfeit and pay a fine not exceeding ten dollars and costs, except that the mayor and council of Wilmington shall not be within this restriction.

All except banking companies, prohibited from circulating notes as money.

Also individuals and copartnerships for a less sum than \$1.

Fine.

Mayor and council of W. excepted.

Passed at Dover, February 15, 1841.

Act extended
to all cases of
land owned
by minors.

the said act to which this is a supplement, and the several provisions therein contained, shall extend and apply to all cases of land owned by a minor, and to all and every share, estate and interest, owned by a minor in lands, whether the same be so owned in severalty, joint-tenancy, coparcenary, or in common, or in possession, reversion, or remainder, or any manner howsoever.

Passed at Dover, February 15, 1841.



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Private act.

Passed at Dover, February 15, 1841.



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notes in specie," be and the same hereby is suspended from operation, and shall cease from having force or effect, until the banks of the city of Philadelphia and Commonwealth of Pennsylvania, and the banks of the city of Baltimore and State of Maryland, shall have resumed specie payments; nor shall the said last mentioned act be again in force, or have operation or effect until the General Assembly on the fact of resumption as aforesaid being announced by the Governor, shall order that the said suspension shall cease.

The "Act securing payment, &c." suspended until the banks of Philadelphia and Baltimore resume.

SECTION 2. *And whereas,* The preceding section is required by the present condition of the banks of Pennsylvania and Maryland having suspended specie payments, and is enacted in consequence of the confidence of the General Assembly in the soundness, correct management, and good faith of the banks of this State, *Be it enacted and declared,* That the tax payable to the treasurer of this State by each of the banks, namely: the Bank of Delaware, the Farmers' Bank of the State of Delaware, the Bank of Wilmington and Brandywine, the Bank of Smyrna, and the Union Bank of Delaware, shall be at the rate of one-fourth of one per centum per annum, payable semi-annually, upon the capital stock of said banks actually paid in; it being the intent of this section not to impose any new tax, but to declare the fact, that each of said banks is taxed to the State at the same rate, and therefore equally recognized as its institution and entitled to its care.

Banks in the State taxed at the rate of one fourth of one per cent.

SECTION 3. *And be it further enacted,* That it shall not be lawful to put in circulation, or pass in this State as money, or to pay or receive as money, any note, draft, check, obligation, order, bill of exchange, or paper for payment of money, issued by, or pursuant to the order of any rail road company, turnpike company, bridge company, canal company, or any company or corporation not restricted to banking operations, whether such company or corporation be of this State or any other State, by any person or on account of such company or corporation; nor shall it be lawful to put in circulation, or pass or receive as money in this State, or pay or receive as money any note, order, check, draft, or paper for payment of money, for a less sum than one dollar issued by any individual, individuals, or copartnership; and any person offending against this section shall be guilty of a misdemeanor, and on conviction, shall forfeit and pay a fine not exceeding ten dollars and costs, except that the mayor and council of Wilmington shall not be within this restriction.

All except banking companies, prohibited from circulating notes as money.

Also individuals and copartnerships for a less sum than \$1.

Fine.

Mayor and council of W. excepted.

Passed at Dover, February 15, 1841.

LAWS OF THE STATE

CHAPTER CCCXXIII.

AN ACT to enable Nathaniel Conaway to locate certain vacant land, situate in Nanticoke Hundred, and to complete his title to the same.

Private act.

Passed at Dover, February 16, 1841.



CHAPTER CCCXXIV.

AN ACT to enable Wingate Downs to locate certain vacant land, in Broad Creek Hundred in Sussex County, and complete his title to the same.

Private act.

Passed at Dover, February 16, 1841.



CHAPTER CCCXXV.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act concerning the New Castle and Frenchtown Turnpike and Rail Road Company.*"

Act amend-
ed,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, at all annual and special meetings of the stockholders of the New Castle and Frenchtown Turnpike and Rail Road Company, the number of votes to which each stockholder shall be entitled, shall be according to the number of shares which such stockholder 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 such annual or special meeting; nor unless it be held by such stockholder absolutely and bona fide; or as executor, administrator, trustee, or guardian; or by, or in the right, and for the use and benefit of some corporation or copartnership of which such stockholder may be a member.

Inconsistent
acts repealed.

SECTION 2. *And be it further enacted,* That such part or parts of any law or laws of this State, as may be inconsistent with this act, be and the same are hereby repealed.

Passed at Dover, February 16, 1841.

CHAPTER CCCXXVI.

AN ACT *to appoint commissioners to cleanse and drain Inlet Creek, in Baltimore Hundred in Sussex County.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Lemuel Evans, Joshua H. Evans and John Tunnel, be and the same are hereby appointed commissioners to cleanse and drain in such manner as they may deem advisable for the purposes hereinafter mentioned, a certain creek commonly called and known by the name of Inlet Creek, in Baltimore hundred in Sussex county.

Comm'rs. appointed.

SECTION 2. *And be it further enacted,* That in order to cleanse and drain the said creek as aforesaid, the said commissioners or a majority of them, are hereby authorized and empowered to enter upon any and all lands lying upon the said creek, or adjacent thereto, and to lay off and cut, or to cause to be cut any ditch or ditches of such dimensions, and in such place or places as they, or a majority of them, may deem expedient and necessary to drain such lands as are overflowed or injured by the waters of the said creek in consequence of the embankments and impediments which now obstruct the free passage of the same; and for that purpose they shall have full power to employ workmen, to procure materials, and to do every other act or thing necessary to remove or avoid the obstructions in the said creek, and to drain the said lands as aforesaid: *Provided,* That the said commissioners or a majority of them, before entering upon the work as aforesaid, shall duly assess to each and every person the fair and reasonable amount of damage which any person may sustain by reason of any ditch or ditches, which in accordance with the provisions of this act may be cut upon his or her lands: *And provided also,* That the person or persons whose lands shall be benefited and improved by any such ditch or ditches, will pay to each and every such person the amount of damages so assessed by the commissioners as aforesaid. Before making said assessment each of the said commissioners shall swear or affirm, before some judge, justice of the peace, or notary and tabellion public, to assess the said damages justly and fairly, taking into consideration the amount of damages which such person may thereby sustain, together with the benefit and advantage which such person may derive therefrom.

Authorized to cut ditches, &c.

To employ workmen, &c.

Assess damages, &c.

Persons benefited to pay damage.

Comm'rs. to take oath.

SECTION 3. *And be it further enacted,* That the said commissioners or a majority of them, shall have full power at all times to enter upon said lands to cleanse and improve, or to cause to be cleansed and improved, any ditch or ditches cut as aforesaid. And if any person or persons shall wantonly obstruct or damage any ditch or ditches cut by the commissioners as aforesaid, every person so offending shall forfeit and pay to the State a fine of one hundred dollars, to be recovered by indictment in the Court of General Sessions of the Peace and Gaol Delivery in and for Sussex county,

Authorized to improve ditches.

Persons obstructing ditches indictable. Fine.

LAWS OF THE STATE

one-half to go to the poor of said county, and the other half to the said commissioners, for the improvement and benefit of the said ditch or ditches.

Passed at Dover, February 16, 1841.



CHAPTER CCCXXVII.

AN ACT for effecting partition of the lands therein mentioned, between Auly Lore and the other owners thereof.

Private act.

Passed at Dover, February 16, 1841.



CHAPTER CCCXXVIII.

AN ACT to enable Joseph Wells to locate certain vacant land, situated in Broad Creek Hundred in Sussex County, and complete his title to the same.

Private act.

Passed at Dover, February 16, 1841.



CHAPTER CCCXXIX.

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

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That* if at any general election, or at any special election, any inspector of a hundred, or any freeholder taken by an inspector to his assistance, shall knowingly and wilfully take and receive, or advise and consent to the taking and receiving of the vote of any alien, or of any other person not entitled to vote, every such inspector and freeholder for every such offence, shall forfeit and pay to the State, a fine not less than two hundred dollars, nor more than five hundred dollars. The provision of this section, is cumulative to the pro-

Receiving
illegal votes.

Penalty.

visions of the fourteenth section of the act to which this is a further supplement, but the offender shall not be liable to more than one penalty, and the pendency of either the indictment or action of debt, may be pleaded in abatement of the alternative proceeding; but the offender shall be liable to the prosecution for perjury as provided in the said fourteenth section. Provision of this section cumulative.

SECTION 2. *And be it further enacted, &c.* That every alien or other person who shall offend against any of the provisions of the nineteenth section of the act to which this is a further supplement, shall forfeit and pay to the State, a fine not less than fifty dollars, nor more than two hundred dollars. The provision of this section is cumulative to that of the said nineteenth section, but the offender shall not be liable to more than one penalty, and the pendency of either the indictment or action of debt may be pleaded in abatement of the alternative proceeding. Illegal voting Penalty. Provision of this section cumulative.

SECTION 3. *And be it further enacted, &c.* That whenever a general or special election is held in the city of Wilmington, it shall be the duty of the mayor and alderman of the said city, as well as of every justice of the peace and constable residing in the said city, to take care that the peace shall be kept, and that the election shall not be interrupted or disturbed; and if the mayor or alderman shall refuse to perform, or wilfully neglect the duties by this section enjoined upon him, he shall forfeit and pay to the State for every such offence, a fine not less than one hundred dollars, nor more than two hundred dollars. Duty of the mayor and alderman of Wilmington.

SECTION 4. *And be it further enacted, &c.* That in all questions of residence arising under the provisions of the fourth article of the amended constitution, and of the act to which this is a further supplement, the following rule shall be observed; that if any person having resided within the State, shall actually remove to another place out of the State, with an intention of remaining there for an indefinite time as a place of present domicil, he shall lose his qualification of residence within the State, notwithstanding he may entertain a floating intention to return at some future period. And the same principle shall be applied to removals from one place to another, within the State. Rule in regard to removal and loss of residence.

Passed at Dover, February 16, 1841.



CHAPTER CCCXXX.

An act to incorporate the Roseville Manufacturing Company.

SECTION 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 a company shall be established for the purpose of carrying on the manufac- Company.

ture of cotton, wool, grain, plaster of Paris, and other materials, in or near Roseville, New Castle county, Delaware. The capital stock of the said company shall not exceed two hundred thousand dollars, divided into shares of one hundred dollars each.

SECTION 2. *And be it further enacted,* That the estate and property of Thomas Cooch, described in the schedule hercunto annexed, shall, at a valuation thereof to be made in writing by Alfred du Pont, John Janvier, and Jacob Aldrichs, who shall have power to fill their own vacancies, become the property of this company and constitute a part of the capital stock thereof, and that certificates for shares of one hundred dollars each as shall amount to the aforesaid valuation shall be issued to the said Thomas Cooch upon the execution by him of a proper and legal conveyance to the company of the estate and property described in the said schedule; and Thomas Janvier, Charles I. du Pont, Palmer Chamberlain, George Maxwell, and Thomas Cooch are hereby appointed commissioners to receive subscriptions to the residue of the stock of the company, 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.

SECTION 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 Roseville 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.

SECTION 4. *And be it further enacted,* That it shall not be lawful for the said corporation to exercise any banking powers whatsoever.

The following shall be, and the same are hereby enacted, fundamental articles of the constitution of said corporation.

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

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 tempore.

President.
Meeting and
board.

2nd. The directors shall have power to purchase such lands and premises, and erect such buildings, and to procure such water-power, 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, bonds 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.

Powers of
directors.

By-laws.

What they
shall pre-
scribe.

3rd. 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 forty-two, 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

Annual meet-
ings of stock-
holders.

dissolved, but in such cases, directors may be chosen at any occasional meeting, regularly called for that purpose.

Manner of voting, &c. 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 a 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:

Shares may be assigned. 5th. The shares of the capital stock aforesaid shall be personal property, and shall be assignable, subject to the regulation of the by-laws.

Dividends. 6th. The directors shall from time to time make dividends of the clear profits of the business of the corporation, or of such parts of the said clear profits as shall be deemed advisable. The time of making the dividends shall be prescribed by the by-laws.

Books of accounts, &c. 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.

First meeting, how called. Notice. Directors elected. SECTION 5. *And be it further enacted*, That in ten days after the books aforesaid shall be opened, if thirty thousand dollars of the said 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 forty-two, 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 direc-

tors, and shall come within the purview and effect, of all the articles herein contained touching directors, to all intents and purposes.

SECTION 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.

SECTION 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 book 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.

SECTION 8. *And be it further enacted*, That this act be and the Public act same is hereby declared to be a public act.

SCHEDULE

Referred to in the second section of the bill.

Schedule of the property belonging to Thomas Cooch, called Roseville, situate on White Clay Creek, one mile and a quarter from Newark, New Castle county, Delaware.

LAWS OF THE STATE

A tract of land containing two hundred acres, extending three quarters of a mile on White Clay Creek, and containing a water-fall of about twelve feet six inches.

On the estate there are erected the mills, houses and improvements as follows:

One stone cotton-mill, with machinery for spinning and weaving cotton, four stories high, about one hundred feet long and forty broad.

One stone building, about thirty feet by twenty feet, three stories high, used for drying and warping, and also for a carpenter's shop.

One frame grist-mill, one and a half stories high, with two run of stone.

One saw-mill, running one saw.

One brick building, about fifteen feet by twenty feet, one and a half stories high, used as a store-house.

One large stone building used as a dwelling-house, two stories high, with back buildings, stables, out-houses, &c. attached.

About thirty dwelling-houses, stone and frame, about fifteen feet by twenty feet, built for the accommodation of the work-people.

Two hundred acres of land, containing cleared and improved land, stone quarries, and woodland.

The water-rights on the creek of twelve feet six inches water-fall, capable of very great improvement.

Passed at Dover, February 16, 1841.



CHAPTER CCCXXXI.

AN ACT to amend the act entitled "An act for the encouragement and support of schools in this State."

Act amend-
ed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "An act for the encouragement and support of schools of this State" as the same is printed in the revised edition of the laws, be and the same is hereby amended by striking out of the seventh line of the second section thereof, the words "twenty cents" and inserting in lieu thereof, the words "forty cents," and by striking out of the thirteenth line, the word "two" and inserting in lieu thereof, the word "four," and in every edition of the laws hereafter to be published, the said act shall be printed as herein amended.*

Passed at Dover, February 17, 1841.

CHAPTER CCCXXXII.

AN ACT concerning the division of school districts No. 2 and No. 3, in New Castle County.

SECTION 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 of the Legislature, That Amos Chandler, Abner Cloud, and Robert Galbreath be commissioners to visit school district number two and school district number three, in New Castle county, and inquire concerning the extent of said school districts, and the number of white children in each, who ought to enjoy the benefit of the school, with a view to determine concerning the necessity of a division of the said districts.

Comm'rs. appointed to visit districts &c.

The said commissioners before entering upon the inquiry shall take an oath or affirmation, to be administered by either to the other, or by a justice of the peace, to perform their respective duties under this act, with truth and faithfulness; and they shall have power to examine witnesses upon oath or affirmation, and severally to administer such oath or affirmation.

Oath.

If upon inquiry and careful examination, the said commissioners shall determine that the aforesaid school districts contain a number of white children entitled to the benefit of the schools, too great for two schools, and sufficient for three full schools, and that there ought to be a division of said districts so as to form three school districts, they shall make such division by laying off by bounds and lines such parts from the said school districts as that the parts included by such bounds and lines, and the respective remainders of said school districts, shall be three convenient school districts; (the said remainders to continue school districts with their original numbers of two and three respectively, and the said additional district included by said bounds and lines, to be designated by its proper number succeeding the highest number of the school districts previously formed in the county.) If such division be made, the said commissioners shall appoint the place of meeting for the school voters in the additional school district. A majority of the said commissioners being met, shall have power to proceed and act. If the said commissioners or a majority of them shall make division as aforesaid of the aforesaid school districts, they or a majority of them shall certify the same with their proceedings under their hands to the next Levy Court and Court of Appeal of New Castle county: the said court shall take the same into consideration, shall hear objections, if any, and shall have power to make amendments, or alterations in the bounds or lines certified, with the concurrence of two-thirds of the members present, and if the said proceedings as certified as aforesaid, or amended or altered, shall be confirmed by the said court, with the concurrence of two-thirds of the members present, the said division of the aforesaid school districts according to the same, shall be established, and the additional school district thereby formed shall become, and be a separate school district in New Castle county, with the ca-

To divide the districts, when.

Manner of dividing.

Place of voting in district.

Majority of com'rs. may act.

Division to be certified. to L. Court. Action of L. C. thereon.

Rights of the district when confirmed.

capacity, rights and powers of a school district according to law, and shall be entered by the trustee of the fund for establishing schools in the State of Delaware, among the school districts of said county and account opened therewith, and in all dividends hereafter made by said trustee of the fund for establishing schools in the State of Delaware, the respective dividends which may be due or hereafter may become due the said original districts, No. 2 and No. 3, shall be equally divided annually among the districts No. 2, No. 3 and No. 73; and the school voters in said additional school district, and the school committee thereof, shall have all the rights and powers of school voters, and a school committee respectively, according to the laws of this State; and all the laws of this State concerning free schools are extended to said additional school district. The place of meeting appointed as aforesaid for the school voters in said additional school district shall be the place of holding all their meetings, stated and occasional, until another place shall be determined, or appointed according to law.

Place of meeting in the district.

Transcript of proceedings.

The Levy Court and Court of Appeal of New Castle county, if division shall be made and confirmed as aforesaid of the aforesaid school districts, shall cause a fair transcript of the proceedings (as amended or altered,) to be entered upon their minutes, with the entries of school districts, and said entry shall be deemed a record, they designating the said additional district by its proper number, as afore-mentioned; the respective remainders of the aforesaid school district number two, and the aforesaid school district number three, (the said parts being laid off from them respectively as aforesaid,) shall continue school districts with their original numbers respectively; but all the white children within the lines of said additional school district, shall continue to have the same rights in school district No. 2 or No. 3, as they now have, although division shall be previously made, until the Saturday preceding the first Monday of October next.

Rights of children in the additional district until, &c.

Confirmation by L. Court.

The entry of confirmation in the Levy Court shall be sufficient, if made according to the following form indorsed upon the certificate of proceedings and therewith recorded.

Form.

In the Levy Court and Court of Appeal of New Castle county, the _____ day of _____ 1841, the foregoing proceedings having been examined and considered, are confirmed by the court, two-thirds of the members present concurring.

Comm'rs. may recommend alteration, &c.

SECTION 2. *And be it further enacted,* That the commissioners aforesaid, or a majority of them, may recommend any other alteration of the school districts aforesaid, which if approved by the Levy Court and Court of Appeal, with the concurrence of two-thirds of the members present, shall be effectual, and the said school districts established in conformity thereto.

Notice of meeting of comm'rs.

SECTION 3. *And be it further enacted,* That the commissioners aforesaid, shall cause at least five days' previous notice to be given by advertisements under their hands, posted in at least two of the most public places of each of the aforesaid school districts, of their meeting in one of the said school districts, to proceed to the per-

formance of their duties under this act; specifying the day, hour and place of meeting. The said commissioners may adjourn from time to time: one only, if no other attend, shall have power to adjourn. Adjournment

SECTION 4. *And be it further enacted,* That in case of the death, resignation, inability, or refusal to act of said commissioners or either of them, the Levy Court and Court of Appeal of New Castle county shall have power to appoint commissioners or a commissioner in his or their place, and the commissioners or commissioner so appointed, shall have all the powers and be liable to all the duties of the original commissioners or commissioner. Vacancies of comm'rs.

SECTION 5. *And be it further enacted,* That the compensation to each commissioner shall be two dollars a day, for every day's attendance in discharge of the duties of this act, which shall be paid by the trustee aforesaid, upon certificate of allowance by the Levy Court, under the hand of the clerk of the peace for New Castle county, and the fees of the clerk shall be paid by the said trustee, on certificate of allowance by said court, under the hand of the president; and the amount shall be deducted from the apportionment made to New Castle county of the income of said fund, before divided among the districts. Compensation.
Fees of clerk.

SECTION 6. *And be it further enacted,* That if the additional school district be formed as aforesaid, the school voters in the said school district may meet at the place of meeting appointed as aforesaid, on the first Saturday of May next, at three o'clock in the afternoon, and appoint a chairman and secretary, and choose a clerk and two commissioners of the district, who shall continue in office until the next stated meeting, and until successors are duly elected. The certificate of the proceedings shall be made, signed and delivered according to the provision of law relating to certificates of the meetings of school voters: notice of the meeting may be given by either clerk, or commissioner of school districts No. 2 or No. 3: a failure to give notice shall not vitiate the proceedings. Voters may meet, when.
Certificate.
Notice.

Passed at Dover, February 17, 1841.



CHAPTER CCCXXXIII.

AN ACT to repeal the act entitled "*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.'*" Del. Laws,
vol. 8, p. 347.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "*An act to repeal 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, February the 5th
Act repealed. 1835, be and the same is hereby repealed, made null and void.

Del. Laws,
vol. 8, chap.
219, p. 224,
revived.

SECTION 2. *And be it further enacted*, 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, January 29th, 1833, be and the same is hereby revived and declared to be in full force and virtue to all intents and purposes, as if the same had never been repealed.

Passed at Dover, February 17, 1841.



CHAPTER CCCXXXIV.

AN ACT to create an additional school district in the County of Sussex.

Comm'rs. of
district No.
53 to call a
meeting of
the district.

Place and
time.
Notice.

For what
purpose held.

When and
how the dis-
trict shall be
divided.

Plot of divi-
sion to be re-
turned to the
L. Court.
Return.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the commissioners and clerk of school district No. 53, in Sussex county, be and they are hereby required to call a meeting of the school voters at the school house in said district, on the first Saturday in September, next ensuing after the passing of this act, ten days' notice of which shall be given by advertisement in five of the most public places in said district; at which time and place the voters there assembled, shall vote for and against the division of said district; and if it shall appear that a majority of all the voters present are in favor of dividing said district into two districts, then and in that case, the voters thus assembled shall elect five commissioners, and they or a majority of them thus elected, are authorized and required, within two months thereafter, having first taken to their assistance a skillful surveyor of the county of Sussex, to go upon the lands embraced within the limits of school district No. 53, in said county, and divide the lands in said school district into two equal portions or districts; and the said commissioners or a majority of them, after the said additional district shall have been so located and laid out, shall make a correct plot and return of their proceedings under this act, and cause the same to be returned to the Levy Court and Court of Appeals of said county, at its next session after the said plot and return shall have been made as aforesaid, for confirmation by said court. The said return shall be signed by a majority of said commissioners, and the said plot shall represent by lines, the form all the said district No. 53, and shall also show the lines of the additional school district, so to be created out of the said district as aforesaid.

SECTION. 2. *And be it further enacted*, That the trustee of the school fund, in case the return and proceedings of said commis-

sioners be confirmed by the Levy Court as aforesaid, shall in the year 1841, and annually thereafter, at the time of the annual distribution of the said fund to and among the several districts of this State, divide the share of said district No. 53 into two equal parts, so that the share or proportion of said additional district of the distribution of the school fund of this State, shall be composed entirely of the one-half of the share of said district No. 53, out of which the said district is to be formed and created.

The share of No. 53 to be divided between the two districts.

SECTION 3. *And be it further enacted*, That the said commissioners and surveyor, before they enter upon the discharge of the duties assigned them by this act, shall be severally sworn or affirmed to do and perform all the matters and things herein required of them faithfully and impartially, according to the best of their skill and judgment. The said commissioners and surveyor shall receive for their services under this act, such reasonable compensation as to the said Levy Court may seem meet and proper, which said allowance shall be paid by the trustee of the school fund as aforesaid. If the return and proceedings be not confirmed as aforesaid, then the whole amount or share of said district No. 53, shall be paid over as heretofore. The said plot and return shall be filed among the papers belonging to the Levy Court aforesaid, and if the same be confirmed, the said trustee of the school fund shall be notified thereof immediately by the clerk of said court.

Oath of commissioners and surveyor.

Compensation.

Plot to be filed among the papers of the L. Court.

Passed at Dover, February 17, 1841.



CHAPTER CCCXXXV.

A SUPPLEMENT to the act entitled "*An act to incorporate a company for making an artificial turnpike road from the Borough of Wilmington to the Village of Christiana in New Castle County.*" Del. Laws, vol. 5, p. 72.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the original act to which this is a supplement, be and the same is hereby amended by adding to the thirteenth section thereof, the following words "and it shall be certified to be put in such good order and repair under the hands and seals of the said justice and inquisitors; and if any of the keepers of the gates aforesaid shall take or attempt to exact tolls for the intermediate distance between the gates aforesaid from any traveller during the time the said road shall continue out of repair, such keeper shall forfeit and pay to the person who will prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are or may be by law recoverable; but if the same road shall not be put into good and perfect order and repair before the next ensuing Court of General Sessions of the Peace and Gaol De-

Act amended.

Keeper of any gate receiving toll while the road is out of repair, to forfeit \$5 00.

When and where the J. of Peace shall return the inquisition. The court thereupon to issue process, &c.

Fine.

How to be applied.

Costs of proceedings under 13th sec. of the act, how recoverable.

livery for New Castle county aforesaid, the said justice shall certify and send a copy of the said inquisition to the justices of the said court and the said court shall thereupon cause process to issue and bring in the bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said road as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest against the person or persons intrusted as aforesaid, and upon conviction shall give such judgment according to the nature and aggravation of the neglect, as the court in their discretion shall judge proper: *Provided*, The fine in no instance shall be less than twenty dollars nor exceeding one hundred dollars, and the fines so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, and shall be applied to and for the benefit of the public roads and common highways in the county of New Castle aforesaid.

SECTION 2. *And be it further enacted*, That all the costs or expenses that may arise or be incurred in any proceeding under and by virtue of the said thirteenth section in consequence of the neglect of said company to keep the said road in good and perfect order and repair for the space of fifteen days shall be paid by the said company, and shall be recovered before the Superior Court, or any justice of the peace, as debts of equal amount are or may be by law recoverable.

Passed at Dover, February 17, 1841.



CHAPTER CCCXXXVI.

AN ACT to enable the Administrator of Samuel Meeteer, late of New Castle County, deceased, to sell his real estate.

Private act.

Passed at Dover, February 17, 1841.



CHAPTER CCCXXXVII.

Dig. p. 675. *A FURTHER SUPPLEMENT to the "Act to alter and re-establish the charter of the Borough of Wilmington."*

SECTION 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 both branches of the Legislature, That*

upon petition to the city council of the city of Wilmington, of a majority of the persons, owners, or occupiers of the houses and lots lying and fronting on any street, or any part of a street in said city, praying for the lighting of the said street or part of a street, the said city council shall have power, and they are hereby authorized to cause said street or part of a street to be lighted either with gas or oil, directing the number and position of the lights, and to charge and levy the amount of the expenses of such lighting on the property lying and fronting on said street or said part of a street so lighted, and the persons so occupying such property, which rate or dollarage and the said taxes shall be collected by the same collector in the same manner, and by the same process and form of proceedings, as the rate or dollarage mentioned in the twelfth section of the aforesaid act, and the collector shall have and may exercise all the powers under this supplement which he has or can exercise under the aforesaid act.

City council authorized to light streets, when.

How the expense shall be levied.

How collected.

If a lot extending from street to street is built on and occupied with a house fronting on a street, the whole premises shall be chargeable toward the expenses of lighting said street on which the house fronts, and not toward the expenses of lighting the other street; if a lot owned by the same or different owner or owners extends through from street to street and be rated as a whole, one-half the sum which it is rated at shall be liable to the expenses of lighting either street, and no more; in case of cross streets at corners, the city council shall have power to make an equitable apportionment in respect to the liability of the property for lighting on both streets, and their determination shall be final.

Manner of charging the expenses on lots extending, &c.

SECTION 2. *And be it further enacted*, That the mayor and council of the city of Wilmington shall have full power to widen the footways on any or all of the streets in said city, on the application in writing of the owners of the major part of the ground fronting on said street or streets, the admeasurement of said ground to be taken in feet, parallel with the curb-stone.

The mayor and council to widen footways, when.

Passed at Dover, February 17, 1841.



CHAPTER CCCXXXVIII.

A SUPPLEMENT to an act entitled "*An act laying a tax on dogs in New Castle county,*" passed at Dover, February 21, one thousand eight hundred and thirty-nine.

Dol. Laws, vol. 9, p. 299.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That every dog kept or staying about any house, shall be deemed sufficient evidence of ownership to authorize the assessor to return the person inhabiting said house as the owner or possessor of such dog; and if any person shall wilfully neglect to make return to the assessor of any dog or dogs belonging to him or her, on proof of

What shall be deemed ownership of dogs.

Persons refusing to return their dogs to the assessor, taxed double.

the same being made to the assessor by the testimony of one or more respectable witnesses, it shall be the duty of the assessor to assess the owner of such dog or dogs, with double the amount of tax provided for by the act to which this is a supplement.

To whom all monies shall be paid.

SECTION 2. *Be it enacted, &c.* That all monies arising in virtue of the act to which this is a supplement, shall be paid over to the trustee of the fund for establishing schools in the State of Delaware, to be annually distributed equally among the respective school districts of New Castle county.

Passed at Dover, February 17, 1841.



CHAPTER CCCXXXIX.

Del. Laws,
vol. 8, p. 355.

A SUPPLEMENT to the act entitled "*An act authorizing a lottery for the benefit of Delaware College, and for other purposes therein mentioned.*"

The share arising from the lottery apportioned to the college, transferred to the State, & shall be paid to the State Treas'r.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the share or portion of the fund hereafter to be raised and received under and by virtue of the said act to which this is a supplement, and which share or portion of said fund is by the said act apportioned to and for the use and benefit of Delaware College (now Newark College) shall be, and the same is hereby transferred from said college to the State of Delaware, and the same shall be hereafter paid to and received by the state treasurer, to and for the use of the State, the trustees of said college assenting and agreeing hereto. And the said state treasurer shall keep a true account of all monies which he shall receive from and on account of said share or portion of the said fund, to be paid to and received by him as aforesaid; and shall from time to time, as and when he shall so receive any sum or sums of money from and on account of said share or portion of the said fund, pay an equivalent sum or sums of money out of any monies in the treasury of this State, not otherwise appropriated, to the trustees of the said college, to and for the use and benefit of the said college.

The S. Treasurer to keep an account of such money, and pay an equivalent sum to the college.

Trustees to signify to the Governor their acceptance, &c.

SECTION 2. *And be it further enacted,* That the assent and agreement of the trustees of said college hereto, shall be evidenced and signified by their acceptance of this act, which acceptance shall be certified in writing to the Governor of this State, within four months from the passing of this act, or this act shall cease and be of none effect. *Provided however,* That this act shall not be taken or construed, in any manner to impair any agreement, bond or obligation, made or executed under the said act to which this is a supplement; but every such agreement, bond and obligation shall be and remain in full force and virtue.

Proviso.

Passed at Dover, February 17, 1841.

CHAPTER CCCXL.

AN ACT to re-organize certain school districts of Kent County.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Shadrach Raughley, Benaiah Tharp, and Alexander Johnson, be and they are hereby appointed commissioners to go upon and view school districts, numbers 33, 34, 38, and 39 in Kent county, and locate and lay out from said districts, two additional school districts, as to them shall seem just and proper. And when the said commissioners, or a majority of them, shall have so located and laid out said additional school districts, they or a majority of them, shall make return of the same, describing plainly the metes and bounds thereof, into the office of the clerk of the peace of Kent county, to be by him filed among the records of his office. Said return shall be made on or before the first day of June next; and within ten days thereafter, the said clerk of the peace shall make a copy thereof, and deliver the same to the trustee of the school fund. And from and after the first day of June aforesaid, the additional school districts to be formed under the provisions of this act, shall be deemed and taken to be school districts of Kent county and numbered in continuation of school districts already established by law in said county; and all the acts of the General Assembly of this State, for the general regulation, government, and benefit of free schools within this State, shall be extended and applied to said additional school districts to be created under the provisions of this act; and the trustee of the school fund in the future distribution of the school fund applicable to school districts in Kent county, shall have due regard to the return of said commissioners as the same may be made and filed as aforesaid, giving to said two additional school districts in Kent county, an equal proportion of the money in his hands, annually applicable to school districts of said county.

Comm'rs. appointed to divide school districts Nos. 33, 34, 38, & 39.

And return their proceedings to the Clerk of the Peace.

Return made, when.

How the new districts shall be deemed & taken. Their rights and privileges.

SECTION 2. *And be it further enacted,* That the commissioners appointed by this act, shall severally, before entering upon the discharge of the duties imposed upon them by the provisions of this act, take and subscribe an oath or affirmation to perform the same with fidelity. And for each and every day the said commissioners may be employed in the discharge of their duties under the provisions herein contained, shall have and receive the sum of one dollar to be allowed by the Levy Court and Court of Appeal of Kent county.

Oath of commissioners.

Compensation.

Passed at Dover, February 17, 1841.

CHAPTER CCCXLI.

AN ACT declaring certain acts public acts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all* acts of divorce passed at the present session of the Legislature shall be deemed and taken to be public acts; and it shall be the duty of the Secretary of State to cause the said acts to be printed and published among the acts and resolutions of said session.

Passed at Dover, February 18, 1841.



CHAPTER CCCXLII.

Dig. p. 554. A SUPPLEMENT to the act entitled "*An act to revive and continue in force 'An act prohibiting the use of wears, hedges and gill-nets in St. Jones' Creek.'*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That* from and after the passage of this act, if any person or persons fishing in the waters of St. Jones' Creek shall be discovered using any drag seines or drive seines, for the purpose of driving the fish into the seines used for hauling the fish to the shore, or shall use any means to drive the fish into their seines, by disturbing the waters of the said creek, with paddles, oars, or by any other means with a view to frighten or drive the fish into their said seines, every such person or persons being thereof convicted, upon the view of a justice of the peace, or upon the testimony of one or more credible witnesses, shall forfeit and pay a sum not less than ten dollars, nor more than fifty dollars, to be recovered as debts under fifty dollars are now recoverable by the laws of this State, one moiety thereof to the person who will sue for the same, and the other moiety to the State for the use of the school fund.

SECTION 2. *And be it further enacted, That* hereafter it shall be lawful for any person or persons to set or place gill-nets or gill-seines, for the taking of fish, any where in the waters of said St. Jones' Creek, above the place thereon called the "Cool Spring Landing," any law, usage, or custom to the contrary notwithstanding.

Passed at Dover, February 18, 1841.

CHAPTER CCCXLIII.

AN ACT *fixing the annual salary of the Treasurer of New Castle County.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the ninth day of February, one thousand eight hundred and forty-two, there shall be allowed to the treasurer of New Castle county, the annual salary of five hundred dollars, in full and complete compensation for his services as treasurer of said county; and so much of any law of this State as is inconsistent herewith, be and the same is hereby repealed, made null and void.

His salary
fixed at \$500
per annum.

Passed at Dover, February 18, 1841.



CHAPTER CCCXLIV.

AN ACT *to incorporate the Rokeby Manufacturing Company.*

SECTION 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 a company shall be established for the purpose of carrying on the manufacture of cotton, wool, flax, grain, and other materials, in or near Rokeby, in Christiana hundred, New Castle county, Delaware. The capital stock of the said company shall not exceed one hundred thousand dollars, divided into shares of one hundred dollars each.

Company.

SECTION 2. *And be it further enacted,* That the estate and property of Charles I. du Pont, described in the schedule hereunto annexed, shall, at a valuation thereof to be made in writing by James Canby, Alfred du Pont, and Joseph Bancroft, who shall have power to fill their own vacancies, become the property of this company and constitute a part of the capital stock thereof, and that certificates for shares of one hundred dollars each as shall amount to the valuation aforesaid shall be issued to the said Charles I. du Pont upon the execution by him of a proper and legal conveyance to the company of the estate and property described in the said schedule; and William W. Young, Daniel Lammot, Charles I. du Pont, William Breck and David C. Wilson, are hereby appointed commissioners to receive subscriptions to the residue of the stock of the company, 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.

Property of
C. I. du Pont
described in
the schedule,
made part of
the capital
stock.

Certificates
of shares to
be issued to
him therefor.

Comm'rs. ap-
pointed.

For what
purpose.

SECTION 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

Company in-
corporated.

Name.	body politic, by the name of the "Rokeby 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: <i>Provided</i> , That
Powers.	power is hereby reserved to the General Assembly, to revoke the act of incorporation: <i>And provided further</i> , That this act of incorporation shall not continue in force, for a longer period than twenty years, without the re-enactment of the Legislature.
Right of revocation reserved.	
Continuance.	
Banking powers prohibited.	SECTION 4. <i>And be it further enacted</i> , That it shall not be lawful for the said corporation to exercise any banking powers whatever.
Constitution.	The following shall be, and the same are hereby enacted, fundamental articles of the constitution of said corporation.
Directors.	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 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 tempore.
President. Meeting and board.	
Powers of directors.	2nd. The directors shall have power to purchase such lands and premises, and erect such buildings, and to procure such water-power, steam and other engines and machinery, as they shall from time to time deem requisite to carry on such manufacture of cotton, wool, flax, grain, 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
Officers.	

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 purposes 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.

By-laws.

What they shall prescribe.

3rd. 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 forty-two, 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.

Annual meetings of stockholders.

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 a plurality of votes given; and all other questions shall be determined by a 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 personal property.

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.

7th. The directors shall at all times keep, or cause to be kept proper books of accounts, in which shall be regularly entered, all

Accounts to be kept, &c.

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 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.

First meeting, when and how called.

Directors elected.

SECTION 5. *And be it further enacted*, That in ten days after the books aforesaid shall be opened, if twenty thousand dollars of the said capital stock shall then be subscribed, or as soon thereafter as the said sum of twenty 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 forty-two, and until successors to them shall be duly chosen; and the said directors shall have the powers and be liable to the regulations herein-before prescribed and set forth in relation to directors, and shall come within the purview and effect, of all the articles herein contained touching directors, to all intents and purposes.

Capital, when and how to be paid.

SECTION 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 forfeited or not subscribed, how disposed of.

SECTION 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 afore-

said, 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 commissioner's 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.

SECTION 8. *And be it further enacted,* That this act be and the Public act. same is hereby declared to be a public act.

SCHEDULE

Referred to in the second section of the bill.

Schedule of the property belonging to Charles I. du Pont, called Rokeby, situate on Brandywine Creek, in Christiana hundred, New Castle county, Delaware.

A tract of land containing thirty-five acres more or less, adjoining Brandywine Creek, and containing a water-fall of seven feet. On the estate there are erected the mills, houses and improvements as follows:

One stone woollen mill, with machinery and gearing, three and a half stories high, about sixty two feet long and forty-two feet wide.

One large factory building three stories high; two stories stone, one story frame, fifty-eight feet by twenty-eight feet, used as a machine shop.

One stone building, about thirty feet by twenty feet, two stories high, used as a store house.

Twenty-five tenements, stone and frame, for the accommodation of the work people.

One large stone building, used as a dwelling-house, two stories high, with back buildings, stables, barn, out-houses, &c. attached.

About thirty-five acres of cleared and improved land.

The water-rights on the creek of seven feet water-fall, capable of very great improvement.

Passed at Dover, February 18, 1841

CHAPTER CCCXLV.

AN ACT to enable Ezekiel Timmons of E. to locate certain vacant land situate in Broad Creek Hundred, Sussex County, and to complete his title to the same.

Private act.

Passed at Dover, February 18, 1841.



CHAPTER CCCXLVI.

Dig. p. 127. AN ACT to amend the act entitled "*An act providing for the punishment of certain crimes and misdemeanors.*"

Kidnapping. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That if any person or persons shall hereafter kidnap and carry away any free negro or free mulatto from this State into any other State or country, or shall aid or assist any person or persons in kidnapping and carrying away any free negro or free mulatto from this State into any other State or country, or if any person or persons shall take and imprison any free negro or free mulatto with intent to kidnap and carry away such free negro or free mulatto from this State into any other State or country, or shall aid or assist any person or persons in taking and imprisoning any free negro or free mulatto with intent to kidnap and carry away such free negro or free mulatto from this State into any other State or country, or if any person or persons shall fraudulently seduce and decoy any free negro or free mulatto from this State into any other State or country, with intent that such free negro or free mulatto shall be sold or disposed of or held as a slave or servant, every person so offending shall be deemed guilty of *felony*, and upon conviction thereof shall forfeit and pay to the State a fine of not less than one thousand dollars nor more than two thousand dollars; shall be set on the pillory for the space of one hour; shall be publicly whipped with thirty-nine lashes on the bare back, well laid on, and shall be imprisoned for a term not less than one year nor more than two years. And every person so offending a second time, upon conviction of such second offence shall forfeit and pay to the State a fine not less than two thousand dollars nor more than five thousand dollars; shall be set on the pillory for the space of one hour; shall be publicly whipped with thirty-nine lashes on the bare back, well laid on, and shall leave this State forever in ten days thereafter; and moreover, if any sheriff or constable in any county in this State shall hereafter know, or hear that any person condemned to leave the State as aforesaid, has remained in, or returned to this State after the time of his departure, pursuant to the said sentence

Penalty.

Second offence.

Penalty.

Returning to the State after sentence of banishment, penalty.

has expired, it shall be the duty of such sheriff or constable, and he is hereby required under the penalty of one hundred dollars, to be recovered in an action of debt by any person who may sue therefor, one-half to the party suing for the same, and the other half to the county in which the action may be brought, forthwith to seize such person, and to inflict upon such person twenty lashes well laid on the bare back; and this it shall be the duty of such sheriff or constable to do under the penalty aforesaid, to be recovered as aforesaid, so often as he may know or hear that any person condemned as aforesaid, is remaining in or has returned to the State; and for every castigation thus inflicted, the sheriff or constable inflicting the same shall be entitled to receive from the Levy Court of the county in which the service is rendered, the sum of twenty dollars, any law to the contrary notwithstanding. Duty of sheriff's and constables.
Their compensation.

SECTION. 2. *And be it further enacted*, That if any person or persons, shall hereafter in the night-time break and enter into the dwelling-house of another person, with intent to commit any felony other than that of murder, rape or arson, whether such intent be executed or not, every person so offending shall be deemed guilty of burglary and felony, and upon conviction thereof shall forfeit and pay to the State a fine of not less than one hundred dollars, nor more than one thousand dollars; shall be set on the pillory for the space of one hour; shall be publicly whipped with not less than twenty nor more than sixty lashes, and shall be imprisoned for a term not less than one month nor more than one year; anything in the said act to which this is an amendment to the contrary notwithstanding. But if the person so offending be a free negro or free mulatto, in lieu of imprisonment, he shall be publicly sold to the highest and best bidder to satisfy the fine and costs. Burglary.
Penalty.
Burglary by free negroes.

SECTION 3. *And be it further enacted*, That all crimes and offences done and committed, before the passage of this act against any of the provisions of the "Act providing for the punishment of certain crimes and misdemeanors," passed at Dover, February 7, 1827, shall be punished according to the provisions contained in the said last mentioned act, in the same manner and as effectually, as if this act had not been passed. Crimes committed before the passage of this act, punishable under the former act.

Passed at Dover, February 18, 1841.



CHAPTER CCCXLVII.

AN ACT for changing part of the division line between the Counties of New Castle and Kent.

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

Division line, easterly end, or part of the division line between the said counties
how changed of New Castle and Kent shall be, and the same hereby is altered
and changed as follows: that is to say, from the point at which the
said division line running easterly down Duck Creek touches or
strikes the outlet from said Duck Creek, commonly called the Tho-
roughfare, which runs to the northward of the island called Bom-
bay Hook, into the Delaware Bay, the said division line shall pro-
ceed and run easterly down and with the said outlet called the
Thoroughfare to and into the said Delaware Bay, instead of the
course or direction which the said division line now runs easterly
from the said point into the said Delaware Bay.

SECTION 2. *And be it further enacted*, That all that portion of
New Castle county which is cut off therefrom, by the said altera-
tion and change of said part of said division line made and esta-
blished by this act, and lying southerly from said part of said divi-
sion line as altered and changed as aforesaid, shall be and the same
hereby is detached and taken from said county of New Castle and
from Appoquinimink hundred in said county, and attached and ad-
ded to Kent county, and to Duck Creek hundred in Kent county,
and the same shall be and form a part of Kent county, and a part
of Duck Creek hundred in Kent county, to all intents and purposes
whatsoever; and that all the existing valuations of property or as-
sessment made of or in regard to the said portion so cut off from
New Castle county and added to Kent county as aforesaid, shall
be taken from the assessment lists in New Castle county, and trans-
ferred and added to the assessment lists of Kent county, and of
Duck Creek hundred in Kent county, and shall become a part of
the assessment and valuation of property of Duck Creek hundred
in Kent county, to all intents and purposes whatsoever, and shall
cease to be a part of the valuation of property, and assessments of
New Castle county and of Appoquinimink hundred in New Castle
county; and the Levy Court and Court of Appeals of Kent county
are hereby empowered and required to make, or cause to be made
and effected all necessary transfers of said assessments and valua-
tions from New Castle county and Appoquinimink hundred afore-
said, to Kent county and to Duck Creek hundred aforesaid, and to
alter or correct the same as to right and justice shall pertain.

Passed at Dover, February 18, 1841.



CHAPTER CCCXLVIII.

AN ACT to authorize the owners and possessors of the marsh and
low grounds commonly called and known by the name of Horsepen
Drain, in the forest of Murderkill Hundred, in Kent County, to cut
a ditch or drain through the same.

SECTION 1. *Be it enacted by the Senate and House of Represen-
tatives 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 Horsepen Drain, situate in the forest of Murderkill hundred in Kent county, shall compose a company to be called the "Horsepen Drain Company," and shall hold a meeting on the first Tuesday in April of the present year, and on the first Tuesday in April in every year hereafter, at the house now occupied by Benjamin L. Reed, in Murderkill hundred aforesaid, or such other place as the said owners and possessors of said marsh and low grounds shall have determined at any previous meeting by a resolution adopted at a previous meeting, at which said annual meeting, the said company shall choose by ballot, and by a plurality of votes, one treasurer and two managers, and may do and determine all such matters and things as the said company may deem requisite for effectually draining and reclaiming the marshes and low grounds situated upon and contiguous to Horsepen Drain aforesaid; and such annual meeting of the said company may be adjourned from time to time, and occasional or stated meetings may from time to time be called by the managers for the time being or the survivor of them, if either be dead, at such times and places as the said managers or surviving manager may appoint, by giving ten days' public notice by advertisement put up in at least five of the most public places in Murderkill hundred aforesaid. And if the managers and treasurer shall not all or any of them be chosen at the stated annual meeting in any year, or if any manager or treasurer shall die, resign, or refuse, or neglect to act, vacancies thus happening may be filled at an adjourned or occasional meeting by ballot and plurality of votes as aforesaid, and the managers and treasurer elected under this act shall continue in office until the annual meeting next succeeding the election of them, and until successors be duly chosen; except, that if any manager or treasurer shall, after this election, remove from the neighborhood of said marshes 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 said owners and possessors of the said marsh and low grounds, at an adjourned or an occasional meeting, may do all such acts or things as may or might be done at a stated meeting; and at all the meetings of the said "Horsepen Drain Company," every white owner of any marsh or low grounds within the company's boundaries, or which pays a tax to said company, and the guardian of every infant owner may vote, and every female owner, and every owner residing out of Kent county, may vote by proxy, constituted by a note in writing signed by such female, or non-resident owner.

Company.

Name.
Annual
meetings.
Place of hold-
ing.Election of
treasurer and
managers.Adjournment
of meetings.Occasional
meetings.

Notice.

Vacancies in
the office of
treasurer and
managers,
how filled.Their term of
office.Removal
from the
neighbor-
hood, a for-
feiture of of-
fice.Right to
vote.

Proxy.

SECTION 2. *And be it further enacted,* That Thomas Clements, John Gorden and John Gruwell, be and they are hereby appointed commissioners to make a valuation of the said marshes and low grounds, and they are hereby authorized and required to go upon and view all the marsh and low grounds upon or adjacent to Horsepen Drain aforesaid, and to ascertain all the owners, and determine who will be benefited by the ditch or ditches, which they or a majority of them shall direct to be cut or opened under this act, and

What they
shall do.

Division line, easterly end, or part of the division line between the said counties of New Castle and Kent shall be, and the same hereby is altered and changed as follows: that is to say, from the point at which the said division line running easterly down Duck Creek touches or strikes the outlet from said Duck Creek, commonly called the Thoroughfare, which runs to the northward of the island called Bombay Hook, into the Delaware Bay, the said division line shall proceed and run easterly down and with the said outlet called the Thoroughfare to and into the said Delaware Bay, instead of the course or direction which the said division line now runs easterly from the said point into the said Delaware Bay.

SECTION 2. *And be it further enacted*, That all that portion of New Castle county which is cut off therefrom, by the said alteration and change of said part of said division line made and established by this act, and lying southerly from said part of said division line as altered and changed as aforesaid, shall be and the same hereby is detached and taken from said county of New Castle and from Appoquinimink hundred in said county, and attached and added to Kent county, and to Duck Creek hundred in Kent county, and the same shall be and form a part of Kent county, and a part of Duck Creek hundred in Kent county, to all intents and purposes whatsoever; and that all the existing valuations of property or assessments made of or in regard to the said portion so cut off from New Castle county and added to Kent county as aforesaid, shall be taken from the assessment lists in New Castle county, and transferred and added to the assessment lists of Kent county, and of Duck Creek hundred in Kent county, and shall become a part of the assessment and valuation of property of Duck Creek hundred in Kent county, to all intents and purposes whatsoever, and shall cease to be a part of the valuation of property, and assessments of New Castle county and of Appoquinimink hundred in New Castle county; and the Levy Court and Court of Appeals of Kent county are hereby empowered and required to make, or cause to be made and effected all necessary transfers of said assessments and valuations from New Castle county and Appoquinimink hundred aforesaid, to Kent county and to Duck Creek hundred aforesaid, and to alter or correct the same as to right and justice shall pertain.

Passed at Dover, February 18, 1841.



CHAPTER CCCXLVIII.

AN ACT to authorize the owners and possessors of the marsh and low grounds commonly called and known by the name of Horsepen Drain, in the forest of Murderkill Hundred, in Kent County, to cut a ditch or drain through the same.

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

the owners and possessors of the marsh and low grounds commonly called and known by the name of Horsepen Drain, situate in the forest of Murderkill hundred in Kent county, shall compose a company to be called the "Horsepen Drain Company," and shall hold a meeting on the first Tuesday in April of the present year, and on the first Tuesday in April in every year hereafter, at the house now occupied by Benjamin L. Reed, in Murderkill hundred aforesaid, or such other place as the said owners and possessors of said marsh and low grounds shall have determined at any previous meeting by a resolution adopted at a previous meeting, at which said annual meeting, the said company shall choose by ballot, and by a plurality of votes, one treasurer and two managers, and may do and determine all such matters and things as the said company may deem requisite for effectually draining and reclaiming the marshes and low grounds situated upon and contiguous to Horsepen Drain aforesaid; and such annual meeting of the said company may be adjourned from time to time, and occasional or stated meetings may from time to time be called by the managers for the time being or the survivor of them, if either be dead, at such times and places as the said managers or surviving manager may appoint, by giving ten days' public notice by advertisement put up in at least five of the most public places in Murderkill hundred aforesaid. And if the managers and treasurer shall not all or any of them be chosen at the stated annual meeting in any year, or if any manager or treasurer shall die, resign, or refuse, or neglect to act, vacancies thus happening may be filled at an adjourned or occasional meeting by ballot and plurality of votes as aforesaid, and the managers and treasurer elected under this act shall continue in office until the annual meeting next succeeding the election of them, and until successors be duly chosen; except, that if any manager or treasurer shall, after this election, remove from the neighborhood of said marshes 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 said owners and possessors of the said marsh and low grounds, at an adjourned or an occasional meeting, may do all such acts or things as may or might be done at a stated meeting; and at all the meetings of the said "Horsepen Drain Company," every white owner of any marsh or low grounds within the company's boundaries, or which pays a tax to said company, and the guardian of every infant owner may vote, and every female owner, and every owner residing out of Kent county, may vote by proxy, constituted by a note in writing signed by such female, or non-resident owner.

Company.

Name.

Annual meetings.

Place of holding.

Election of treasurer and managers.

Adjournment of meetings.

Occasional meetings.

Notice.

Vacancies in the office of treasurer and managers, how filled.

Their term of office.

Removal from the neighborhood, a forfeiture of office.

Right to vote.

Proxy.

SECTION 2. *And be it further enacted,* That Thomas Clements, John Gorden and John Gruwell, be and they are hereby appointed commissioners to make a valuation of the said marshes and low grounds, and they are hereby authorized and required to go upon and view all the marsh and low grounds upon or adjacent to Horsepen Drain aforesaid, and to ascertain all the owners, and determine who will be benefited by the ditch or ditches, which they or a majority of them shall direct to be cut or opened under this act, and

Commissioners.

What they shall do.

Their appraisalment to be the valuation on which all taxes shall be levied.

Comm'rs. required to lay out a ditch, &c.

Certificate.

Return thereof.

Effect of certificate and appraisalment.

Copy of certificate when evidence. Comm'rs. required to estimate expense of ditches, &c. Estimate to be certified to the managers.

Vacancies, how filled.

the quantity of marsh or low grounds to be benefited, held by each owner or by joint owners (if any be held undivided) and shall appraise all the said marsh and low ground which in their opinion or the opinion of a majority of them, will be benefited by the said ditch or ditches, having regard to the original or unimproved value thereof, so that the said appraisalment may be made on such principles as will do equal justice to all the owners of the said marsh and low grounds; which said appraisalment shall be the valuation upon which all taxes assessed and levied by virtue of this act shall be assessed and levied; and the said commissioners or a majority of them, are hereby further authorized and required to go upon the said marshes and low grounds and to locate and lay out a ditch to commence at the mouth of the said Horsepen Drain where it empties into a certain branch called "Meredith's Branch," and to extend the same up the said Horsepen Drain as far as they or a majority of them may deem proper and necessary, and of such width and depth, as they may judge sufficient, for effectually draining the said marsh and low grounds. And the said commissioners or a majority of them shall make a certificate under their hands, 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 of the appraisalment of the said several quantity or parcels so by the said commissioners to be made as aforesaid, and containing also a description of the ditches which they shall direct to be cut or opened under this act, showing the length, width and depth, and shall return said certificate into the office for recording of deeds, in and for Kent county aforesaid, there to be recorded; which said certificate shall be final and conclusive, and the appraisalment and valuation therein contained, shall be the true valuation of said marshes and low grounds, according to which all the taxes necessary to carry into effect the purposes of this act shall be assessed and raised, and a copy of said certificate under the hand of the said recorder and seal of his office, shall be good and competent evidence to all intents and purposes; and the said commissioners or a majority of them are hereby authorized and required to estimate the probable expense of opening and cutting such ditch or drain as they or a majority of them shall direct to be cut and opened, and the said commissioners or a majority of them shall certify under their hands the said estimate of probable expense, and shall deliver the said certificate to the managers for the time being to be by the said managers kept among the papers of said company. If any of the said commissioners shall die, resign, remove from Kent county or refuse to act, before all the said duties of the said commissioners, shall have been completed, then and in that case the said "Horsepen Drain Company" may at any 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 completed.

SECTION 3. *And be it further enacted,* That for the purpose of raising the money necessary for the effectual draining and reclaim-

ing of the said marsh and low grounds, and the full accomplishment of the object of this act, it shall and may be lawful for the managers of the said "Horsepen Drain Company" for the time being, and they are hereby authorized and required (after the appraisalment and valuation aforesaid, shall be made and returned as aforesaid, and the estimate of probable cost shall have been certified to them as aforesaid,) to lay and assess upon the value of the said marsh and low grounds, mentioned in the said return of appraisalment and valuation so to be made and returned as aforesaid, such sums of money as the said commissioners or a majority of them shall have certified to the said managers, as their estimate of the expense or probable cost of cutting and opening the said ditch or drain, which said sum shall be apportioned among the said several owners of the said marsh and low grounds, mentioned in said return to the recorder's office, according to and upon the value of the respective quantities or parcels of 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 for raising any further or other sum or sums of money for the completion of said improvement, or for keeping the said ditch or drain open and in good repair after they shall have been completed, it shall and may be lawful for the managers for the time being, and it is hereby made their duty to lay and assess upon the value of the said marsh and low grounds (ascertained as aforesaid) every such sum or sums of money as the said company shall at any of its meetings, and by a plurality of the voters present, from time to time determine what ought to be levied and raised; and all such sums of money shall be apportioned as herein-before is directed for the apportionment of the first sum to be levied and raised under this act. And the said managers shall from time to time make out duplicate lists, under their hands, of all the assessments and taxes by them to be made and levied as aforesaid; which list shall also contain a minute of all changes of ownership (if any) by transfers or otherwise of the said marshes and low grounds, so far as the same is known to the said managers; one of which lists shall be delivered to the treasurer for the time being, and the other shall be retained by the managers, and shall be copied into the book where the records of the other proceedings of said company are kept. And the said list shall be final and conclusive upon all parties, and the lists from time to time delivered to the treasurer shall be a sufficient warrant to him or his successor in office, for levying and collecting the sums of money or taxes in said lists mentioned. *And further,* It shall be the duty of the managers, and they are hereby authorized and required to cut and open such ditches and drains as the said commissioners shall in their return as aforesaid, direct to be cut and opened, and shall cause the same to be kept open and in good repair; and generally the managers shall carry into full effect all the lawful directions of the company which shall from time to time be given to them in relation to their aforesaid trust; for which purpose the said managers shall have power to employ such workmen and laborers as may be necessary for completing the work assigned to them, at the common expense of the

When and how the managers shall levy and assess taxes.

Money to keep up repairs, how raised

Duplicate lists of assessment. What to contain.

How disposed of.

Effect of list. To be the warrant of the Treas'r. for collecting taxes, &c. Managers required to cut ditches, &c.

Their general duties and powers.

Orders
drawn on
Treasurer.

Accounts.

company. And all hire, wages and expenses, in and about said work shall be paid by orders drawn by the managers on the treasurer; every order shall specify the service, wages or expenses for which it is drawn, and an exact account shall be kept by the managers of all orders drawn by them, and such account shall be particular, specifying the service or expenses for which each order is drawn; and said accounts shall be laid before the annual or other meetings of said company, as said company may direct.

Time for the
payment of
taxes.

SECTION 4. *And be it further 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 list to be delivered to the 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.

Power of the
treasurer to
collect taxes.

SECTION 5. *And be it further 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 or 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 or assessed, or any part thereof shall remain unpaid for the space of ten days after the time appointed for the payment thereof as aforesaid, 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 in the same manner and by the same means as are provided by law for the recovery of county, road, and poor taxes, except that the said treasurer shall advertise at least thirty days before the day of sale.

Bond of the
treasurer.

Penalty and
condition.

Power of suc-
ceeding trea-
surer to col-
lect taxes on
a list deliver-
ed to former
treasurer.

Limitation of
the power.

SECTION 6. *And be it further 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 security to be approved by the managers to the said company by their name aforesaid, in the penalty of one thousand dollars, upon condition to be void, if the said treasurer shall pay all orders drawn on him by the managers for the time being, so far as he shall have funds of the company for that purpose; and shall well and truly account for all monies, which shall come to his hands, as such treasurer, at every annual meeting of the company, or otherwise as the company may direct; and shall pay any balance or sum that shall be due from him on such accounts to his successor in office or otherwise as the company may direct; and shall perform all the duties of his office as such treasurer 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, as the treasurer had to whom the list was originally delivered: *Provided,* That no tax shall be demanded after the expiration of three years from the time the same is made payable by the managers as aforesaid.

SECTION 7. *And be it further enacted,* That every person holding any grounds adjacent to said ditch or drain, and rateable and liable to be assessed under this act, shall have power and liberty without interruption or hindrance, to cut such other ditches or drains as may be necessary to drain such adjacent ground into the company's ditch, at such place or places as the owner or owners of such adjacent ground shall find most convenient and proper: *Provided nevertheless,* That if the said ditches or drains from such adjacent ground, shall run through the lands of any other person or persons, the place for cutting the same shall be fixed and determined by two disinterested freeholders, to be appointed by the managers for the time being, and the place or places so fixed and determined by the said freeholders, shall be certified by them under their hands to the managers for the time being, and the certificate entered upon the book of the company.

Right of owners to cut ditches, &c.

Proviso.

SECTION 8. *And be it further enacted,* That if any person shall wilfully fill up, or in any manner obstruct or injure the ditch or drain, cut or opened by authority of this act, or shall stop, obstruct or impede the course of the water running in said ditch or drain, every person so offending shall pay to the said "Horsepen Drain Company" the sum of twenty dollars; and also the damages sustained by said company, by reason of such filling up, obstructing, stopping or impeding; to be recovered before any justice of the peace, in and for Kent county aforesaid, in the same manner and by the same means or proceedings, as debts under fifty dollars are by law recoverable, and the jurisdiction necessary for such recovery is hereby expressly given to all and every the justices of the peace in said county.

Injuries to ditches.

Penalty.

Damages.

SECTION 9. *And be it further enacted,* That each of the aforesaid commissioners 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 discharge the said duties faithfully and impartially, according to the best of his skill and judgment; and every commissioner and manager shall for each and every day's service in and about the business of said company under this act, be entitled to receive of said company, the sum of one dollar; and every treasurer shall be allowed a commission of six per centum on all monies by him collected.

Oath of commissioners.

Compensation of commissioners, managers, & treasurer.

SECTION 10. *And be it further enacted,* That suits may be brought and prosecuted in the name of the said "Horsepen Drain Company," upon any bond given to said company, and for the recovery of the sum and damages mentioned in the eighth section of this act, and for all monies at any time due to said company.

Suits may be brought in the name of the company, &c.

Passed at Dover, February 18, 1841.

CHAPTER CCCXLIX.

AN ACT *allowing for a limited time an additional Justice of the Peace in the County of New Castle.*

Additional
J. P. to re-
side in R. L.
hundred.

Proviso.

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. *Provided however,* That this act, and the appointment of the justice of the peace, made under and in pursuance of the 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.

Passed at Dover, February 18, 1841.



CHAPTER CCCL.

AN ACT *to amend the act of the present session entitled "An act to amend the supplement passed January 25, 1830, to the act for the establishment of free schools," and also to amend the fifth section of the original act, and for other purposes.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act passed at the present session to amend the supplement passed January 25, 1830, to the act for the establishment of free schools, be and the same is hereby amended in the fifth section by striking out the words "the name of their school district," and inserting in lieu thereof the words "their names;" also, by striking out the words "and the corporate powers of school districts" and the words "school districts," and in lieu of said last mentioned words inserting the words "plaintiffs," and by substituting the word "is" for "are," in the third line from the bottom of said fifth section. And also, that the said "Act for the establishment of free schools" be amended in the fifth section thereof, by striking out the following words, viz: "commence on the first Monday of November next, and on the first Monday of November in each and every year thereafter, and shall" and that said last mentioned act shall be construed in the same manner as if said words had not been inserted therein, and both the said acts shall hereafter be read, published and have effect as hereby amended.

Willard Hall,
Esq., appointed to publish
an edition of
the school
law.

SECTION 2. *And be it further enacted,* That Willard Hall, Esq. be and he is hereby authorized to procure to be published for distribution, an edition of the said "Act for the establishment of free

schools," and all the supplements to the original act as amended; omitting the parts of the supplements directing amendments, and such parts as he may not deem material for public use, with marginal notes and an index, and such forms and remarks as he may deem useful. The edition to consist of fifteen hundred copies; four hundred for Kent county, and the residue to be equally divided between New Castle and Sussex counties; and the respective shares of each county to be sent to the clerks of the peace of said counties respectively, who are hereby required to deliver one to each member of a school committee when called for, and such member shall deliver the same to his successor in office.

Arrangement and contents.

Number of copies, and the distribution thereof.

And the said Willard Hall is hereby authorized to defray the actual expense herein arising, by an order drawn by him on the State treasurer, in favor of the persons to whom the money shall be due; and the State treasurer is hereby required to pay such order out of any money in the treasury, not otherwise appropriated.

The expense, how defrayed.

Passed at Dover, February 19, 1841.



CHAPTER CCCLI.

A FURTHER SUPPLEMENT to the act entitled "*An act to authorize the owners and possessors of the marsh or low grounds, commonly called and known by the name of the Culbreath Marsh, situate in the forest of Murderkill and Dover Hundreds in Kent County, to cut a ditch or drain through the same.*"

Private act.

Passed at Dover, February 19, 1841.



CHAPTER CCCLII.

AN ACT to place in good repair a bridge over ^{the} Lewes Creek, from the town of Lewes to the cape side of said creek, in the County of Sussex.

Whereas, the bridge over Lewes creek, at the town of Lewes, being in a ruinous and wretched state of repair, and of great public utility to the county, and particularly to the people residing in Lewes and Rehoboth hundreds respectively,

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That John M. West, Richard L. West and John Arnel, be and they are hereby appointed commissioners, in lieu of the commissioners ap-*

Comm'rs.

Dig. p. 569.

Authorized
to draw on
comm'rs. of
lottery.

pointed under the act to which this act is a supplement, passed November the sixth, in the year of our Lord one thousand seven hundred and seventy-three, for the purpose of erecting a bridge and causeway over Lewes Creek. *And further*, The aforesaid commissioners may draw upon the commissioners of the lottery, authorized by the act entitled "An act for the benefit of Sussex county," for the sum of five hundred dollars, to enable them to place and keep in good repair the aforesaid bridge.

Comm'rs of
lottery directed
to pay.

SECTION 2. *And be it further enacted*, That the commissioners of said lottery be, and they are hereby directed and required to pay to the above named commissioners the aforesaid sum of five hundred dollars, for the use and purpose above mentioned.

Passed at Dover, February 19, 1841.



CHAPTER CCCLIII.

AN ACT to enable John H. Burton to locate certain vacant land situated in Dagsborough Hundred in Sussex County, and complete his title to the same.

Private act.

Passed at Dover, February 19, 1841.



CHAPTER CCCLIV.

AN ACT to divide school district No. 65 and school district No. 73, in Sussex County.

Comm'rs. appointed to
divide districts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That Alexander Sorden, Samuel Laws and John Kinder, all of Sussex county be, and they are hereby appointed commissioners under this act, and they or a majority of them are hereby authorized, as soon as convenient after the passing of this act, to take with them, if by them or a majority of them it be deemed necessary, a skilful and impartial surveyor to go upon the lands embraced within the limits of school districts No. 65 and 73, in Sussex county aforesaid, and divide the said districts, No. 65 and 73 into two parts; each district in such manner as they, or a majority of them may think most conducive to the interest of the citizens of said district for the purpose of education; and it shall be the duty of the said commissioners, or a majority of them, after the said districts shall have

been by them laid off and divided, to make out a correct plot and return, if surveyed, and if not surveyed, to make a correct return of their proceedings under this act, and cause the same to be returned to the Levy Court and Court of Appeal of said county, at its next session after the said plot, or return, or other proceedings shall have been made as aforesaid, for confirmation by the said court. The said return shall be signed by a majority of the said commissioners, and the said or other return, shall designate the division lines of the said districts. And the said Levy Court are hereby authorized to make such reasonable allowance to the commissioners appointed by this act, and also the surveyor or other persons employed in the premises, as to them may seem right and proper; the said allowance to be deducted from the distributive share or proportion of said school districts No. 65, and No. 73.

Return of
comm'rs.

What it shall
designate.

Compensa-
tion of com-
missioners,
and surveyor.

SECTION 2. *And be it enacted*, That the trustee of the school fund in the case the return and proceedings of the said commissioners be confirmed by the Levy Court as aforesaid, shall in the distribution next after the confirmation aforesaid, annually thereafter at the annual distribution of the school fund, to and among the several districts of this State, divide the share of said district No. 65, and school district No. 73, each into two equal parts, so that the said districts may receive an equal share.

How shares
of the dis-
tricts shall
be divided.

Passed at Dover, February 19, 1841.



CHAPTER CCCLV.

AN ACT to improve the navigation of Lewes Creek, by cutting and making a canal near Green Bank.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That George Hickman, Lewis West, John Rodney, Robert Russel and John Arnel, be and they are hereby appointed commissioners with full power and authority to view and examine whether a canal, to avoid a shoal in Lewes Creek known by the name of Green Bank Shoal, be convenient and necessary, and upon viewing the grounds and marsh through which it is proposed to cut and make said canal, the aforesaid commissioners, or a majority of them, shall be of opinion that it is convenient and necessary, then they are hereby ordered to lay out the same, in such manner as they, or a majority of them shall judge most proper to avoid the shoal in said creek, called Green Bank Shoal.

Comm'rs. ap-
pointed to
lay out canal.

SECTION 2. *And be it enacted*, That the said commissioners are further directed and required to assess and allow to the person or persons through whose land or marsh, the said canal may pass, such damages as they shall think such person or persons may

And assess
damages, &c.

When damages shall be paid. be entitled to in consequence of the cutting and making of the said canal; which damages shall be paid or tendered before the said improvement is commenced and undertaken.

Managers appointed. **Their powers.** **Duty.** **SECTION 3.** *And be it enacted,* That Dr. William Harris, Richard L. West, and John D. Rodney, be and they are hereby appointed managers for cutting and making the said canal, with full power and authority to collect and receive all such sums of money, as any person or persons, of his, her, or their own free will and accord, may or shall subscribe thereto; and when the said managers shall have received or secured a sufficient sum to enable them to cut and make the said canal, it shall and may be lawful, for them, or a majority of them, and they are hereby required and enjoined to lay out and expend the same in making and completing the said improvement.

Vacancies, how filled. **SECTION 4.** *And be it enacted,* That if either of the said managers or commissioners shall die, resign, or refuse, or neglect to act, it shall and may be lawful for the Governor of this State for the time being, to appoint others in their place or stead.

Comm'r. or manager to take oath or affirmation. **SECTION 5.** *And be it enacted,* That every commissioner or manager, before acting under this act, shall take an oath or affirmation before a justice of the peace, in and for Sussex county, to perform all the duties required of him by this act, with impartiality and fidelity.

Injuries to creek. **Penalty.** **SECTION 6.** *And be it enacted,* That if any person or persons shall designedly fill up or obstruct the said canal, when cut and made, or shall injure or obstruct the navigation of said creek, he, she or they so offending, shall incur a penalty of any sum not exceeding one hundred dollars, with full costs of prosecution, to be recovered by indictment in any Court of General Quarter Sessions of the Peace for Sussex county.

Toll upon vessels. **How recovered.** **SECTION 7.** *And be it enacted,* That until the amount expended in cutting and making the said canal, with all costs attending the same, with legal interest, shall be fully satisfied and paid, it shall and may be lawful for the managers aforesaid, or any person authorized by them, to demand and receive from the master or commander of every vessel navigating said canal, ten dollars: *Provided,* The aforesaid sum of ten dollars, shall not be demanded of the same vessel more than once in five years; and in case the master or commander of any vessel as aforesaid, shall neglect or refuse to pay the said sum of ten dollars to the said managers, or any person authorized by them to demand and receive the same as aforesaid, then and in every such case it shall and may be lawful for the said managers, and they are hereby authorized and empowered to issue a warrant in the name of the State of Delaware, directed to any constable in and for Sussex county, commanding him to levy the said sum by distress and sale, of any part of the rigging, tackle, or furniture belonging to such vessel; and after retaining the sum which may be due, and the costs which have accrued on the sale

of said rigging, tackle or furniture, to return the balance of the proceeds of such sale to the said master or commander of such vessel, or to the owner or owners thereof: *Provided*, That no toll shall be demanded from any flat, lighter, or open boat, passing or repassing the same. Proviso.

SECTION 8. *And be it enacted*, That it shall be the duty of the managers aforesaid, and they are hereby authorized and empowered, as soon as the said canal shall be completed, so that a vessel drawing five feet water may pass through the same at a common tide, to stop or dam up said creek at each extremity of the said canal, so as to turn the waters of said creek through the same. Managers to dam up the creek, when.

SECTION 9. *And be it enacted*, That George Hickman, Lewis West, John Rodney, Robert Russel and John Arnel, the commissioners aforesaid, are herein and hereby appointed trustees in behalf of the State, of all the lands and marshes in Lewes and Rehoboth hundred, on the northeast side of Lewes Creek, belonging to this State, called Cape Henlopen, for the term of four years from the passing of this act, with full power and authority to sell or rent to the highest and best bidder, in lots, the lands and marsh aforesaid, for any time not exceeding four years from the passing of this act as aforesaid, and also to dispose of all the dead wood (or other timber for the use of stranded vessels,) for the best price that can be obtained for the same, for and during the said term of four years; to be by them, or a majority of them, paid over to the managers appointed under this act, and by them applied to cutting or making the canal aforesaid, unless the aforesaid trustees or a majority of them, believe that one-third of the nett proceeds arising from the sale or rent of said marsh and timber, can be more profitably applied to draining said marsh; then and in that case, they or a majority of them, are hereby authorized to apply one-third of the nett proceeds of said lands and timber to draining said marsh, and the remaining two-thirds to pay over to the managers under this act, to be by them applied to cutting or making the canal aforesaid. Comm'rs. appointed trustees, &c.
Their powers.
How money arising from the sale of timber, &c., shall be applied.

SECTION 10. *And be it enacted*, That it shall be the duty of the managers aforesaid to keep a book, and have entered therein all monies received by them, and from whom; and also, the monies expended by them in cutting and making the said canal, and to whom paid; which book shall be open to the inspection of all persons, who may have any interest in the navigation of said creek. Managers to keep books of account, &c.

SECTION 11. *And be it enacted*, That the managers aforesaid, before entering upon the duties required by this act shall give bond, jointly and severally, to the Governor of the State of Delaware, in the sum of three thousand dollars, conditioned for the faithful discharge of the trust reposed in them. Bond of managers.

SECTION 12. *And be it enacted*, That the aforesaid trustees shall make a report on oath, to the Levy Court of Sussex county, at the March term of said court, in the year of our Lord one thousand Trustees to report to L. Court.

eight hundred and forty-two, and every year thereafter during the continuance of their said trust, under the hands of them, or a majority of them, setting forth plainly and truly all the monies which shall come to their hands in virtue of their authority under this act, also all the monies expended, with proper vouchers therefor.

Bond of trustees. SECTION 13. *And be it enacted*, That the said trustees before entering upon the trust to them by this act given, shall give bond jointly and severally to the Governor of this State, in the sum of two thousand dollars, for the faithful performance of their duty as commissioners and trustees, under the provisions of this act.

Compensation. SECTION 14. *And be it enacted*, That every commissioner and manager shall, for every day's service under this act, receive one dollar.

Inconsistent acts repealed or suspended for ten years. SECTION 15. *And be it enacted*, That all acts and parts of acts conflicting with, or contravening the provisions of this act, be and the same are hereby repealed, or suspended for ten years.

Passed at Dover, February 19, 1841.



CHAPTER CCCLVI.

AN ACT to incorporate the Trustees of T. Town Meeting House, in Sussex County.

Trustees incorporated. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That Pemberton Clifton, James Stayton, William H. Stayton, and Burton Prettyman, Trustees of T. Town Meeting House in Sussex county, and their successors, be and forever hereafter shall be by virtue of this act, one body politic and corporate in fact and in law, and shall have continuance forever, by the name, style, and title of "The Trustees of T. Town Meeting House."

Name.

Powers. SECTION 2. *And be it further enacted*, That the said corporation and their successors, shall forever hereafter be able and capable in law to have, hold and enjoy lands and tenements, suitable and proper for the use of said meeting-house, not exceeding in value the sum of five thousand dollars; and also, that they and their successors by the said title, be and shall be forever hereafter, able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in either of the courts of law and equity within this State, and before any justice of the peace in and for Sussex county, in all manner of actions, suits, complaints, pleas, and all matters and causes whatsoever, and of what nature and kind soever.

SECTION 3. *And be it further enacted*, That it shall and may be

lawful to and for said trustees and their successors, by the title of "The Trustees of T. Town Meeting House" forever hereafter, to have and use a common seal, with such device or devices as they may deem proper. Seal.

SECTION 4. *And be it further enacted*, That the line of succession in regard to the said Trustees of T. Town Meeting House aforesaid, shall be perpetuated in the manner prescribed and provided for in the "Act to enable all the religious denominations in this State to appoint trustees, who shall be a body corporate, for the purpose of taking care of the temporalities of their respective congregations;" and all the provisions contained in said act, shall be extended and applied to the corporation by this act created. Succession of trustees.
Dig. p. 459.
Provisions of general act extended to this corporation.

Passed at Dover, February 19, 1841.



CHAPTER CCCLVII.

AN ACT to authorize the cutting a canal from Strunkill Gut into the Delaware Bay.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That John Thompson, William Thompson, William J. Masten, James Davis and William Virden, be and they are hereby appointed commissioners to go upon, and cut a canal from the Black Banks above the mouth of Job's Ditch to intersect Strunkill Gut, and to place at or near the beach in the mouth of said canal a breasting or some other suitable work, to prevent the tide-water from flowing up said canal, and make a dam across Strunkill Gut below where the said canal intersects the said gut, and to view the marshes and low grounds, about and contiguous to the gut called Strunkill Gut, and after viewing the same, they or a majority of them shall ascertain and determine what owners of said marshes and low grounds will be benefited, and shall appraise all said marshes and low grounds which in their opinion, or the opinion of a majority of them, will be benefited by said canal or drain, by fixing the value thereof per acre, according to situation, and upon such principles as will do equal justice to all parties; which said appraisement shall be the rate of assessment for all taxes to be laid under this act: and the said commissioners or a majority of them shall estimate the sum of money requisite to cut and make said canal, ditch or drain, and shall apportion, lay and assess the same upon the said value so fixed of said marshes and low grounds, according to a certain rate for every dollar of said value, and so *pro rata*, and shall apportion the same sum of money among the respective owners accordingly; and the said commissioners shall make two certificates to be signed by them or a majority of them, describing the canal, ditch or drain as laid out and containing the names of Comm'rs. to cut canal.
Appraise marshes, &c.
Appraisement to be the rate of all assessments.
To estimate the expense, &c.
Certificates.

the owners of said marshes and low grounds and quantities thereof held by them respectively, the appraisement or valuation and the taxes laid; one of the said certificates shall be deposited in the office for recording deeds in and for Kent county, and shall be there recorded, by the Recorder of Deeds for said county, and a copy of said record under the hand and seal of office of said recorder shall be competent evidence; and the other of the said certificates shall be delivered to the treasurer for the time being, and the said certificate shall be final and conclusive upon all parties.

SECTION 2. *And be it enacted,* That the owners of the aforesaid marshes and low grounds, which according to the determination of the aforesaid commissioners or a majority of them, will be benefited by the said canal, or drain, shall compose a company called the Strunkill Canal Company, and shall hold a meeting on the first Saturday in April next, and yearly thereafter, at such place as the managers for the time being, or the survivors of them, or if none, such as the treasurer for the time being shall appoint; whereof the commissioners shall give ten days' notice of the first meeting, by at least four advertisements posted in the most public places in Mispillion Neck; at which meeting the said owners of the said marshes and low grounds, shall choose, by ballot and majority of votes, two managers and one treasurer, and may do and determine upon all such matters and things as shall be deemed requisite for cutting said canal, ditch or ditches, and that occasional meetings of said owners may be called by the managers, and treasurer, for the time being or a majority of them, at such time as they or a majority of them may direct, giving ten days' notice as is hereinbefore mentioned; and at all meetings a guardian (of a minor child being the owners) shall have a right to vote for his ward, and every manager or treasurer to be chosen under this act shall continue in office for one year, or until their successors shall be duly elected and chosen.

SECTION 3. *And be it enacted,* That the managers aforesaid, and their successors, managers for the time being, shall have full power to enter upon the marshes and low grounds aforesaid, and at the common expense of the company, proceed to cut and make the canal, ditch or ditches aforesaid, and to cut and open such ditch or ditches as may be found necessary to drain the aforesaid marshes and low grounds as they may deem expedient. They shall keep an exact account of their receipts and expenditures, and shall lay the same before the company at the annual meeting; and if the money shall be expended and the work still incomplete, it shall be lawful for the managers aforesaid, or their successors, managers for the time being, to lay and assess, such sum and sums of money among the owners of the aforesaid marshes and low grounds as is herein provided; and the said managers shall make a list of all assessments and taxes by them from time to time laid, and shall deliver them to the treasurer for the time being, and the same shall be final and conclusive upon all parties.

SECTION 4. *And be it enacted,* That the treasurer aforesaid, and

every treasurer to be chosen as aforesaid for the time being, shall have power and authority to demand and receive, levy and make all, and every the taxes which shall be laid and assessed pursuant to this act in the same manner, and by the same means as are provided for raising county rates and levies. The treasurer or treasurers for the time being, before entering upon the duties enjoined by this act, shall give bond with surety, to be approved by the managers, to and in the name of the company aforesaid, in the penalty of one thousand dollars, upon condition to be void if he shall well and truly account for all monies that may come into his hands as treasurer at every annual meeting of the company, or otherwise, as the company may direct, and shall pay any balance or sum which shall be due from him on such account to his successors in office, and shall perform all the duties of his office with fidelity; and every treasurer for the time being, shall have the same power to collect and levy all taxes, upon a list delivered to a former treasurer, remaining unpaid, which the treasurer to whom the list was originally delivered had.

Power of the treasurer to collect taxes.

His bond.

Penalty and condition.

Power of a succeeding treasurer.

SECTION 5. *And be it enacted*, That the commissioners or managers laying the taxes shall appoint the time for the payment thereof; and that every commissioner or manager, before acting under this act, shall take an oath or affirmation, before some justice of the peace of Kent county, to perform all the duties required of him by this act, with impartiality and fidelity.

Payment of taxes.

Oath of commissioners & managers.

SECTION 6. *And be it enacted*, That if any person shall wilfully fill up or obstruct the aforesaid ditch or ditches, canal or drains when cut and made, every such person shall pay to the company treble damages; to be recovered before any justice of the peace of Kent county, as debts under fifty dollars are recoverable, and if above that sum, in the Superior Court of the State of Delaware; suits may be instituted and prosecuted in the name of the company aforesaid, upon any bond given as aforesaid, or for the recovery of damages as aforesaid.

Penalty for obstructing ditches.

Suits in the name of the company.

SECTION 7. *And be it enacted*, That the owners and possessors of the marshes and low grounds, shall respectively have right and privileges to discharge the waters from their respective grounds or marshes, through the grounds or marshes of other owners or possessors, in such places and directions, and of such width, depth and dimensions, as the managers for the time being shall prescribe; if the cutting of such drains will be advantageous to the marsh, or grounds of other owners, such owners shall contribute such proportion of the expense as the managers shall direct: if the cutting of such drains will injure the marsh or grounds of other owners, the managers shall assess the damages, and the cutting shall not be commenced until damages shall be paid, or tendered; any owner shall have privilege to cut any drain or drains through his own marsh or grounds emptying into the aforesaid ditch, canal or drain, or into the ditch or drain of the company, and keep up, and secure the same at their own expense.

Right of owners to cut ditches, &c.

Compensation of officers.

SECTION 8. *And be it enacted*, That every commissioner and manager shall, for each and every days' service under this act, receive 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, February 19, 1841.



CHAPTER CCCLVIII.

Dig. p. 330. AN ACT *to amend the twenty-first section of the act entitled "An act providing for the recovery of small debts."*

Act amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the twenty-first section of the act entitled "An act providing for the recovery of small debts" (*as the same is printed in the revised edition of the laws*) shall be, and the same is hereby amended, by striking out of the twenty-fourth line of said section, the words "fifteen dollars" and inserting in lieu thereof, the words "five dollars," and in every edition of the laws hereafter to be published, the said act shall be printed as herein amended.

Passed at Dover, February 20, 1841.



CHAPTER CCCLIX.

AN ACT *to provide for the instruction of the indigent Deaf and Dumb of this State.*

Governor authorized to draw on trustee of S. F. &c.

The sum.

When payable, and for what purpose.

SECTION 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 Deaf and Dumb, so far as it may concern the instruction of the indigent deaf and dumb of this State in said institution, the Governor of this State be, and he is hereby authorized 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 said date: to be applied by said institution to and for the maintenance

and instruction in said institution, of such indigent deaf and dumb 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 longer period than five years: *And provided also*, That the sum so drawn from said fund for establishing schools in this State, for such tuition, shall in no one year exceed the sum of one thousand dollars.

SECTION 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 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 deaf and dumb; 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 deaf and dumb, and apportion the balance among the several districts as by law is directed.

Warrant of the Governor
How sum drawn shall be distrib'd.
How charg'd.
When & how deducted from School Fund.

SECTION 3. *And be it 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 indigent deaf and dumb children of this State into the said institution; and they shall recommend such only of the applicants as they shall deem indigent and 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.

Trustees appointed to receive applications, &c.
Proviso.

SECTION 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 annually to the Trustees of this State.

Passed at Dover, February 20, 1841.

CHAPTER CCCLX.

AN ACT for fixing the term of office of the Recorder of Deeds, and for other purposes.

Made a term
office for four
years.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That upon the first day of May next, and every fourth year thereafter, the office of the Recorder of Deeds in each of the counties of this State, shall by virtue of this act expire and become vacant. And that on the first day of May aforesaid, and every fourth year thereafter, and whenever the said office shall become vacant by death, resignation, or otherwise, the Governor shall appoint a person to fill the said office of Recorder of Deeds in each of the counties of this State respectively; and the person so appointed shall hold his office for the term of four years and no longer, unless re-appointed by the Governor.

Rec. of Kent
co. autoriz'd
to procure a
press.

SECTION 2. *And be it enacted,* That the Recorder of Deeds in and for Kent county be, and he is hereby authorized and empowered to procure a screw or press, to be kept in his office; and that the Levy Court and Court of Appeal, in and for Kent county, are hereby directed to pay for the same when so procured.

Passed at Dover, February 20, 1841.



CHAPTER CCCLXI.

Del. Laws,
vol. 7, p. 131.

A SUPPLEMENT to the act entitled "*An act authorizing a lottery for building an Academy and Masonic Hall in Georgetown, Sussex county, and for finishing the Episcopal Church therein.*"

Additional
managers
appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Matthew Rench, Edward L. Wells, and Doctor George Maull, be and they are hereby appointed additional managers to carry into effect the provisions of this act, and the same power and authority to do and perform all and singular the acts and duties enjoined upon the managers in the act to which this is a supplement, and in this act, are hereby given to and vested in the said Thomas Robinson, sen'r., Philip Short, Matthew Rench, Edward L. Wells, and Doctor George Maull, or a majority of them. *Provided always nevertheless,* That each of the said managers shall give bond to the State of Delaware, with sufficient surety or sureties, to be approved by the associate judge of the State of Delaware, residing in the said county of Sussex, in the penal sum of two thousand dollars, conditioned for the true and faithful performance of all the duties

Bonds.

enjoined upon them by the act to which this is a supplement, and by this act; and which said bond so executed and approved as aforesaid, shall be transmitted to the Secretary of State, and be filed in his office, and be held upon trust for every person or persons concerned or aggrieved by the breach of any of the conditions thereof, and may be proceeded upon accordingly, for the use of such persons.

To be transmitted to the Secretary of State.

SECTION 2. *And be it further enacted,* That if any one or more of said managers shall die, resign, refuse to act, remove from Sussex county aforesaid, or become in any manner incapable of discharging his or their duties as managers as aforesaid, or shall within thirty days from the passing of this act, neglect or refuse to give bond as herein provided, then and in such case, it shall be the duty of the Governor of this State to appoint other manager or managers in the place of such manager or managers so dying, resigning, refusing to act, removing from Sussex county aforesaid, or becoming in any manner incapable of discharging his or their duties as manager or managers aforesaid, or so neglecting to find bond as aforesaid; which said manager or managers, so appointed as aforesaid, shall give bond in like manner, with sufficient surety or sureties in such penal sum as the said associate judge shall deem sufficient; to be approved, conditioned, transmitted and held as is heretofore provided in the first section hereof.

Vacancies to be filled by Governor.

SECTION 3. *And be it further enacted,* That after the said managers, or a majority of them, shall have built and completed, the academy and masonic hall provided for in the act to which this is a supplement, they shall have full power to expend out of the proceeds of the said lottery remaining in their hands, such sum as may be necessary to furnish the said academy, to arrange and ornament the grounds about it, and to procure a good and sufficient bell for the same, provided the amount so expended shall not exceed the sum of five hundred dollars; and when the said academy shall have been completed, furnished and ornamented as aforesaid, it shall be the duty of the said managers, and they are hereby required to convey the same, together with all the furniture and fixtures therein, to the trustees of the Georgetown academy, in Georgetown, Sussex county, to be held by them and their successors in office forever.

Managers authorized to furnish the academy, &c

When completed to be conveyed to the trustees of Georgetown Academy.

SECTION 4. *And be it further enacted,* That after the said managers shall have finished the said academy and masonic hall, and furnished the academy as aforesaid, it shall be lawful for the said managers or a majority of them, out of the proceeds of said lottery remaining in their hands, to finish and repair St. Paul's Episcopal Church, in Georgetown, or with the same to build and construct another church in said town, for the benefit of the congregation of the said St. Paul's Episcopal Church, as the said commissioners, or a majority of them, shall deem most expedient; and for that purpose the said commissioners, or a majority of them, shall have power and authority to do every act and thing necessary to establish, erect, and complete the same.

Balance of the money, how to be applied.

SECTION 5. *And be it further enacted,* That the said managers

CHAPTER CCCLX.

AN ACT for fixing the term of office of the Recorder of Deeds, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That upon the first day of May next, and every fourth year thereafter, the office of the Recorder of Deeds in each of the counties of this State, shall by virtue of this act expire and become vacant. And that on the first day of May aforesaid, and every fourth year thereafter, and whenever the said office shall become vacant by death, resignation, or otherwise, the Governor shall appoint a person to fill the said office of Recorder of Deeds in each of the counties of this State respectively; and the person so appointed shall hold his office for the term of four years and no longer, unless re-appointed by the Governor.

Made a term
office for four
years.

SECTION 2. *And be it enacted,* That the Recorder of Deeds in and for Kent county be, and he is hereby authorized and empowered to procure a screw or press, to be kept in his office; and that the Levy Court and Court of Appeal, in and for Kent county, are hereby directed to pay for the same when so procured.

Rec. of Kent
co. authoriz'd
to procure a
press.

Passed at Dover, February 20, 1841.



CHAPTER CCCLXI.

Del. Laws,
vol. 7, p. 131.

A SUPPLEMENT to the act entitled "*An act authorizing a lottery for building an Academy and Masonic Hall in Georgetown, Sussex county, and for finishing the Episcopal Church therein.*"

Additional
managers
appointed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Matthew Rench, Edward L. Wells, and Doctor George Maull, be and they are hereby appointed additional managers to carry into effect the provisions of this act, and the same power and authority to do and perform all and singular the acts and duties enjoined upon the managers in the act to which this is a supplement, and in this act, are hereby given to and vested in the said Thomas Robinson, sen'r., Philip Short, Matthew Rench, Edward L. Wells, and Doctor George Maull, or a majority of them. *Provided always nevertheless,* That each of the said managers shall give bond to the State of Delaware, with sufficient surety or sureties, to be approved by the associate judge of the State of Delaware, residing in the said county of Sussex, in the penal sum of two thousand dollars, conditioned for the true and faithful performance of all the duties

Bonds.

enjoined upon them by the act to which this is a supplement, and by this act; and which said bond so executed and approved as aforesaid, shall be transmitted to the Secretary of State, and be filed in his office, and be held upon trust for every person or persons concerned or aggrieved by the breach of any of the conditions thereof, and may be proceeded upon accordingly, for the use of such persons.

To be transmitted to the Secretary of State.

SECTION 2. *And be it further enacted*, That if any one or more of said managers shall die, resign, refuse to act, remove from Sussex county aforesaid, or become in any manner incapable of discharging his or their duties as managers as aforesaid, or shall within thirty days from the passing of this act, neglect or refuse to give bond as herein provided, then and in such case, it shall be the duty of the Governor of this State to appoint other manager or managers in the place of such manager or managers so dying, resigning, refusing to act, removing from Sussex county aforesaid, or becoming in any manner incapable of discharging his or their duties as manager or managers aforesaid, or so neglecting to find bond as aforesaid; which said manager or managers, so appointed as aforesaid, shall give bond in like manner, with sufficient surety or sureties in such penal sum as the said associate judge shall deem sufficient; to be approved, conditioned, transmitted and held as is heretofore provided in the first section hereof.

Vacancies to be filled by Governor.

SECTION 3. *And be it further enacted*, That after the said managers, or a majority of them, shall have built and completed, the academy and masonic hall provided for in the act to which this is a supplement, they shall have full power to expend out of the proceeds of the said lottery remaining in their hands, such sum as may be necessary to furnish the said academy, to arrange and ornament the grounds about it, and to procure a good and sufficient bell for the same, provided the amount so expended shall not exceed the sum of five hundred dollars; and when the said academy shall have been completed, furnished and ornamented as aforesaid, it shall be the duty of the said managers, and they are hereby required to convey the same, together with all the furniture and fixtures therein, to the trustees of the Georgetown academy, in Georgetown, Sussex county, to be held by them and their successors in office forever.

Managers authorized to furnish the academy, &c

When completed to be conveyed to the trustees of Georgetown Academy.

SECTION 4. *And be it further enacted*, That after the said managers shall have finished the said academy and masonic hall, and furnished the academy as aforesaid, it shall be lawful for the said managers or a majority of them, out of the proceeds of said lottery remaining in their hands, to finish and repair St. Paul's Episcopal Church, in Georgetown, or with the same to build and construct another church in said town, for the benefit of the congregation of the said St. Paul's Episcopal Church, as the said commissioners, or a majority of them, shall deem most expedient; and for that purpose the said commissioners, or a majority of them, shall have power and authority to do every act and thing necessary to establish, erect, and complete the same.

Balance of the money, how to be applied.

SECTION 5. *And be it further enacted*, That the said managers

Managers to account to the L. Court. shall each and every year, until they shall have fully performed all the duties required of them as managers aforesaid, exhibit to the Levy Court and Court of Appeal of Sussex county aforesaid, a full, entire and correct statement of all their receipts and expenditures, with the vouchers sustaining the latter; and the said Levy Court and Court of Appeal, shall audit and settle the same; allowing and passing such accounts as they shall deem right and proper, and rejecting and disallowing such as they shall not so deem and consider to be right and proper, according to the provision of this act, and the act to which this is a supplement.

Compensation of managers. **SECTION 6.** *And be it further enacted,* That the said commissioners for each and every day that they shall be engaged in the discharge of the duties enjoined upon them, shall each receive the sum of one dollar, to be paid out of the monies received from the lottery aforesaid, and to be considered as part of the contingent expenses.

Balance of money after payment of all expenses, how to be invested. **SECTION 7.** *And be it further enacted,* That if there should be any money remaining in the hands of the managers in this act mentioned, after the payment of all expenses in and about the buildings and improvements herein provided for, then and in that case, the said managers shall pay over said balance so remaining to the trustees of the Georgetown academy, to be by the said trustees invested in stock of the Farmers' Bank of the State of Delaware as a permanent fund, for the use and benefit of the said Georgetown academy; any thing in the said act to which this is a supplement to the contrary notwithstanding.

Appointment of Thos. Robinson, sen'r. confirmed. **SECTION 8.** *And be it further enacted,* That Thomas Robinson, sen'r., shall not be considered by any of the provisions of this act, to have lost his residence in Sussex county in this State as commissioner, so long as he continues to perform the duties enjoined on him as a manager, as provided for in the act to which this is a supplement.

Passed at Dover, February 20, 1841.



CHAPTER CCCLXII.

A FURTHER SUPPLEMENT to the act entitled "An act providing for the punishment of certain crimes and misdemeanors."

Dig. p. 127.

Form in which joint ownership of property may be alleged in an indictment, &c. **SECTION 2.** *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever it may be requisite in any indictment or information for any felony or misdemeanor, to state ownership of any property whatsoever, whether real or personal, belonging to or in the possession of more than one person, whether such person be partners

in trade, joint-tenants, parceners, or tenants in common, trustees, or members of a joint stock company, it shall be sufficient to name one person only, and the property may be described as belonging to the person so named; and another or others as the case may be; and such description shall be sufficient whenever it may be necessary to mention such person in any indictment or in information.

SECTION 2. *And be it further enacted, &c.* That in all prosecutions ^{Proof in proof} for rape, it shall not be necessary to prove the actual *emissio semi-* ^{secutions for} *nis*, in order to constitute a carnal knowledge, but the carnal know- ^{rape.} ledge shall be deemed complete upon proof of an actual *penetravit*.

Passed at Dover, February 20, 1841.



CHAPTER CCCLXIII.

AN ACT concerning imprisonment for debt.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the first day of May, one thousand eight hundred and forty-one, no writ of *capias ad satisfaciendum*, or process of execution for taking the body of a defendant, shall be issued out of either of the courts of this State, upon a judgment in a civil action, against any free white citizen of this State; nor shall any such person be imprisoned for the non-performance of a decree for the payment of money, until the plaintiff or plaintiffs obtaining such judgment, or the party in whose favor such decree shall be, or some credible person for him or them, shall swear or affirm before the Prothonotary of the county where such judgment is of record, or some Judge of the Superior Court within this State, or the Chancellor, ^{No execution to issue against the body of a free white citizen but upon oath &c.} That *the defendant or defendants in such judgment or decree, is, or are, justly indebted to said plaintiff or plaintiffs, in a sum exceeding fifty dollars, and that he or she verily believes, the said defendant or defendants has, or have, secreted, conveyed away, assigned, settled or disposed of, either money, goods, chattels, stocks, securities for money, or other real or personal estate, of the value of more than fifty dollars, with intent to defraud his or their creditors; and shall moreover, in such affidavit, specify and set forth the supposed fraudulent transactions.* ^{Form of oath.}

SECTION 2. *And be it further enacted,* That from and after the first day of May, one thousand eight hundred and forty-one, the clause for taking and imprisoning the body of a defendant or debtor, in the form prescribed for an execution, by the fourteenth section of the "Act providing for the recovery of small debts" said clause beginning with the words, "and that for want of such goods and chattels," and ending with the words "according to law," shall be expunged from said form, and no execution shall be issued with ^{Form of executions from Justices of the Peace amended. Dig. p. 339.}

said clause therein, after the said first day of May; and whenever thereafter it shall be proper and necessary, for a justice of the peace within this State, to issue process of execution for taking the body, the said execution may be according to the following form:

Form of execution from a J. P. against the body of a defendant.

County ss.

"The State of Delaware, to any constable of said county, greeting:

We command you, that you take of county aforesaid, if he may be found in your bailiwick, and convey him to the common jail of the county aforesaid, and commit him to the keeper of said jail, to be detained in safe custody until a judgment recovered by against the said before one of our justices of the peace for said county, on the day of 18 for the sum of on interest from and the sum of costs of suit, and the sum of fees on a former process shall be satisfied, or other discharge shall be directed according to law; and that you return this process, with your doings hereon plainly set forth to one of our justices of the peace for the county aforesaid, on the day of (next or instant.) Witness the hand and seal of the justice last named, the day of 18."

No execution from a J. P. against the body of a free white citizen but upon oath, &c.

SECTION 3. *And be it further enacted*, That from and after the first day of May, one thousand eight hundred and forty-one, no process of execution for taking the body of any free white citizen of this State, shall be issued by any justice of the peace of this State, upon a judgment in a civil suit, until the plaintiff or plaintiffs obtaining such judgment, or some credible person for him or them, shall swear or affirm before some justice of the peace of this State, That the defendant or defendants in such judgment, is, or are, justly indebted to said plaintiff or plaintiffs, in a sum exceeding five dollars; and that he or she verily believes, that the said defendant or defendants, has, or have, secreted, conveyed away, assigned, settled, or disposed of, either money, goods, chattels, stocks, securities for money, or other personal estate, of the value of more than twenty-five dollars, with intent to defraud his or their creditors; and shall moreover, in such affidavit, specify and set forth the supposed fraudulent transactions.

Form of oath.

SECTION 4. *And be it further enacted*, That the provisions of this act shall not extend or apply to any person imprisoned, or liable to be imprisoned by the authority of the United States; nor shall this act be construed to extend to any other than execution on final process, or commitment for debt or damages or costs of a civil suit, or non-performance of a decree for the payment of money.

Extent of this act.

Act of Feb. 10, 1832, repealed.

SECTION 5. *And be it further enacted*, That the act entitled "An act supplement to the act entitled 'An act concerning insolvent prisoners,'" passed at Dover, February 10, 1832, be and the same is hereby repealed, from and after the first day of May next.

Publication of this act.

SECTION 6. *And be it further enacted*, That the Secretary of State, shall cause this act to be published, for the space of three months

from and after the first day of March next, in two newspapers printed in the city of Wilmington, in this State.

Passed at Dover, February 20, 1841.



CHAPTER CCCLXIV.

AN ACT concerning Lotteries.

Whereas, the drawing of lotteries now under contract, and authorized by acts of the Legislature of this State, cannot at present be prohibited, but may be, and it is expedient should be regulated:

SECTION 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the fifteenth day of March next, the contractor or contractors for any lottery authorized by any law of this State, or drawn within this State, whether acting as manager or managers, or as agent or agents for any manager or managers, shall immediately upon the drawing of each and every scheme or class of such lottery, or within ten days thereafter, pay the sum of ten dollars, for each and every scheme or class so drawn, to the trustee of the school fund, to be applied to and for the benefit of "The fund for establishing schools in the State of Delaware." And such contractor or contractors shall immediately after such payment transmit a duplicate receipt thereof to the auditor of accounts. And the said trustee of the school fund shall in the settlement of his accounts before the auditor of accounts, faithfully account for the said payments. And the auditor in his annual report to the General Assembly or to a committee thereof, of the settlement of the accounts of the trustee of the school fund, shall specify the said several payments made to the said trustee as aforesaid. And in case of the neglect or refusal of such contractor or contractors, to make such payment or payments as aforesaid, it shall be the duty of the trustee of the school fund, and he is hereby authorized and required, to recover the same, by an action of debt to be instituted in the name of the State, either before some justice of the peace of the county where such drawing shall have been made, or before the Superior Court; and in such action, full costs of suit shall be recovered; any law to the contrary notwithstanding. And such contractor or contractors so neglecting or refusing, are hereby prohibited from setting up or drawing thereafter any further or other scheme or class of such lottery as aforesaid, under a fine of five hundred dollars, for each scheme or class drawn contrary to this prohibition; to be recovered by indictment in the Court of General Sessions of the Peace and Gaol Delivery, for the use of the State.

\$10 to be paid to trustee of S. F., when.

Trustee to account.
Auditor's duty.

Trustee to sue for payments in arrears.

Costs.

Contractor refusing to pay, penalty.

SECTION 2. *And be it further enacted,* That from and after the

Contractors shall pay \$50 when and to whom. fifteenth day of March next, the contractor or contractors for any lottery authorized by any law of this State, whether acting as manager or managers, or as agent or agents for any manager or managers, shall, immediately upon the drawing of each and every scheme or class of such lottery, or within ten days thereafter, pay, clear of all commissions, costs, charges and expenses whatsoever, the sum of fifty dollars, on each and every scheme or class so drawn, to the person or persons authorized to receive the fund to be raised by such lottery; and shall be applied by such person or persons towards payment of the sum to be raised by such lottery, and to the sum or sums stipulated to be paid by such contractor or contractors under his or their contract. And such contractor or contractors, shall, at the end of every three calendar months, or quarter of a year, transmit to the Secretary of this State, to be filed in his office, a list of the several schemes or classes drawn within that period, and also duplicate receipts for the several payments of each sum of fifty dollars on each scheme or class so drawn; and in default thereof, or of such payment as aforesaid, such contractor or contractors shall be restrained from setting up or drawing thereafter, any scheme or class of any lottery within this State, by a writ of injunction from the Court of Chancery, which the Chancellor is hereby authorized and required to grant in a summary way, upon the petition and affidavit of any person or persons interested or who will institute such proceedings.

How it shall be applied.

Lists of schemes to be transmitted to Secretary of State, &c.

Penalty.

Certain acts repealed.

SECTION 3. *And be it further enacted,* That all and every act and acts of the General Assembly granting or authorizing lotteries in this State, which have not been drawn, or are not now being drawn, and respecting which no contract has been made and executed for the drawing thereof, be and the same are hereby repealed, made null and void.

Passed at Dover, February 20, 1841.



CHAPTER CCCLXV.

AN ACT for the payment of Claims.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State treasurer be, and he is hereby authorized and directed to pay the following claims, viz: to David L. Moody, for arresting and commitment of Henry J. Clark, including expenses in taking said Clark to Dover from Wilmington, by order of Edward W. Gilpin, Attorney General, (July 22 and 23, 1840.) the sum of twenty dollars and seventy cents: to Joseph Buckmaster, crier of the Court of Errors and Appeals, for services as crier to said court, (from May 2, 1839, to December 8, 1840.) including ringing the bell for

D. L. Moody.

Jos. Buckmaster.

said court, the sum of forty-six dollars and fifty-five cents: to Joseph Buckmaster for services as door-keeper, at the time when the electors for the State of Delaware met at Dover, the sum of one dollar: to Sipple and Cannon for advertising proclamation of Governor Comegys for the election of Representatives to Congress, (September 5, 1840,) the sum of thirteen dollars: to Henry H. Cannon for advertising proclamation, declaring the election of the electors and for congressmen, and thanksgiving-day, the sum of eleven dollars: to Caleb B. Sipple for five days' services, including horse and gig hire, in taking to the sheriffs of New Castle and Kent counties, writs from C. S. Layton, then Secretary of State, requiring the said sheriffs to summon the members of the General Assembly, to convene at Dover, for an extra session of the Legislature, including all expenses, the sum of twenty-five dollars: to Peter Adams for expenses and services as agent for the State of Delaware in demanding from the Governor of Pennsylvania, J. M. Clayton, a fugitive from justice (June 12, 1840,) the sum of one hundred and seven dollars and twenty-five cents, fifty dollars out of the said one hundred and seven dollars and twenty-five cents, is to be paid to John M. Clayton, Esq., as per transfer by said Peter Adams for money advanced to said Adams by said Clayton: to John H. Eccleston, clerk of the Court of Errors and Appeals for thirty days' attendance on said court, and for stationery, up to December 1840, the sum of eighty dollars: to S. Kimmey for a balance due him on printing the Journal of the House of Representatives, for the session of 1839, with the auditor's report thereto attached, the sum of one hundred and fourteen dollars and eighty cents: to Nathan Pratt for ten cords hickory wood, the sum of forty dollars: to Caleb Wolcott, sheriff, for attendance on the Court of Errors and Appeals, December term, 1840, fourteen days, the sum of twenty-one dollars: to Porter and Naff for advertising the act of Assembly for the removal of the courts of New Castle county, and for advertising the acts for the preservation of game and for recording deeds and proclamations, &c., up to December 18, 1840, the sum of one hundred and twenty-nine dollars and twenty cents: to Isaac Kello for painting Representative chamber, &c., the sum of twenty-three dollars and twenty-one cents: to J. A. Dunning for chairs, &c., for committee-room, the sum of thirteen dollars and twenty-five cents: to Coard Warrington for expenses and services as agent for the State of Delaware, in demanding from the Executive of Pennsylvania, a certain fugitive from justice, the sum of one hundred and fifty dollars: to William Scotten for an appropriation with which to pay the prison charges of John Lamb, a non-resident insolvent, imprisoned at his suit, who was discharged by the Legislature (in 1836) the sum of forty-nine dollars and fifty cents: to Charles G. Ridgely for a balance due by him to Gales and Seaton, for papers for the Legislature at its session in 1837, the sum of thirteen dollars and fifty cents: to Elijah Cannon, late State treasurer, for postage, the sum of three dollars and fifty cents: to David H. Stayton for services and expenses as agent for the State of Delaware, in demanding from the Governor of Pennsylvania, a certain fugitive from justice, and for his at-

Jos. Buckmaster.

Sipple & Cannon.

H. H. Cannon.

C B. Sipple.

P. Adams & J. M. Clayton.

J. H. Eccleston.

S. Kimmey.

N. Pratt.

C. Wolcott.

Porter & Naff.

Isaac Kello. J. A. Dunning.

C. Warrington.

W. Scotten.

C. G. Ridgely

E. Cannon.

D. H. Stayton.

tendance on the High Court of Error and Appeal, the sum of one hundred and ninety-four dollars and twenty-two cents: to David M. Smith. M. Smith for services and expenses as agent for the State of Delaware, in demanding from the Governor of Virginia and bringing to this State, Jacob R. Griffin, a fugitive from justice, the sum of one hundred and eighty dollars and twenty-five cents: to Joseph Buckmaster for taking care of the State library and the room of the House of Representatives two years, and preparing said room for the reception of the members, &c., the sum of eighty-five dollars: to Charles Marim, late Secretary of State, for amount paid for arranging papers in the office, re-labelling and placing them in order, and for a balance due for making an index to the 8th volume of Delaware Laws, superintending the printing of the amended constitution, binding up the 8th volume, and making a table of private acts to it; also, for publishing the session acts of 1837, making an index and marginal notes thereto, and making an index and notes to the acts of 1839, and superintending the printing and distributing pamphlets, &c. &c., the sum of two hundred and twenty-five dollars: to William H. Cooper for recording returns of the Governor's election, the sum of one dollar and fifty cents: to John H. Ellegood, agent for the Reformer, for advertising treasurer's notice, Governor's proclamation for election, &c. and for advertising school fund, notices, &c., the sum of twelve dollars: to Theodore B. Hearn, the sum of thirty-four dollars and fifty cents, for caution money paid twice to State treasurer: to Joseph P. Comegys for amount due him for superintending the printing of the Journal of the Committee of the Legislature for 1840, with the auditor's report attached, for taking care of the books and papers of the House of Representatives since the session of 1839, and for amount expended by him over and above the appropriation at said session for chandeliers and purchasing stationery, &c. &c., the sum of one hundred and two dollars and sixty-four cents: to Thomas Harris for work done and for fitting up chandeliers, &c., the sum of five dollars and fifty cents: to Jeremiah Hughes for three years' subscription to Niles' National Register to March, 1840, and for binding, the sum of nineteen dollars and fifty cents: to Elijah Cannon, late State treasurer, for extra traveling to New Castle on collections from late clerks of the peace on secretary's old book, &c., twenty dollars and five cents: to Joseph Buckmaster for hanging chandeliers and work done, the sum of twenty-four dollars: to James Cowgill for paints, oil, &c., the sum of twenty-three dollars and twenty-one cents: to Henry Todd for advertising in Delaware Gazette and Journal, two dollars and eighty cents: to C. P. Comegys, late Governor, for postage on account of the State, the sum of fifty-eight dollars and seventy-six cents: to Simon Spearman, auditor of accounts for auditing and settling the accounts of Elijah Cannon for the years 1839 and 1840, agreeable to the requirements of a resolution of the Legislature, 2d February, 1841, the sum of one hundred and twenty-five dollars: to Samuel Kimmey for printing 150 copies proclamation for thanksgiving, December 5, 1840, the sum of six dollars: to Joseph L. Harper, a balance due him for repairs, &c. on the auditor's office, thirteen

dollars and eighty-seven and a half cents: and that the State treasurer be, and he is hereby authorized to pay to Samuel Brown the sum of thirty-five dollars, as a compensation for taking care of the Senate chamber and furniture, &c., since the session of 1889, and for fitting up, cleaning and putting the same in order, and for other services.

SECTION 2. *And be it further enacted*, That the State treasurer be, and he is hereby authorized to pay to the Secretary of State, the sum of three 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 Assembly, at the next biennial session.

Passed at Dover, February 22, 1841.



CHAPTER CCCLXVI.

AN ACT to amend the act entitled "*An act for regulating Fees.*" Dig. p. 238.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That hereafter, it shall be the duty of the county treasurer in each of the counties of this State, and he is hereby directed to pay on demand, to witnesses, their fees for attendance on behalf of the State; and also to witnesses, on behalf of the party accused of crime or misdemeanor where such party is found not guilty, in the Court of General Sessions of the Peace and Gaol Delivery, and in the Court of Oyer and Terminer and General Gaol Delivery, upon the production of a certificate for the same, from the clerk of the peace or the clerk of the Court of Oyer and Terminer and General Gaol Delivery, for the county where such witnesses shall give their attendance as aforesaid; any law, usage or custom to the contrary notwithstanding.

Passed at Dover, February 22, 1841.



CHAPTER CCCLXVII.

AN ACT for the preservation of the Presbyterian Meeting-house and Grave-yard in the town of Dover.

SECTION 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,)

Trustees appointed to take charge of the church	That John M. Clayton, William W. Morris and Elias Naudain be, and they are hereby appointed trustees to preserve, repair and keep up the said meeting-house and grave-yard in the town of Dover; and that the entire custody of said meeting-house and grave-yard, shall be for this purpose vested in them and their successors, to be appointed as hereinafter mentioned. The said trustees shall be a corporation, in-law and in fact, with full power to sue and be sued, plead and be impleaded in any court of law or equity, under the name of "The Trustees of the Presbyterian Meeting-house and Grave-yard in the town of Dover." It shall be the duty of the said trustees, to apply all such funds as shall come to their hands, for the use of the said house and grave-yard, towards the repairing of the said house and keeping up the fences and gates around said yard, and to the building of a sexton's house on the said property. They shall have power to make all contracts which to them shall seem proper, for the protection, preservation and repairing of the said house and yard with the appurtenances; to bring actions of trespass in the name of the said corporation, and all other actions or suits for injuries done to the said property or any part thereof; and in every case when any person shall wilfully trespass upon the said property, or the graves of the dead in said yard, they shall recover double damages for such trespass. The vote or act of a majority of the trustees shall govern; and in case of the death or resignation or refusal to serve of any of the said trustees, the remaining trustee or trustees may appoint successors to supply their places. The power to revoke or alter this act at pleasure, is hereby reserved to the Legislature.
Trustees incorporated, &c.	
Name.	
Duties.	
Powers.	
Wilful trespass, penalty.	
Voting.	
Vacancies. Power of revocation reserved.	

Passed at Dover, February 22, 1841.



CHAPTER CCCLXVIII.

AN ACT concerning Fees.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the following shall hereafter be the rate of fees, for the services hereinafter prescribed, that is to say:*

Fees to Justices of the Peace.	<i>Justices of the Peace shall receive</i>
	For opening judgment for new trial, ten cents:
	For issuing notice for new trial, thirteen cents:
	For entry of stay on account of freehold, ten cents:
	For postponement of a case, on the application of either party, to be paid by the party so applying, ten cents:
	For transferring indentures, thirty cents:
	For licenses to negroes to keep a gun, twenty-five cents.

Fees to Constables.	<i>Constables shall receive</i>
	For serving and making due return of a capias, fifty cents:

For serving and making due return of a summons, or scire facias, thirty-three cents; and two cents a mile, where the defendant lives more than two miles from the place where said summons or scire facias is returnable:

For summoning referees, thirty cents:

For serving an attachment for bringing the body, one dollar:

For conveying a person to gaol under execution, or other commitment, one dollar:

For giving notice of new trial, twenty cents:

For posting up advertisements of attachment, twenty-five cents:

For serving warrant in a case of a criminal nature, sixty cents, and mileage at the rate of two cents a mile.

SECTION 2. *And be it further enacted*, That each constable attending the Superior Court, Court of Oyer and Terminer and General Gaol Delivery, and Court of General Sessions of the Peace and Gaol Delivery, shall be paid by the county, for one day's attendance on either of said courts, at the rate of one dollar, and six cents per mile: *Provided*, Such constables shall be in attendance on the said courts the first day of the session thereof.

Fees to Constables attending court.

Passed at Dover, February 22, 1841.



CHAPTER CCCLXIX.

AN ACT for the preservation of Oysters that may hereafter be planted in the waters of Indian River and Rehoboth Bay.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the first day of May next, in the year of our Lord one thousand eight hundred and forty-one, it shall and may be lawful for any person or persons along the shores of Indian River and Rehoboth Bay to mark out, by placing stakes across or around the same, at the distance of two rods from each other, and of such length as to be at least two feet above the top of the tide at ordinary high-water, and plant oysters within the same: *Provided always*, That the said stakes shall not injure any navigation publicly used.

Persons authorized to plant oysters.

SECTION 2. *And be it further enacted*, That if any person or persons shall gather or take away any oysters within the line of stakes aforesaid, without permission first had and obtained from the owner or owners, occupant or occupants of the flats, coves, creeks, or ditches so staked in, he, she, or they so offending, shall forfeit and pay for each offence, the sum of twenty dollars; to be recovered by action of debt with cost, in any court having cognizance thereof, by any person who shall prosecute for the same; one-half to the

Taking oysters without permission.

Penalty.

LAWS OF THE STATE

use of the owner or occupant of said creek, ditch and pond so staked, and the other half to the person who shall sue for the same.

Passed at Dover, February 22, 1841.



CHAPTER CCCLXX.

AN ACT for the protection of Deer in the State of Delaware.

Destruction
of deer pro-
hibited in
this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That hereafter it shall not be lawful for any person or persons to shoot, kill, or chase any wild deer, or take or carry away any wild deer from this State into any other State.

Penalty.

SECTION 2. *And be it further enacted,* That any person or persons offending against the provisions of this act, for each and every such offence, shall forfeit and pay a fine not less than five dollars, nor more than ten dollars, to be recovered before any justice of the peace as sums of a like amount are recoverable; one moiety thereof to the person who will sue for the same, and the other moiety thereof to the trustee of the school fund, for the use of free schools in Sussex county. This act shall be and remain in full force and virtue for the term of ten years, and no longer.

Limitation of
act.

Passed at Dover, February 22, 1841.

RESOLUTIONS.

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CHAPTER CCCLXXI.

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

For the principal bank at Dover, Hunn Jenkins, James S. Buck-Dover.
master and George M. Manlove.

For the branch at Wilmington, John Evans Young, Elisha Hux-Wilmington.
ley and George Craig.

For the branch at New Castle, Thomas Stockton, George Platt New Castle.
and George B. Rodney.

For the branch at Georgetown, William D. Waples, Lewis Georgetown.
West and Henry Little.

Adopted at Dover, January 11, 1841.



CHAPTER CCCLXXII.

Report and Resolutions on the subject of the Public Lands.

The committee to whom was referred so much of the Governor's Message, as relates to the distribution of the proceeds of the sales of the public lands among the several States, &c., Report:

That the citizens of this State consider the public lands as an inheritance purchased by the toil, sufferings, blood and treasure of our revolutionary fathers, and bequeathed to their successors, in which the people of all the States have an equal right; and that their interest therein is of too much value, and too highly appreciated by them, to be relinquished without an adequate equivalent: that they view with deep solicitude the continual efforts in the National Legislature, to deprive the original States of their just and equitable rights in the public lands, by their ceding them to the new States, or disposing of them at prices merely nominal. That the people of Delaware look forward with anxiety, but not without hope, to the time when the revenue arising from the sales of the Report.

public lands shall be distributed among the States generally, according to their population, and applied to the purposes of education; thereby promoting the general welfare, by giving safety and permanence to our free institutions; the best security of which will always be found in the knowledge and intelligence of the people. Your committee therefore recommend the adoption of the following resolutions:

Resolutions.

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 proceeds of the public lands of the Union among the States, whether by a direct grant to a State, or by sales at prices far below their value to the citizens thereof.

Resolved, That the proceeds of the sales of the public domain, should be entirely separated from the general revenue, and distributed among the several States, according to their population, to be by them applied to the purposes of education.

Resolved, That we consider the public lands as the common property of all the States, and therefore solemnly protest against any partial distribution of the proceeds thereof.

Resolved, That our Senators in Congress be instructed, and our Representative in Congress be requested, to make use of their best efforts to procure the passage of a law for the distribution of the proceeds of the public lands among the several States, to be appropriated by them so as to promote the cause of general education.

Resolved, That the foregoing report and resolutions be signed by the Speaker of the Senate, and by the Speaker of the House of Representatives, and that a copy be transmitted to each of our Senators and our Representative in Congress, to be laid before their respective Houses, and that the Executive of each State be furnished with a copy by the Governor of this State, and requested to lay the same before their respective Legislatures.

Adopted at Dover, January 16, 1841.



CHAPTER CCCLXXIII.

W. D. Wa-
ples, State
Treasurer.

Resolved by the House of Representatives of the State of Delaware, by and with the concurrence of the Senate, That William D. Waples be, and he is hereby appointed State Treasurer.

Adopted at Dover, January 21, 1841.

CHAPTER CCCLXXIV.

Resolved by the House of Representatives, by and with the concurrence of the Senate, That Simon Spearman be, and hereby is appointed Auditor of Accounts.

S. Spearman
Auditor of
Accounts.

Adopted at Dover, January 21, 1841.



CHAPTER CCCLXXV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it is the constitutional duty of Congress to regulate the currency of the nation; and that experience has fully shown, that without the aid of a National Bank that duty cannot be discharged.

Resolutions
concerning
the currency.

Resolved, That a National Bank is indispensably necessary to the proper management of the fiscal concerns of the nation; that the Act of Congress, commonly called the Sub-Treasury, or Independent Treasury Act, is a departure from the line of policy adopted by Washington and Madison, and the other founders of the government; is at war with the whole spirit of our republican institutions; is odious, as establishing an unjust discrimination between the officers of the government and the people, and until repealed, must continue to distract the exchanges, disorder the currency, and prostrate the industry of the country.

Resolved, That our Senators in Congress be instructed, and our Representative requested, to use their best efforts to procure a repeal of the Sub-Treasury Act; to establish a National Bank on the basis approved by Washington and Madison, and to bring back the government of the nation from the path of experiment, to the principles of the fathers of the republic.

Adopted at Dover, January 28, 1841.



CHAPTER CCCLXXVI.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Clerk of the Senate be, and he is hereby authorized, to cause to be printed and distributed, one thousand copies of the Report transmitted by the State Geologist, and all maps which he may deem expedient to have ap-

Resolution to
print and dis-
tribute the
report of the
State Geolo-
gist.

pended to said Report, and that the expenses of said printing shall be defrayed out of the balance remaining in the hands of the commissioners appointed under an act entitled "An act to provide for a Geological and Mineralogical Survey of this State," and from such other funds as are not otherwise appropriated.

Adopted at Dover, January 28, 1841.



CHAPTER CCCLXXVII.

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, two hundred copies of the eighth volume of the laws of this State, and for that purpose he shall procure from the offices of the different prothonotaries of this State, all the copies of the pamphlet laws, with those that may be found in his office; and if a sufficient number of pamphlets cannot be found to complete the aforesaid number of volumes, that he cause a sufficient number to be printed.

Distribution
and sale
thereof.

Resolved by the authority aforesaid, That when the aforesaid volume shall have been bound, the Secretary of State shall equally divide them between the respective counties, placing them in the hands of the different prothonotaries, who are hereby authorized to sell the same at one dollar per copy, and make return of them as the law directs.

Adopted at Dover, January 30, 1841.



CHAPTER CCCLXXVIII.

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 authorized and requested, to transmit to the Librarian of Congress, to be placed in the Congressional Library, the sixth, seventh and eighth volumes of the Delaware Laws.

Library of
Congress fur-
nished with
6th 7th and
8th vols. of
the Laws.

Adopted at Dover, January 30, 1841.

CHAPTER CCCLXXIX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the clerk of the Senate cause to be printed for the use of the Legislature, three hundred copies of the act entitled "An act to amend the supplement passed January 25, 1830, to the 'Act for the establishment of free schools,'" passed at Dover, January 29, 1841; one hundred copies thereof to be at the disposal of the members of the Senate, and two hundred copies thereof, to be at the disposal of the members of the House of Representatives.

300 copies of
the act of
Jan. 29, 1841
to be printed.

Adopted at Dover, February 3, 1841.



CHAPTER CCCLXXX.

The committee to whom was referred so much of the Governor's Message as relates to the amendments to the constitution, so as to restrict the eligibility of the President of the United States to a single term, 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 Senators in Congress from this State be instructed, and our Representative in Congress requested, to use their best efforts to procure such amendments to the constitution of the United States as will restrict the eligibility of the President of the United States to a single term.

Eligibility of
the President
to a second
term.

Resolved, That the Governor be requested to forward a copy of the foregoing resolution to each of our Senators, and to our Representative in Congress; also to the Executive of each State of the Union, that the same may be laid before their respective Legislatures for their co-operation in procuring said amendment.

Adopted at Dover, February 4, 1841.



CHAPTER CCCLXXXI.

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 instructed to collect carefully, all the old revolutionary rolls and papers, label them and box them up, and preserve them in the best possible manner for future reference.

Adopted at Dover, February 4, 1841.

CHAPTER CCCLXXXII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Henry Eubanks be, and he is hereby appointed Librarian, whose duty it shall be to take charge of the Library of this State; to arrange and put in proper order all the books and papers deposited therein; shall stamp all the books, that in the opinion of Judge Harrington ought to be stamped, and he shall hold himself in readiness to accompany any person at convenient times to the said Library for the purposes of examining books and papers.

Resolved further, That the State Treasurer be, and he is hereby directed to pay on or before the first day of January of each year, to the said Librarian, the sum of fifty dollars.

And be it further resolved by the authority aforesaid, That the said Henry Eubanks be, and he is hereby appointed to take charge of the Representative chamber, to take care of the furniture and books, and pay all necessary attention, at all times, to airing and keeping the chamber in a proper condition. And the State Treasurer is hereby authorized to pay to the said Henry Eubanks the sum of thirty dollars, at the time aforesaid.

And be it further resolved by the authority aforesaid, That Henry Eubanks be, and he is hereby appointed to take charge of the Senate chamber, and pay all necessary attention to the furniture and books therein deposited; and the State Treasurer be, and he is hereby authorized and required to pay to the said Henry Eubanks the sum of twenty dollars, at the time aforesaid.

Adopted at Dover, February 5, 1841.



CHAPTER CCCLXXXIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Samuel Barr, Alexander Johnson and William Hill, of the House of Representatives, and Presley Spruance and Abraham Boys, of the Senate, 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 forty-two, (1842) 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 the 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 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 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 indexes thereto; and to make such allowances 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. ^{Powers.}

Resolved, That said committee shall receive the same compensation as is by law allowed to the 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 State Treasury not otherwise appropriated. And the chairman of said committee shall have power and authority to draw orders for the incidental expenses arising out of the session of said committee, to be paid in like manner. ^{Compensation.} ^{Chairman, his powers.}

Adopted at Dover, February 6, 1841.



CHAPTER CCCLXXXIV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be, and he is hereby authorized and directed, to pay to Martin W. Bates, Esq., the sum of one hundred and fifty dollars for his services as Judge ad litem, under the appointment of the Governor of this State. ^{Payment to M. W. Bates, Judge ad litem.}

To Robert Frame, Esq., the sum of one hundred and fifty dollars for like services rendered, and ^{To R. Frame.}

To George B. Rodney, the sum of two hundred dollars for like services rendered. ^{To G. B. Rodney.}

Adopted at Dover, February 9, 1841.



CHAPTER CCCLXXXV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Bayard Dawson, one of the constables in and for the county of Sussex, be and he is hereby released and discharged from the payment of the sum of five ^{B. Dawson released from a certain fine.}

sixty dollars and sixty cents improperly charged against him, it being the amount of a fine imposed upon a certain Captain Jeremiah Eskridge by Zachariah Pitts one of the justices of the peace in and for the county aforesaid, for intoxication and profane swearing, the same having been remitted by His Excellency the Governor, and consequently not collected by the said Bayard Dawson, but erroneously and improperly charged against him in favor of the said State of Delaware.

Adopted at Dover, February 12, 1841.



CHAPTER CCCLXXXVI.

The Committee to whom was referred so much of the Governor's Message as relates to a communication from the Governor of the State of New Jersey, transmitting resolutions of the said State, protesting against the exclusion by the House of Representatives of the United States, of five persons duly commissioned and returned as Representatives of that State in the twenty-second Congress of the United States; report for adoption the following Resolutions:

Resolutions
concerning
the members
of Congress
from N. Jersey.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That by the Constitution of the United States, each State is entitled to a certain number of Senators and Representatives in the Congress of the United States, to be appointed and elected by the several States, according to the constitution and laws thereof, and that the only evidence which can properly be received by Congress, of the right of Senators or Representatives, in the first instance, is their certificates or commissions duly authenticated according to the constitution and laws of the respective States.

Resolved, That it appears manifest to this Legislature, that John B. Ayerig, John P. B. Maxwell, William Halsted, Charles C. Stratton and Thomas Jones Yorke, were duly commissioned to represent the people of the State of New Jersey in the twenty-sixth Congress of the United States; that they appeared, produced their commissions and claimed their seats in the House of Representatives of the United States, and were prevented from exercising the right of forming and organizing a House of Representatives, by a majority of members elect from other States, who appeared, claimed and obtained their seats, in virtue of exactly the same kind of evidence and authority produced and insisted upon by the excluded members from the State of New Jersey; that said acts and doings of the majority of the members elect of the House of Representatives of the twenty-sixth Congress, were unwarranted, unjust, and unconstitutional, and ought to be protested against

by the Legislatures of every State, lest the said acts and doings should hereafter be claimed as a precedent, and made the excuse for disfranchising a sovereign State, whenever a majority of either House of Congress from caprice, or strong party feeling may choose so to do, regardless of right, and in contempt of consequences, which might produce open rebellion, and perhaps a dissolution of the Union.

Resolved, That a copy of these resolutions be transmitted to each of our Senators and Representative in Congress, with a request that they lay the same before their respective Houses; also to the Governor of the State of New Jersey to be laid before the Legislature of said State.

Adopted at Dover, February 12, 1841.



CHAPTER CCCLXXXVII.

The Committee to whom was referred so much of the Governor's Message as relates to the controversy between the States of Virginia and New York, in relation to the refusal of the Governor of New York to deliver certain fugitives from justice upon the demand of the State of Virginia:

Report: That they view with deep and anxious interest every difficulty between sister States, calculated to disturb the harmony and good feeling which should ever exist between the members of the great national family of the Union. That whatever may be our individual opinions as to the abstract right to hold slaves, we cannot lose sight of the fact that this right is guaranteed to the slave-holder by express provision in the Constitution of the United States in the following words: "No person held to service or labor in one State under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."—Con. U. S., Art. 4. Sec. 2. That in the language of the Constitution of the United States, that instrument was formed and adopted for the purpose of forming a more perfect union, establishing justice, ensuring domestic tranquillity, providing for the common defence, promoting the general welfare, and securing the blessings of liberty to ourselves and posterity; that to give full force and effect to the ends thus proposed, it becomes not only the duty but the interest of every State, to regard with scrupulous tenacity the provisions of the national constitution; even should they come in conflict with popular prejudice or preconceived opinions. For these and other obvious reasons, your committee recommend the adoption of the following resolutions:

Report and resolutions in relation to the controversy between the States of N. York and Virginia.

Resolutions.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the reasons assigned by the Governor of New York for his refusal to surrender Peter Johnson, Edward Smith and Isaac Gansey, as fugitives from justice, upon the demand of the Executive of Virginia, are deemed by this Legislature unsatisfactory, and not in accordance with the letter and spirit of the Constitution of the United States, but in derogation thereto.

Resolved, That while we deprecate the resort by the State of Virginia to extreme measures for redress, such as are calculated to disturb the peace and harmony of the Union, we cannot but admit the justice of her appeal against the course pursued by the Governor of New York, and that this State joins in the request of Virginia to the Executive of New York, that he review his course, and ultimately act in accordance with the rights secured to the slave-holding States, under the wise and salutary provisions of our great national compact.

Resolved, That the Governor of Delaware be requested to forward copies of these resolutions, to the Executive of the States of Virginia and New York, with the request that they be laid before their respective Legislatures.

Adopted at Dover, February 15, 1841.



CHAPTER CCCLXXXVIII.

Comm'rs. to
run the divi-
sion line be-
tween Kent
and Sussex.

Surveyor.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That John Sorden and Andrew Stafford of Sussex county, and William Tharp and Peter Callaway of Kent county, be and they are hereby appointed commissioners to run and mark the division line between the counties of Kent and Sussex, from the south prong at the head of Rigg's mill-pond to the line of the State of Maryland, and that Charles T. Fleming be surveyor to assist said commissioners, that the said commissioners return their proceedings to the next General Assembly, and that said commissioners shall be allowed each one dollar and fifty cents per diem for their services, and the said surveyor two dollars per diem for his services.

Adopted at Dover, February 16, 1841.

CHAPTER CCCLXXXIX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Mahlon Betts be, and he is hereby authorized to purchase for the use of the members of the House of Representatives, twenty-two chairs and twenty desks, the cost of which shall not exceed *three hundred dollars*, which sum the State Treasurer is hereby authorized and directed to pay on his order.

M. Betts to
purchase
chairs and
desks for H.
of Rep's.

Adopted at Dover, February 17, 1841.



CHAPTER CCCXC.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the cession by the States of Virginia and Maryland of the territory of the District of Columbia, their grants of money to facilitate the erection of suitable buildings and fortifications for the accommodation and security of the President, Congress, and the several departments of the government, and the generous donation of lands by the proprietors of the soil upon which the city of Washington was laid out, and its plan perfected, to the United States, was highly beneficial, and merited a kind, liberal, and generous consideration in return.

Resolutions
concerning
the District
of Columbia.

Resolved, That in the opinion of this Legislature, the refusal by a majority of Congress, to re-charter the Banks of the District of Columbia, was unwise and oppressive.

Resolved, That this Legislature are unwilling to believe with the citizens of Washington and Georgetown, that their only chance for good government and prosperity, rests in a retrocession of the territory ceded to the United States to the State of Maryland, but confidently hope the next, if not the present Congress, will grant them ample redress of all their grievances.

Resolved, That the people of the District of Columbia ought to be represented in the Congress of the United States, and that measures should be taken, as soon as conveniently may be, to bring about such a just and desirable end.

Resolved, That the foregoing resolutions be signed by the speaker of the Senate and the speaker of the House of Representatives and transmitted to our Senators and Representative in Congress, to be laid before their respective houses.

Adopted at Dover, February 18, 1841.

CHAPTER CCCXCI.

Preamble
and resolu-
tions upon
the subject of
the French
indemnity.

Whereas, prior to the month of September 1800, numerous captures of American vessels, with their cargoes, were made by French vessels of war, whereby the French government became liable to a claim of indemnity for such captures on the part of American citizens who had been thus despoiled of their property:—

And whereas, the government of the United States in the month of September 1800, concluded a treaty with the French republic, in which they released the said republic from all claims on the part of the citizens of the United States, on account of the above spoliations, in consideration of a release on the part of the said republic, of a claim of indemnity against the said United States for the non-performance of certain stipulations contained in the treaty between France and the United States, concluded in the year 1778. Therefore,

Resolutions.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Government of the United States, by releasing France from its obligation to indemnify our citizens for the property plundered by its cruisers, in consideration of the release granted by France from the guarantees contained in the treaty of 1778, must be regarded as having assumed the debt, and as having voluntarily placed itself under a solemn obligation to satisfy all the claims thus released, for a valuable consideration.

Resolved, That the Senators and Representative of this State in Congress be, and they are hereby requested to use all fair means to procure the passage of a law to compensate our citizens for spoliations committed by France prior to 1800.

Adopted at Dover, February 18, 1841.



CHAPTER CCCXCII.

H. Eubanks
appointed to
take charge
of the armory
in Kent
county.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Henry Eubanks be, and he is hereby instructed to have the house in Kent county, in which the public arms are deposited, so repaired as to keep them dry, and have all the muskets that are not boxed up, cleaned and boxed up in a careful manner, and the house cleansed of lime, and the accoutrements in the upper story, which consist of leather, to be oiled and put up in boxes that they may be preserved.

And be it further resolved by the authority aforesaid, That the said Henry Eubanks be instructed to make diligent inquiry of for-

mer sheriffs and of the present sheriff, if they have any bonds or other obligations for the return of any arms, or accoutrements belonging to the said armory, and to execute the law faithfully, in order to secure the return of all the arms in his power; and after all the duties enjoined upon the said Henry Eubanks in the resolutions shall have been by him performed, it shall be the duty of the sheriff of Kent county to examine the work and services so done, and if in his opinion, the same has been faithfully executed, he shall give to the said Henry Eubanks, a certificate to that effect.

And be it further resolved, by the authority aforesaid, That the said Henry Eubanks shall be allowed a reasonable sum to com- Allowance.
pensate for repairs and expenses, not to exceed the sum of eighty dollars, to be allowed by the Legislative committee at their meeting in January next, upon the production by the said Henry Eubanks of the certificate of the said sheriff of Kent county, that he has faithfully performed the duties enjoined upon him by these resolutions.

And be it further resolved, by the authority aforesaid, That the sheriffs of New Castle and Sussex counties, be and they are here- Duty of
by directed and required to pay strict attention to the law on the sheriffs of
subject of the armory of their respective counties, and keep the N. C. and S.
arms and accoutrements in good condition, and collect and call in counties.
all that they can.

Adopted at Dover, February 18, 1841.



CHAPTER CCCXCIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Prothonotaries Bound and
of the several counties of this State, be instructed to sell all the unbound
bound volumes of the digested laws, for the sum of fifty cents per vols. of Di-
volume, and that they give all the unbound volumes of the digest gest.
to the citizens of the State that ask for them.

Adopted at Dover, February 20, 1841.



CHAPTER CCCXCIV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the trustee of the fund for establishing schools in the State of Delaware be, and he

Resolution concerning the division and distribution of \$1146 49, among the several counties of the State.

is hereby directed and required to divide and apportion eleven thousand and forty-six dollars and forty-nine cents of the monies now in his hands, 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 among the several school districts thereof, share and share alike, and shall put such share to the credit of each district, on or before the first day of March next. And the school committee or a majority of them, of any school district, who are or shall be authorized and empowered by law to draw for the sum standing to their credit, may draw an order on the trustee of the fund aforesaid, for such sum as may be as aforesaid placed to the credit of their respective districts, which order shall be accepted and paid by the said trustee on or after the said first day of March next.

Resolution concerning the investment of \$8425 82.

Resolved by the authority aforesaid, That the trustee of the said school fund, be, and he is hereby authorized and required to invest the sum of eight thousand four hundred and twenty-five dollars and eighty-two cents received from D. S. Gregory & Co. on account of the Delaware State Lottery, which is now in his hands, immediately after the passing of this resolution, and all other sum and sums of money, which shall or may be received by him, from, or on account of said lottery, for the use and benefit of the school fund, in the stock of the Bank of Delaware, Bank of Wilmington and Brandywine, Bank of Smyrna, and Union Bank of Delaware, or either of the said banks, as he may see fit, upon such terms as he may deem proper and most advantageous to the said fund; which investment shall as often as made, be by the said trustee reported to the auditor of accounts; and by the auditor submitted to the General Assembly.

Publication of dividend.

Resolved by the authority aforesaid, That the said trustee shall cause to be published in the Delaware State Journal and Delaware Gazette, a notice of the dividend made by him as mentioned in the first resolution.

Adopted at Dover, February 20, 1841.



CHAPTER CCCXCV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That George P. Fisher be, and he is hereby authorized to purchase for the use of the members of the Senate, ten chairs and nine desks; also, a suitable ingrain carpet for the floor of the Senate Chamber, the cost of which shall

Resolution to purchase furniture for Senate chamber.

not exceed *two hundred* dollars; which sum the State Treasurer is hereby authorized and directed to pay on his order.

Adopted at Dover, February 20, 1841.



CHAPTER CCCXCVI.

Whereas, the General Assembly entertain in common with the Preamble & citizens of this State, a great regard for the memory of those of resolutions her brave and patriotic sons who died gallantly fighting under the upon the re- banners of Washington, in defence of the liberties of their country, moval of the and it being their desire to cherish and preserve their memory by Col. J. Haz- remains of lett. procuring the removal of their remains whenever they can be obtained, and depositing them within the limits of their own State: And whereas, the remains of Col. John Hazlett, commander of the Delaware regiment, in the revolutionary war, who fell in January, 1777, at the battle of Princeton, are now deposited in the city of Philadelphia, Therefore,

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William Huffing-Committee. ton, Gardner H. Wright and Charles I. du Pont be, and they are hereby appointed a committee whose duty it shall be to proceed to the city of Philadelphia, before the fourth day of July next, and bring his remains from their present depository, and place them in the burial ground of the presbyterian church in the town of Dover, and have a suitable monument with appropriate inscriptions and devices prepared by a skilful artist, and erected under their superintendence over his remains when so deposited.

Resolved, That the committee apointed by the foregoing resolution or a majority of them, are hereby authorized to draw their Appropriation. orders on the State Treasurer for any sum or sums not exceeding in the whole, the sum of five hundred dollars, for the purpose of carrying into effect the object of the resolutions aforesaid, and the State Treasurer be, and he is hereby authorized and directed to pay the orders of the said committee, so drawn on him, out of any money in the treasury not otherwise appropriated; and it shall be the duty of the said committee or a majority of them, to make report of their proceedings in the premises, to the next biennial session of the Legislature, setting forth the expenditures consequent upon the execution of their duties under the provisions of this resolution.

Adopted at Dover, February 22, 1841.

CHAPTER CCCXCVII.

Preamble & resolutions in relation to the piers off New Castle. Whereas, by two several acts of the General Assembly of the State of Delaware, passed respectively, on the eleventh day of January, in the year of our Lord, one thousand eight hundred and three, and on the first day of February, in the year of our Lord, one thousand eight hundred and twenty-seven, the General Assembly of the State of Delaware as aforesaid, ceded and conveyed to the United States of America, fully and absolutely, the piers erected off the town of New Castle, and the sites thereof, and a site for other piers, for the purpose of improving and completing the harbor at New Castle; and whereas, the said harbor remains yet in an unfinished condition, giving insufficient protection to the many vessels obliged to resort to it; and whereas, it is believed that the wisdom and justice of an ample appropriation for the completion of the said harbor at New Castle, so important to the protection and safety of the commerce of the Delaware, will accord with the disposition of Congress: Therefore,

Resolutions. *Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That our Senators and Representatives in Congress, and the Representative elect of the State be, and they hereby are requested, to urge an appropriation from the General Government for the completion of the harbor on the river Delaware, at the town of New Castle.

Resolved, That copies of the foregoing preamble and resolution be signed by the speakers of the Houses respectively, and transmitted by them to each of the Senators, and the Representative, and the Representative elect of this State in the Congress of the United States.

Adopted at Dover, February 22, 1841.



CHAPTER CCCXCVIII.

G. P. Fisher to take charge of Senate chamber. *Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That George P. Fisher be, and he is hereby appointed to take charge of the books and papers belonging to the Senate.

Authorized to procure new drapery for speaker's seat. *Resolved,* That George P. Fisher be, and he is hereby authorized and requested, to cause the Speaker's seat to be overhung with new drapery; and the State Treasurer is hereby directed to pay to the said George P. Fisher, on his order, the sum of forty dollars to enable him to carry into effect the provision of this resolution; and the said George P. Fisher is hereby required to present his accounts and vouchers for the services herein imposed upon him, to the next session of the Legislature for their allowance.

Adopted at Dover, February 22, 1841.

CHAPTER CCCXCIX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Joseph P. Comegys, be and he is hereby appointed to take charge of the books and papers belonging to the House of Representatives.

J. P. Comegys to take charge of H. of Rep's.

Resolved, That Joseph P. Comegys be, and he is hereby authorized and requested to purchase the necessary stationery for the next session of the General Assembly: also to cause to be repaired the portrait of Washington, in the Hall of the House of Representatives; and the State Treasurer is hereby directed to pay to the said Joseph P. Comegys, or his order, the sum of sixty dollars, to enable him to carry the provisions of this resolution into effect; and the said Joseph P. Comegys is hereby directed to present his accounts and vouchers for the services herein imposed upon him, to the next session of the Legislature for their allowance.

Authorized to procure stationery and to repair portrait of Washington.

Adopted at Dover, February 22, 1841.

 SECRETARY'S OFFICE,

Dover, May 4, 1841.

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 day of January, and closed on Monday, the twenty-second day of February, in the year of our Lord one thousand eight hundred and forty-one

JOHN W. HOUSTON,

Secretary of the State of Delaware.

State

C

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 THIRD DAY OF JANUARY,

IN THE YEAR OF OUR LORD,

ONE THOUSAND EIGHT HUNDRED AND FORTYTHREE,

AND OF THE

INDEPENDENCE OF THE UNITED STATES

THE SIXTY-SEVENTH.

BY AUTHORITY,

**DOVER, DELAWARE,
S. KIMMEY, PRINTER.**

1843,

LAWS
OF THE
STATE OF DELAWARE.

CHAPTER CCCC.

A SUPPLEMENT to an act entitled "*An act to incorporate the Cherry Island Marsh Company.*"

Private act.

Passed at Dover, January 18, 1843.



CHAPTER CCCCI.

AN ACT supplementary to "*An act to cede to the United States the jurisdiction over a piece of land and marsh therein mentioned,*" Ante Chaps. 158, 160, p. 202-3-4.
passed January 17th, 1839.

WHEREAS, the United States, according to the terms of the act to which this is a supplement, has erected and maintained a lighthouse upon the piece of land and marsh ceded by said act; and whereas, it has been represented to this General Assembly, by the memorial of Arnold Naudain, superintendent of the Delaware lighthouse establishment, acting under instructions from that branch of the Treasury Department of the United States, charged with the general supervision of the lighthouses in the United States, that the said piece of land and marsh ceded for the site of said lighthouse, has been so wasted and destroyed by the action of storms, tides and ice, as to endanger the safety of said lighthouse; and it having been further represented to this General Assembly, that the land heretofore ceded to the United States, affords no place of safety upon which to rebuild said lighthouse: Therefore,

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That for the purpose of enabling the United States to remove said lighthouse* Twenty acres ceded to the U. S.

to a safe and secure site, a portion of the said island adjoining that part already ceded by this State, not to exceed the quantity of twenty acres, be and is hereby ceded to the United States upon the same terms and conditions as are prescribed by the act of which this is a supplement.

Terms of the
cession.

Passed at Dover, January 20, 1843.

CHAPTER CCCCII.

Del. Laws,
vol. 8, chap.
304, p. 345.

A SUPPLEMENT to the act entitled "*An act to authorize Peter F. Causey and Charles Polk to erect a gate across a public road.*"

Powers
granted to P.
F. Causey,
transferred to
J. Bennett.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all the powers which are vested in or conferred upon the said Peter F. Causey, jointly with the said Charles Polk, in and by the said original act, be and the same are hereby divested out of the said Peter F. Causey, and transferred to and vested in Joshua Bennett, who is the present owner of the tract of land referred to in the said act, which was the property of the said Peter F. Causey, at the time the said original act was passed.

Duty of P.
F. Causey
imposed on
J. Bennett.

SEC. 2. *And be it enacted,* That the said Joshua Bennett and his heirs, devisees and assignees, upon the exercise by himself or the said Charles Polk, of the said powers conferred as aforesaid, shall be subjected to the same duty which is imposed on the said Peter F. Causey and his heirs, devisees and assignees, in and by the proviso to the second section of the said original act.

Passed at Dover, January 23, 1843.

CHAPTER CCCCIII.

Dig. p. 543.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act opening and establishing a land office within this State, and for the sale of all vacant and uncultivated lands therein.*"

General war-
rants for lo-
cation of
lands vacan-
ted.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all general warrants issued by the recorders of the several counties of this State, for surveying and locating vacant lands within this State, without setting forth in such warrants, a specification of the land thereby intended to be surveyed and located, and which said gene-

ral warrants have not been heretofore surveyed and located, be and the same are hereby vacated; and declared to be absolutely null and void; and no person or persons whatsoever, shall hereafter survey or locate any such general warrant, anything in the act or acts to which this is an additional supplement, contained to the contrary thereof notwithstanding.

Sec. 2. *And be it further enacted by the authority aforesaid,* That a continued uninterrupted and peaceable possession of any lands and premises in this State for the space of twenty years, by any person or persons, or by those under whom such person or persons claim, whether by descent, devise, deed, gift, grant, assignment or otherwise howsoever, shall be and enure as a complete and effectual bar to any claim of title on the part of the said State to the said lands and premises; notwithstanding no warrant, survey, patent or grant have been made for the same, and notwithstanding nothing may have been paid to the State for or on account thereof; and in any suit on the part of the said State, or its grantees or assigns; for any such lands and premises, it may and shall be lawful for the person or persons claiming the same by virtue of such possession, to give the same in evidence under the plea of the general issue, and without pleading the same specially.

Sec. 3. *And be it further enacted by the authority aforesaid,* That whenever any woodland, meadow land, marsh, cripple or other land, to which otherwise the State would have had title, has been held in common, by two or more persons, or those under whom such persons or either of them claim, in continued and uninterrupted and peaceable possession for the said term of twenty years, or where there has been a continued, uninterrupted and mixed possession, by two or more persons, or those under whom such persons or either of them claim, of any such woodland, meadow land, marsh, cripple or other land to which otherwise the said State would have had title as aforesaid, for the said term of twenty years, then and in such case, it shall and may be lawful for any of the said parties interested, or the guardian or guardians of those under age, to prefer a petition to the chancellor of this State in vacation or term time, stating the facts, describing the said lands and tenements so held as aforesaid, and praying partition thereof among the several persons entitled to the same, according to their several and respective rights: whereupon partition of the said lands and premises shall be made, in the same manner and under the same regulations and requirements in all respects, as partition of lands and premises held in joint tenancy and in common is now made, under the provisions of the act entitled "An act respecting the partition of lands and tenements among joint tenants and tenants in common," and the several supplements and amendments thereto.

Sec. 4. *And be it further enacted and declared,* That none of the foregoing provisions of this act shall be construed or intended to apply to any of the salt marshes of this State; but the same are

Twenty years possession, a bar to the title of State.

Two or more persons gaining a title by 20 years possession, may have partition.

How it shall be made

Fig. 168.

Salt marshes excepted.

hereby expressly excepted from the operation of this act, and the title thereto shall in no wise be affected thereby.

Passed at Dover, January 23, 1843.



CHAPTER CCCCIV.

Chap. 207, **A FURTHER SUPPLEMENT to the act entitled "An act to**
 unto p. 245. **incorporate the Union Bank of Delaware."**

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the first Monday in February, in the year 1844, the number of directors of the Union Bank of Delaware shall consist of nine only, and that an election shall be held on that day, and on the same day annually thereafter, for nine directors to serve the ensuing year, shall be elected at the same place and in the same manner; shall have the same continuance, rights and powers, and perform the same duties, as are now provided and directed by the act to which this is a further supplement; provided, that instead of three directors to be changed every two years, two directors shall be changed every year.

Number of directors to be nine after Feb. 1844.

Proviso.

SEC. 2. *And be it enacted,* That the present directors shall hold their offices until the said first Monday of February in the year 1844, and no longer.

Term of the present officers.

SEC. 3. *And be it further enacted,* That so much of the act to which this is a further supplement, as is inconsistent with or repugnant to this act, be and the same is hereby repealed, made null and void.

Repealing clause.

Passed at Dover, January 23, 1843.



CHAPTER CCCC.V.

Chap. 17, 8 **A FURTHER ADDITIONAL SUPPLEMENT to the act en-**
 vol. **titled "An act to extend the time for recording of deeds."**

SECTION 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 on or before the first day of January, one thousand eight hundred and forty-three, first being acknowledged or proved, and the acknowledgment or proof certified ac-

Time for recording extended to Jan. 1, 1845.

ording to the laws of this State, in force at the time when such acknowledgment or proof was made, may, with the acknowledgment or proof, the certificate of the acknowledgment, 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 situated, if lodged in such office on or before the first day of January, one thousand eight hundred and forty-five, and the said record or copy thereof shall be sufficient evidence; and from and after the first day of January in the year last aforesaid, no deed or letter of attorney sealed and delivered before the said first day of January, in the year one thousand eight hundred and forty-three, 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 three newspapers printed in this State. Act to be published.

Passed at Dover, January 24, 1843.



CHAPTER CCCCVI.

AN ACT in relation to the fee to be paid by Constables on their appointment.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That no person who may be hereafter appointed a constable in this State, whether such appointment be for an entire term or to fill a vacancy, shall be required to pay but one fee of five dollars for such appointment, although he may be continued in office by the Levy Court of the county of which he is constable, for the full period of three successive years from the time of his first appointment, any law, usage or custom to the contrary notwithstanding: *Provided,* that the foregoing provision shall not be construed to extend or apply to any case, where one or more years have intervened between the expiration of the term of any constable and his reappointment; but in every such case of subsequent appointment, where he shall have been out of office for one or more years, he shall be required to pay a fee of five dollars. Fee hereafter to be paid by constables on their appointment.

SEC. 2. *And be it further enacted,* That in all certificates hereafter sent by the clerk of the peace to the auditor of accounts, in obedience to the requirements of the fourth section of the act passed at the last session of the General Assembly, entitled "An act requiring clerks of the peace to pay to the State Treasurer, instead of the Secretary of State, certain sums received for fees to the State," it shall be therein stated who are and who are not Proviso.
Duty of the clerk of the peace.
Ante chap. 187, p. 230.

liable to the payment of a fee of five dollars, under the provisions of the preceding section.

Passed at Dover, January 24, 1843.

CHAPTER CCCCVII.

Anto p. 430. AN ACT to repeal the act entitled "*An act concerning Fees.*"

Chap. 368,
ante p. 430,
repealed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "An act concerning fees," passed at Dover on the 23d February, 1841, be and the same is hereby repealed.*

Passed at Dover, January 25, 1843,

CHAPTER CCCCVIII.

AN ACT to vest in *Ann Mailes, widow of Joseph Mailes, 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.*

Private act.

Passed at Dover, January 25, 1843.

CHAPTER CCCCIX.

AN ACT for the relief of the heirs-at-law of *John Cummins, deceased, and Susan W. Cummins, deceased.*

Private act.

Passed at Dover, January 26, 1843.

CHAPTER CCCCX.

AN ACT *providing for the preservation of the public arms and accoutrements of this State.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all* the provisions of the act entitled "An act providing for the preservation of the public arms and accoutrements in Kent and Sussex counties," be extended to the county of New Castle, Provisions of chap. 199, 7 vol. extended to N. C. county.

SEC. 2. *And be it further enacted, That it shall be the duty of the sheriff of each county, at least once a year, to inspect and, if necessary, clean the said arms and accoutrements of his county, and for such service he shall receive a fair compensation, to be allowed by the Levy Court and Court of Appeal of the said county; and if the said sheriff neglect any of the duties herein and hereby enjoined on him, such sheriff shall for each and every such offence, forfeit and pay to the State the sum of ten dollars, to be recovered as debts of a like amount are by law recoverable.* Duty of the sheriffs. Compensation. Penalty for neglect.

Passed at Dover, January 26, 1843,



CHAPTER CCCCXI.

AN ACT *granting to Rachel Quinley, the widow of Peter Quinley, deceased, all the right of the State of Delaware in and to certain lands therein mentioned,*

Private act,

Passed at Dover, January 30, 1843,



CHAPTER CCCCXII.

AN ACT *to authorize the Recorder of Deeds, in and for Kent County, to procure a new seal of office.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William H. Cooper, Esquire, the recorder of deeds, in and for Kent county, be and he is hereby authorized to procure a new seal for his office; to be made of brass, of the diameter of one inch at least, and engraven with the devices of the present seal, or with such other device, instead thereof, as the said recorder shall order and* Recorder of Kent county authorized to procure a new seal.

direct, with a motto or inscription descriptive of said office; and the said seal when finished, and a particular description of the same entered on the docket of the Court of Errors and Appeals, shall be taken, adjudged and deemed to be the seal of the said recorder's office, for the recording of deeds in and for Kent county, and shall thereafter be affixed to all writings, papers and records, where the seal of said office is required; and the present seal shall be then broken up and destroyed by the said recorder.

To be paid
for by Levy
Court.

SEC. 2. *And be it enacted*, That the Levy Court and Court of Appeal of Kent county, shall pay the necessary cost and expenses of procuring the said new seal.

Passed at Dover, January 31, 1843.



CHAPTER CCCCXIII.

AN ACT to enable Robert M. Smith to locate certain vacant land in Nanticoke and Broad Creek hundreds in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, January 31, 1843.



CHAPTER CCCCXIV.

AN ACT to enable John Spicer of H., to locate certain vacant land situate in Nanticoke hundred in the county of Sussex, and to complete his title to the same.

Private act.

Passed at Dover, January 31, 1843.



CHAPTER CCCCXV.

AN ACT to enable Joshua S. Burton to locate certain vacant land in Lewes and Rehoboth hundred in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, January 31, 1843.

CHAPTER CCCCXVI.

AN ACT to repeal part of the act entitled "An act concerning Lotteries."

WHEREAS, an act entitled "An act concerning lotteries," passed at Dover, February 20, 1841, chapter CCCLXIV, has been, so far as relates to the provisions of the first and second sections thereof, in the judgment and opinion of the Court of Errors and Appeals, declared to be unconstitutional. Preamble.

SECTION 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the said first and second sections of the said act concerning lotteries be, and the same are hereby repealed. Parts of chap
364, ante p.
425, repeal-
ed.

Passed at Dover, February 1, 1843.

CHAPTER CCCCXVII.

AN ACT concerning the Gap and Newport Turnpike Company.

WHEREAS, it has been represented to this General Assembly, that the president, managers and company of the Gap and Newport Turnpike Company, incorporated by an act of the General Assembly, passed in 1808, have for a number of years past, abandoned the turnpike road constructed by them, and have ceased to exercise any of the corporate rights granted by the said act, whereby they have incurred a forfeiture of their charter: and that the said road has become very much out of repair, to the damage and great inconvenience of the citizens of this State, who pass and repass thereon: Therefore, Preamble.

SECTION 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 Attorney General, at the next or some subsequent term of the Superior Court, in and for New Castle county, to file an information in the nature of a quo warranto, against the said company, to which the said company shall plead during the term at which such information shall be filed, on a day to be appointed by the said court; and, for want of such plea, judgment of ouster shall be entered by the said court against the said company; and all their privileges, immunities, franchises, rights and liberties as a corporation, shall thereupon cease and be determined. In case the said company shall plead to the said information, the issue between the State and the said company shall be tried by a jury at the bar of the said court, and judgment rendered upon the verdict of the said jury according to law. Notice shall be given by the attorney general in one newspaper published in the city of Attorney
General to
file an infor-
mation
against the
company,
&c.
Mode or pro-
ceeding.
Notice of in-
formation.

Statement. Wilmington, of his intention to file said information, ten days before the sitting of the court, in which said information is to be filed. The said information shall contain a statement of the causes for which the said company has forfeited its charter.

Result of judgment of ouster. SEC. 2. *And be it further enacted*, That whenever judgment of ouster shall have been entered by the said court against the said company, either for want of a plea as aforesaid, or upon the verdict of a jury, in case a plea be entered, then and from thenceforth the act entitled "An act to incorporate a company for the purpose of making an artificial road from the Philadelphia and Lancaster Turnpike road in Lancaster county, at or near the Gap Tavern, to the line of the State of Delaware, and to extend the same artificial road from thence by the nearest and best practicable course to Newport, on Christiana creek in the same State," and any supplement thereto, be and the same are hereby repealed, made null and void.

The turnpike to be a public road, when. SEC. 3. *And be it further enacted*, That as a consequence of the rendition of judgment of ouster against the said company, either for want of a plea or upon the verdict of a jury, the turnpike road constructed and owned by the said company, shall become and be a public road, and shall be maintained and kept in repair in the same manner as other public roads in New Castle county.

Costs, &c. SEC. 4. *And be it further enacted*, That all expenses of publication and all costs in and about said information, shall be taxed by the said Superior Court and paid by the said company.

Passed at Dover, February 1, 1843.



CHAPTER CCCCVIII.

AN ACT to enable Charles Polk to locate certain vacant land in Milford Neck in Milford hundred, Kent county, and complete his title to the same.

Private act.

Passed at Dover, February 1, 1843.



CHAPTER CCCCXIX.

AN ACT to incorporate the Jefferson Temperance Beneficial Association of Wilmington and Brandywine.

Private act.

Passed at Dover, February 1, 1843.

CHAPTER CCCCXX.

AN ACT directing Caleb Wolcott, late sheriff of Kent county, to pay certain moneys arising from the sale of one Isaac Longfellow, mulatto, in the manner therein specified.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the balance of money arising from the sale of one Isaac Longfellow, mulatto, and remaining in the hands of Caleb Wolcott, late sheriff of Kent county, the costs of the several convictions of the said Isaac being first deducted, be and the same is hereby given to William H. J. Comegys, Abner Herring and Benaiah Eaton, to be applied pro rata to the payment of the restitution money awarded, to be paid by the said Isaac Longfellow to the said William H. J. Comegys, Abner Herring and Benaiah Eaton respectively.

C. Wolcott
to pay cer-
tain money.

To whom.

SEC. 2. *Be it further enacted,* That the said Caleb Wolcott, late sheriff of Kent county, be and he is hereby authorized and required to pay over to the said William H. J. Comegys, Abner Herring and Benaiah Eaton, the balance remaining in his hands as aforesaid, in the following proportions: to William H. J. Comegys, the sum of thirty-four dollars and ninety-six cents, to Abner Herring, the sum of six dollars and ninety-five cents, and to Benaiah Eaton, the sum of four dollars and ten cents.

Proportion
in which to
be paid.

SEC. 3. *Be it further enacted,* That the said Caleb Wolcott, late sheriff as aforesaid, be and he is hereby authorized and required to pay to the county treasurer of Kent county, the sum of fifty dollars and thirty-six cents, the balance remaining in his hands after deducting the sums ordered to be paid by the preceding section as the costs of the several convictions of the said Isaac Longfellow as aforesaid, paid by the said county treasurer of Kent county, by virtue of the provisions of the act of the General Assembly, entitled "An act to amend the act entitled 'An act to regulate fees,' " passed at Dover, February 22, 1841.

Balance to be
paid to Coun-
ty Treasurer
of Kent co.

Passed at Dover, February 2, 1843.



CHAPTER CCCCXXI.

AN ACT to incorporate the Smyrna Temperance Beneficial Association.

Private act.

Passed at Dover, February 2, 1843.

LAWS OF THE STATE

CHAPTER CCCQXXII.

AN ACT vesting in and granting and conveying to Thomas S. Butcher, Rebecca Durham, Mary Dean, Phoebe Dean and John Dean, all the right, title, interest and claim of the State of Delaware, in and to certain lands and real estate and personal property, of which a certain Jesse Dean, now, deceased, died seized and possessed of or entitled to, therein mentioned.

Private act.

Passed at Dover, February 3, 1843.



CHAPTER CCCQXXIII.

AN ACT to enable Joseph Isaacs, of Sussex county, State of Delaware, to locate certain lands situate in Nanticoke hundred, and to complete his title to the same.

Private act.

Passed at Dover, February 6, 1843.



CHAPTER CCCQXXIV.

AN ACT to enable Peleg W. Helm to locate certain vacant lands in Baltimore hundred, in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 6, 1843.



CHAPTER CCCQXXV.

AN ACT to enable Pliner Williams to locate certain vacant land situate in Northwest Fork hundred, in Sussex county.

Private act.

Passed at Dover, February 6, 1843.

CHAPTER CCCCXXVI.

AN ACT to enable Martin Ford to locate certain vacant lands in Dover hundred, in Kent county, and to complete his title to the same.

Private act.

Passed at Dover, February 6, 1843.



- CHAPTER CCCCXXVII.

AN ACT to amend the act entitled "An act to amend the act entitled 'An act authorizing a lottery for the benefit of Delaware College, and for other purposes therein mentioned.'" Chap. 45, ante p. 62.

SECTION. 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all of the first section of the act entitled "An act to amend the act entitled 'An act authorizing a lottery for the benefit of Delaware College and for other purposes therein mentioned,'" after the enacting clause, commencing with the word "That" and ending with the word "also" inclusive, is hereby repealed, made null and void, and that so much of the third section of said act as is inconsistent herewith, be and the same is hereby repealed, made null and void. Parts of chap. 45, ante p. 62 repealed.

SEC. 2. And be it further enacted, That the college situated in the village of Newark, now called and known by the name of "Newark College," shall hereafter be called and known by the name "Delaware College." Name of the college.

Passed at Dover, February 7, 1843.



CHAPTER CCCCXXVIII.

AN ACT to repeal certain parts of an act therein mentioned.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all of the first section of the act entitled "An act supplementary to the act entitled 'An act for the preservation of certain shell fisheries within this State,'" passed at Dover, February 4, 1835, after the word "met," in the second line of the printed copy, be and the same is hereby repealed. Sec. 1, chap. 343, 8 vol. 383, repealed.

SEC. 2. And be it enacted, That the words "And be it enacted,"

commencing the first line of the second section of the said act, be and the same are hereby repealed.

Passed at Dover, February 7, 1843,



CHAPTER CCCCXXIX.

AN ACT concerning the draining of swamps and low grounds, and to facilitate the laying out and opening of public ditches.

Who may
petition.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That whenever a majority of the owners of any swamp or low grounds shall deem it fit to have such swamp or low ground ditched and drained, they may petition the Superior Court sitting in the county where such swamp or low ground or any part thereof is situated, for the appointment of commissioners to lay out a ditch or ditches for that purpose, and the said court shall thereupon appoint three judicious and impartial freeholders of the neighborhood as such commissioners.*

Commission-
ers.

Duty of com-
missioners.

SEC. 2. *And be it enacted, That it shall be the duty of the commissioners, after being duly sworn or affirmed, to execute their duties under this act faithfully and impartially, and taking to their assistance a skillful surveyor, sworn or affirmed to do his duty in like manner, to go upon and view the swamp or low ground mentioned in the petition, and lay out by specified courses and distances, breadths and depths, such ditch or ditches as shall be sufficient to drain the said swamp or low ground; and estimate the probable cost or expense, including damages, if any, of cutting such ditch or ditches, and the sum or proportion thereof, which each owner or possessor or person benefitted shall be bound to pay; and make out and return to the said court, at its next session in said county, a report in writing under their hands, with a plot or map attached, containing a description by general delineation without survey, of the boundary lines of the swamp or low ground mentioned in said petition, and also a delineation of each owner's or possessor's lot or parcel, with the estimated quantity of acres the same may contain, with the name of every person to whom they shall award damages, and the amount thereof; and the sum or amount each owner or possessor or person benefitted, shall be bound to pay, as his proportion of the cost or expense of cutting such ditch or ditches, and the damages aforesaid, if any shall be awarded. The commissioners must all act, but a majority of them may determine any matter.*

A majority
may decide.

SEC. 3. *And be it enacted, That if the commissioners shall consider that the making such ditch or ditches will injure any person*

through or upon whose land the same shall be laid out, they shall award to the person or persons so injured, such damages as they shall judge to be just and reasonable, to be paid by the persons chargeable with the cost and expense of making such ditch or ditches; and the same shall be paid or tendered to the persons respectively to whom the same shall be so awarded, before cutting the ditch through or upon the lands of such person,

Damages to persons injured. By whom payable, &c.

SEC. 4. *And be it enacted*, That all persons through or upon whose land such ditch or ditches shall be laid out, or whose lands are in the neighborhood of and drain into the said ditch or ditches, and who will derive benefit therefrom, shall be liable to contribute to the cost and expenses of cutting and making the same; and the said commissioners shall adjudge thereof and shall assess, by way of tax, on such person or persons respectively, by them to be paid, a fair and reasonable sum proportioned to the benefit or advantage they may respectively receive by cutting and making the said ditch or ditches. The sums so levied and raised shall be appropriated to the cutting, opening and making the ditch or ditches so laid out; to the payment of damages awarded as aforesaid, if any; and to the payment of necessary and allowed costs and expenses of laying out and making return of said ditch or ditches.

Persons benefited, to pay for ditches.

How the costs shall be assessed.

And appropriated.

SEC. 5. *And be it enacted*, That any person who may be injured by the making of any ditch laid out as aforesaid, or who shall be assessed for any part of the cost thereof, may apply to the said court at any time before confirmation of the return, for an order of review; and the court may in its discretion, grant such order and appoint other commissioners to perform the same duty as under the original commission,

Order of review.

SEC. 6. *And be it enacted*, That the commissioners appointed under any order original or of review, shall within one month after the confirmation of their report, call together the taxables, rated for such ditch or ditches, at some convenient place near the swamp or low ground to be drained, for the purpose of choosing two managers and one treasurer of the ditch, for the term of one year, and until other persons shall be chosen to supply their places respectively. Notice of this meeting shall be given by advertisement, posted in four of the most public places of the hundred in which the swamp or low ground lies, stating the time and place of the meeting; and at such meeting, or any other meeting, each of the taxables shall be entitled to the following grade of votes in proportion to their respective taxes, to wit:—for any tax to the amount of five dollars and under, one vote; for any tax not less than fifteen dollars, two votes; for any tax not less than thirty-five dollars, three votes; for any tax not less than sixty dollars, four votes; for any tax not less than one hundred dollars, five votes; for any tax to the amount of one hundred and fifty dollars and upwards, six votes. And the managers for the time being shall annually thereafter in the same manner, call a meeting for the same purpose on the first Saturday in March.

Meeting for the choice of managers and treasurer.

Voting therefor.

Time of annual meeting.

Commissioners to deliver list of taxes to treasurer. **SEC. 7. And be it enacted,** That the commissioners shall deliver to the treasurer a statement of the taxes levied as aforesaid, for making said ditch or ditches, with the respective tax or sum which each owner or possessor or person benefitted shall be bound to pay; and such tax or assessment made and returned to, and confirmed by the court as aforesaid, shall remain in full force for the term of five years from the said confirmation, and shall be the proportion or basis upon which other and further taxes may be levied by the managers for all necessary purposes, for cutting and making or for cleansing and repairing such ditch or ditches. After the lapse of five years a new assessment may be had by application of a majority of the taxables to the court, which shall thereupon appoint three judicious and impartial freeholders of the neighborhood for that purpose, who shall make assessment and return as aforesaid, which shall be subject to an order of review as aforesaid.

Basis of taxes.

New assessment after five years.

Duties and powers of managers.

Their accounts.

Payments.

Tax may be worked out.

SEC. 8. And be it enacted, That the managers appointed in manner aforesaid at the first or any subsequent annual meeting, shall proceed to cut, make and open, or to cleanse and repair, as the case may be, the ditch or ditches so laid out as aforesaid, and may employ such ditchers and other laborers, and do such other acts as may be necessary for that purpose. They shall keep a fair and regular account of all expenditures, and report the same to the yearly meeting of the taxables. All payments shall be made by orders drawn by the managers on the treasurer. Any person assessed for a tax may discharge the same by work and labor, and the manager's certificate for work done shall be received by the treasurer in payment of the tax.

Duties and powers of treasurer.

His settlements.

Compensation. Bond.

SEC. 9. And be it enacted, That the treasurer appointed as herein directed, shall be authorized, empowered and required to ask for, demand and collect all sums levied for the purpose of cutting, making and opening, or for cleansing and repairing the said ditch or ditches, or for payment of damages and expenses as aforesaid; and in case of refusal or neglect of any person bound to pay the same, the treasurer shall proceed to collect and recover the same in the way and manner that county rates and levies are made recoverable by law. The treasurer shall settle with the taxables at their annual meeting in March, for all sums collected by him. He shall be entitled to retain five per centum on the amount of his receipts as compensation for his services. The treasurer shall give to the said taxables, bond and security to be approved by the said managers, in double the amount of the assessment which he may be authorized to receive, conditioned for the faithful performance of his trust and duty, and the payment of any money in his hands as treasurer over to his successor, at the expiration of his office.

Cross-ditches

Provided.

SEC. 10. And be it enacted, That it shall be lawful for any person taxed for any ditch which does not pass through or upon his land, to open a ditch or ditches through the intervening lands into such main ditch or ditches, and to keep the same open at his own cost and charge: *Provided,* That no such cross-ditch shall be cut through the land of any other person without the consent of the

owner of such land, unless the said cross-ditch shall be laid out and approved, and the damages thereon accruing to the owner of the land assessed by the commissioners appointed to lay out the main ditch, or by three other freeholders to be appointed by the Superior Court, for the purpose of assessing such damages. The persons applying for such cross-ditch shall pay all the costs of laying out and opening the same, and shall also, before making such ditch pay, or tender all damages awarded to such persons as may be injured thereby. But whenever in the opinion of the said commissioners, the owner of the intervening land or any other person whose lands are situated at the head of or above the said cross-ditch, will derive any benefit from the cutting the same, then the said owner of the intervening land or other person so benefitted, shall contribute and pay such sum or sums respectively, as the said commissioners shall determine to be his or their fair proportional part of the damages, costs and expenses of laying out and making such cross-ditch or ditches.

Costs of same.

SEC. 11. *And be it enacted*, That every ditch that shall be cut and opened in pursuance of this act, shall always remain open for the benefit of such persons, their heirs and assigns, as the commissioners in their report shall return as being benefitted thereby, and chargeable with the expense of making the same. But if any ditch laid out as aforesaid shall not be begun within two years from the confirmation of the return, or being begun shall not be completed within seven years thereafter, the said order and return shall become and be of no effect, and the power and authority under it shall cease.

Ditches when cut, to remain open, &c. Limitation of order to cut.

SEC. 12. *And be it enacted*, That if any person shall stop up any ditch cut in pursuance of this act, every such person so offending and being thereof lawfully convicted, before a justice of the peace of the county wherein such ditch shall have been cut, shall forfeit and pay for every such offence, a sum not less than two nor more than twenty dollars, to be recovered by the managers for the time being, and applied to the use of said ditch.

Penalty for stopping up.

SEC. 13. *And be it enacted*, That the commissioners appointed under this act shall each receive for every day's attendance in viewing a swamp or low ground and laying out a ditch, one dollar. The managers appointed as aforesaid shall each receive one dollar, for every day they shall be actually engaged in the discharge of their duty. The surveyor shall be paid a reasonable compensation for his services and plot, to be agreed upon by the parties or taxed by the court. The prothonotary shall be entitled to receive for every order made and certified under his seal of office, one dollar; for reading the report, endorsing the confirmation thereon, and filing the same of record, fifty cents.

Compensation of commissioners. Of managers. Of surveyor.

Fees to prothonotary.

SEC. 14. *And be it enacted*, That if any commissioner appointed as aforesaid, in any order, original or of review, shall die or move from the county or be otherwise unable to act, any judge of the Superior Court in vacation may appoint another person in his

Vacancies among commissioners, how to be filled.

LAWS OF THE STATE

stead; and the said order with the report thereon shall be executed and received by the court, in the same manner as if the person originally appointed had acted.

This act not
to effect any
special law.

Sec. 15. *And be it enacted*, That nothing herein contained shall be deemed, taken or construed to extend to, or affect, any person or persons who have heretofore obtained any special law for ditching or draining any low ground, swamp or cripple within this State, nor to affect, alter or change, any provision that is made in any special law for that purpose.

Former acts
repealed.

Sec. 16. *And be it enacted*, That the act entitled "An act to authorize 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," passed at Dover, February 5, 1816, and the supplement to the said act, passed at Dover, February 4, 1817, and the supplementary act to the said act, passed at Dover, February 6, 1819, and the additional supplement to the said act, passed at Dover, January 23, 1830, and the further additional supplement to the said act, passed at Dover February 8, 1832, and the further supplement to the said act, passed at Dover, February 2, 1837, and the further supplement to the said act, passed at Dover, February 21, 1839, be and the same are hereby repealed.

Passed at Dover, February 7, 1843.

CHAPTER CCCCXXX.

Dig. 231.

AN ACT to amend the act entitled "An act concerning sales of the real estate of deceased persons by executors or administrators for payment of debts."

Adm'rs. as
well as ex'rs.
authorized to
sell under
sec. 8, Dig.
235.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the words "executor or executors appointed by" in the eighth section of the act entitled "An act concerning sales of the real estate of deceased persons by executors or administrators for payment of debts," between the words "such sale tho" and the words "the said last will," be stricken out of the said section, and the words "person or persons having the execution of," be inserted in lieu thereof.

Passed at Dover, February 7, 1843.

CHAPTER CCCCXXXI.

AN ACT for effecting the valuation and acceptance or sale, of a certain tract of land of which Francis Segar, the elder, died seized.

Private act.

Passed at Dover, February 7, 1843.



CHAPTER CCCCXXXII.

A ACT concerning certain meadow ground, marsh and cripple, on both sides Mill Creek, in the neighborhood of the town of New Castle.

Private act.

Passed at Dover, February 7, 1843.



CHAPTER CCCCXXXIII.

A SUPPLEMENT to the act entitled "An act for the establishment of free schools." Dig. 486.

SECTION 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 school commissioners in each and every school district in this State, to have the account of the school district in which they reside, as settled by the auditor of accounts in each and every year, fairly and legibly drawn off and posted in two of the most public places in such district; and if the said commissioners neglect, or refuse to comply with the duty herein enjoined, they shall forfeit and pay to the school district wherein such failure happens, the sum of ten dollars, to be sued for and recovered by any school voter in said district, before any justice of the peace in the county in which such commissioners reside, in the same manner as debts of a like amount are recoverable.

School commissioners to set up their accounts in the district.
Penalty for neglect.

Passed at Dover, February 8, 1843.

CHAPTER CCCCXXXIV.

AN ACT allowing to Constables a fee in certain cases.

Fee for attending on first day of court.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That each constable attending the Superior Court, Court of General Sessions of the Peace and Gaol Delivery, and Court of Oyer and Terminer, shall be paid by the county treasurer of the county of which he is a constable, the sum of one dollar, for one day's attendance on either of the said courts: Provided, the said constable shall produce to the said county treasurer, a certificate from the clerk of the peace of his attendance on the first day of the session thereof: And provided also, that the said fee of one dollar shall be full and entire compensation for such attendance, and that in construing this act the Superior Court and Court of General Sessions of the Peace and Gaol Delivery shall be regarded as one court.*

Passed at Dover, February 8, 1843.



CHAPTER CCCCXXXV.

*An act to incorporate the Franklin Lyceum of the city of Wilmington.
Private act.*

Passed at Dover, February 8, 1843.



CHAPTER CCCCXXXVI.

*An act granting a tract of salt marsh to William W. Morris.
Private act.*

Passed at Dover, February 8, 1843.



CHAPTER CCCCXXXVII.

An act to incorporate "The Temperance Hall Company of Wilmington."

SECTION 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 of the Legislature, That*

Thomas Janvier, David C. Wilson, James Canby, Edward Tatnall Company in-
and David Bush, Samuel M'Caulley, Asa Poinsett, John Johnson, corporated.
Thomas Baynes, James Hollingsworth, David Pinkerton, Robert
B. McDonnell, Jacob M. Garrettson, Joshua S. Valentine, Jo-
seph Willes, George G. Lobdell, and Jonas Pusey, Lewes Cur-
let, David T. Jones, Henry Gibbons and Samuel Allen, and all
other persons now being the holders of stock in the enterprize
of the association called the Temperance Hall Company of Wil-
mington, according to the original terms of subscription thereof,
and also all persons who may hereafter become such in manner
hereinafter mentioned, be and they are hereby constituted and
made a corporation and body politic in law, by the name and style
of "The Temperance Hall Company of Wilmington," with ca- Name and
pacity and power to take, receive and hold by contract, transfer, general pow-
devise, bequest, gift, or conveyance, lands, buildings, goods, money, ers.
and other real and personal property: and to grant, alien, assign,
use or dispose of the same or any part or parts thereof, (in a quali-
fied manner as hereinafter mentioned;) and to make, have and use
a common seal, and the same to change and renew at pleasure;
and shall continue and have succession for and during the term of
twenty years from the time of passing this act and no longer: Limitation
power being hereby reserved to the Legislature at any time to re- of its char-
voke this charter. The said corporation shall be capable by law ter.
to 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 whatsoever. The said corporation shall not hold
money, credits or property of a greater annual income than five Of its pow-
thousand dollars: it shall have no banking powers. ers.
The following
shall be the fundamental articles of this charter:—

1st. The property and funds held by the aforesaid company as
heretofore organized, together with all benefit derivable from obli- Fundamental
gations, covenants and agreements in their favor, shall pass to, articles, &c.
vest in, and become the property and benefit of the corporation
herely created: and all contracts, promises and agreements made
in good faith for and by the authority of the said company, and
existing at the time of passing this act, shall be binding upon the
said corporation.

2d. The corporation shall have power to adopt or make a con-
stitution and by-laws and other rules and regulations which shall Constitution,
be conducive to the good government and well ordering of their &c.
concerns, and not inconsistent with the laws of the land, and may
alter, amend, or repeal the same.

3d. The business and affairs of the corporation shall be con-
ducted by a board of managers, to consist of twelve in number, Managers
who shall be owners of stock in the concern, and chosen in manner and their
hereinafter prescribed. powers.

4th. The managers shall have in charge the superintendence and
disposal of the property and control of the funds of the corporation
for its proper uses and purposes, according to the terms of sub-

scription, and subject to restrictions prescribed at any time by the constitution.

5th. It shall be within the province and duties of the board of managers at their judgment and discretion, to cause the buildings of the company or corporation to be enlarged or rebuilt, and generally to make all further practicable improvement of the premises; And they may from time to time dispose of stock of the corporation in addition to that already subscribed, but not to exceed in the whole amount the sum of forty thousand dollars. The terms of payment and other particulars relating to such disposal of stock to be prescribed by the constitution.

Stock.

6th. Every subscription for stock of the company or corporation, shall be a valid contract to pay to the corporation according to the terms of subscription. Default of payment of any part when due shall be deemed a forfeiture of the whole interest in each case, except otherwise determined by the managers.

7th. Certificates of stock under the seal of the corporation and signatures of the president and treasurer thereof for the time being, shall be issued to those entitled to receive the same, when the payments thereon respectively shall have been completed. The stock or interest held by any person shall be transferrable on the books of the corporation.

Choice of
managers.

8th. The managers shall be elected hereafter by ballot at any meeting of the stockholders held under the authority of this act, provided public notice of such meeting and election shall have been given during five days at least next before the time of holding it. The managers shall continue in office until their successors shall be duly chosen. The term or duration of office shall be prescribed by the constitution.

Term of
office.

Elections.

9th. The time and place of holding the elections and other meetings of the stockholders, and the modes of advertising and conducting them, after the one to be held and conducted under the present constitution of the company on the third Saturday of February next, shall be prescribed by the constitution of the corporation.

Voting,

10th. Every individual member of the corporation who may be entitled to vote under this act, and no others, shall be eligible to office. Rights and duties of office shall terminate simultaneously with the right of suffrage.

11th. Each share of stock of the company or corporation shall entitle the subscriber or owner thereof to one vote in person at any election under this act: *Provided* such stock shall have been possessed by the voters respectively in their own right, for at least one month immediately preceding the time of the election; and that there shall then be no claim against the same for arrears or on account of instalments due. The constitution may prescribe the

manner of voting in cases of stock held by corporations, and also by guardians or minors.

12th. In case of failure to elect managers, or choose or appoint officers, or any of them, at the stated or proper time or times, the corporation shall not thereby be dissolved, nor its capacity or powers impaired; but in every such case the managers or other officers in office at the time of such failure, shall continue in office until successors to them respectively shall be duly chosen. Failure to elect managers, no forfeiture of charter.

13th. At the first meeting of the managers, which shall take place as soon as practicable after their election, annually, or more frequently as the constitution shall prescribe, they shall choose from among themselves a president and treasurer of the corporation, and may at any time and from time to time, displace and remove the same or either of them, for good and sufficient cause, and may appoint such other officers and agents, and may make and allow such salaries or compensation as they may deem expedient and proper. President and treasurer.

14th. The board of managers when organized shall have power to fill vacancies occurring in their body whenever necessary, except when such vacancies amount to four in number at any one time, in which case it shall revert to the stockholders to elect new members. Vacancies.

15th. Seven of the managers shall constitute a quorum for ordinary business. Two or more may adjourn a meeting to another time, if occasion should require. For choosing the president and treasurer, or either of them, filling vacancies in the board, and for making drafts upon the treasury, or contracts involving such drafts and also for any permanent letting or disposing of the Hall or other part of the premises, a majority of the whole number shall be requisite. Quorum.

16th. Drafts or orders upon the treasury must be signed by the president, or in case of his absence or disability, by the chairman of the board. The treasurer shall pay no money to any other order or direction. Drafts.

17th. The treasurer, within ten days from and after his election, shall give bond with sufficient sureties, to be approved by the board of managers, to secure the faithful discharge of his duties. He shall keep the accounts of the corporation, and when required shall make reports of the receipts and payments, and state of the funds in his hands. Bond of treasurer.

18th. The managers shall keep a regular record of all their transactions and proceedings, and shall make full reports thereof to the stockholders' meetings annually, or oftener if required by the constitution. Record of transactions, &c.

SEC. 2. *And be it further enacted,* That this shall be a public act. This a public act.

SEC. 3. *And be it further enacted,* That none of the powers heretofore conferred, shall be so construed as to authorize the said corporation to borrow money. No authority to borrow money.

Passed at Dover, February 8, 1843.

CHAPTER CCCCXXXVIII.

Dig. 272. A SUPPLEMENT to the act entitled "*An act concerning fines and forfeitures,*" passed at Dover, January 23, 1829.

SECTION 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 county treasurer in each county, to withhold all allowances made by the Levy Court and Court of Appeal in their respective counties to any sheriff, constable, or other officer, whose duty it may be to collect or pay over any fine or forfeiture to the State treasurer, until such sheriff, constable or other officer, shall present to such county treasurer, a certificate under the hand of the State treasurer, that there is no such fine or forfeiture charged to and due from such sheriff, constable or other officer, to the State.

County treasurer to pay no officer any allowance, when.

Passed at Dover, February 9, 1843.



CHAPTER CCCCXXXIX.

AN ACT to enable William Masten to locate certain vacant lands, situate in Kent county, and to complete his title to the same.

Private act.

Passed at Dover, February 9, 1843.



CHAPTER CCCCXL.

AN ACT to incorporate the Farmers' Mutual Fire Insurance Company of Mill Creek hundred.

Private act.

Passed at Dover, February 10, 1843.



CHAPTER CCCCXLI.

AN ACT enabling John Whann, administrator of John Pritchard, deceased, to convey certain lands therein mentioned.

Private act.

Passed at Dover, February 10, 1843.

CHAPTER CCCCXLII.

AN ACT to enable Jehu Lynch to locate certain vacant land situated in Broudkiln hundred in Sussex county.

Private act.

Passed at Dover, February 10, 1843.



CHAPTER CCCCXLIII.

A SUPPLEMENT to the act entitled "*An act to appoint commissioners to cleanse and drain Inlet creek, in Baltimore hundred, in Sussex county.*" Chap. 326,
ante 377.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the commissioners appointed by the first section of the act to which this is a supplement, and such others as may be appointed by the provisions of the second section of this act, be and they are hereby authorized to meet at some convenient place in said hundred, on the first Saturday of May next, and at such meeting to determine the amount which each owner of lands benefitted by the improvements made, or to be made to the lands lying upon said creek by virtue of the said original act, shall contribute towards the expense of the said improvements; and when they shall have so determined, they shall give written notice thereof to each of the persons interested, who shall be obliged to pay to the said commissioners the amount determined to be payable by him, within one calendar month thereafter. If the whole, or any part of said amount shall not be paid to the said commissioners within the time specified, the said commissioners shall give an order for the collection of the same, to a constable, for the hundred aforesaid, who shall have power to collect the same by the sale of such portion of the personal property of the person so refusing as may be necessary therefor, on ten days notice given by written advertisements in three of the most public places of said hundred. The money arising from said sale, after deducting such fees as are usual in cases of sale upon execution process, shall be paid over forthwith to the said commissioners by the said constable, the condition of whose official bond shall be construed to embrace the collection of money under this act. The meeting to be held by the said commissioners by virtue of the foregoing provision shall be public, and notice thereof shall be given by the said commissioners in five of the most public places in said hundred, at least six days before the same is held. When the amount to be paid as aforesaid by the owners of land benefitted by the improvements contemplated by the said original act, shall have been determined by the said commissioners, they shall announce the same to the meeting publicly, and if any person consider himself aggrieved thereby, he may desire the said commissioners to revise their said determination, who shall at once proceed

Meeting of
commission-
ers.

Their powers
and duties.

Tax to be col-
lected by
constable,
when.

Meeting of
commission-
ers to be
public.

Publication
and provision
of assess-
ment.

thereto, hearing whatever allegations and proofs may be made; and after the same shall have been heard and considered, they shall report their decision thereon, and the same with their determination in cases where there was no objection, shall be final and conclusive.

Vacancies
among com-
missioners.

SEC. 2. *And be it further enacted*, That if any of the said commissioners appointed by the said original act shall die, resign, refuse or neglect to act, the justice of the peace in said hundred who has been longest in commission, shall have power on the application of any person interested, to appoint a successor or successors to the person or persons so dying, resigning, refusing or neglecting to act, and so from time to time as shall be necessary to keep the number of said commissioners complete. The person or persons so appointed shall have all the powers of commissioners under the aforesaid original act.

Acts of ma-
jority valid.

SEC. 3. *And be it further enacted*, That the acts of a majority of said commissioners shall be as valid as the acts of all of them agreeing.

Passed at Dover, February 11, 1843.



CHAPTER CCCCXLIV.

AN ACT respecting the admission of certain records and exemplifications of office books in the State of Maryland, as evidence in all the courts of law and equity in this State.

What re-
cords admis-
sible.

Attestation.

Effect of

SECTION. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the passage of this act, all records, surveys, patents, deeds, or other instruments of writing or exemplifications of office books, touching and concerning the title to any lands and tenements in this State, which are or may be kept in any public office in the State of Maryland, shall be proved and admitted in any court of law or equity in this State, by the attestation of the keeper of the said records, surveys, patents, deeds or other instruments of writing, or books aforesaid, and the seal of his office thereto annexed; and the said records, surveys, patents, deeds or other instruments of writing and exemplifications authenticated as aforesaid, shall have such faith and credit given to them in all courts of law or equity in this State, as they have by law or usage in the courts of the said State of Maryland.

When to be
recorded in
this State.

SEC. 2. *And be it further enacted*, That from and after the passage of this act, it shall be the duty of the recorder of deeds in the several counties of this State, to record all such records, surveys, patents, deeds or other instruments of writing, and exemplifications of office books, touching and concerning the title to any lands and

tenements in this State, authenticated as provided for in the first section hercof, whenever the same are presented to him for that purpose; and such record of the said recorder or a certified copy thereof, duly attested under the hand and seal of the said recorder of deeds of either of the counties in this State, shall be evidence in all courts of law or equity in this State. Copies thereof evidence.

Passed at Dover, February 13, 1843.



CHAPTER CCCCXLV.

AN ACT to incorporate the Island Pond Marsh Company.

Private act.

Passed at Dover, February 13, 1843.



CHAPTER CCCCXLVI.

AN ACT respecting the admission of the printed laws of other States or Territories as evidence in all courts of law or equity in this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passage of this act, the printed acts of the several States and Territories of these United States, deposited in the State Library, from such States and Territories, shall have such faith and credit given to them, and all matters contained in them, in every court of law and equity of this State, as they have by law or usage in the courts of the States or Territories from whence the same are or shall be received; any law, usage or custom to the contrary thereof in anywise notwithstanding. What acts admissible. Effect of.

Passed at Dover, February 16, 1843.



CHAPTER CCCCXLVII.

AN ACT to repeal certain acts therein mentioned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That an act entitled "An act to encourage the destruction of crows," passed at Dover, February 21, 1837; and an act entitled "A supplement to an act entitled 'An act to encourage the destruction of crows,'" passed at Dover, February 20, 1839, be and the same are hereby repealed, made null and void, from and after the twenty-third day of April next. Chap. 132, ante 179, and chap. 243, ante 295, repealed.

Passed at Dover, February 16, 1843.

thereto, hearing whatever allegations and proofs may be made; and after the same shall have been heard and considered, they shall report their decision thereon, and the same with their determination in cases where there was no objection, shall be final and conclusive.

Vacancies
among com-
missioners.

SEC. 2. *And be it further enacted,* That if any of the said commissioners appointed by the said original act shall die, resign, refuse or neglect to act, the justice of the peace in said hundred who has been longest in commission, shall have power on the application of any person interested, to appoint a successor or successors to the person or persons so dying, resigning, refusing or neglecting to act, and so from time to time as shall be necessary to keep the number of said commissioners complete. The person or persons so appointed shall have all the powers of commissioners under the aforesaid original act.

Acts of ma-
jority valid.

SEC. 3. *And be it further enacted,* That the acts of a majority of said commissioners shall be as valid as the acts of all of them agreeing.

Passed at Dover, February 11, 1843.



CHAPTER CCCCXLIV.

AN ACT respecting the admission of certain records and exemplifications of office books in the State of Maryland, as evidence in all the courts of law and equity in this State.

What re-
cords admis-
sible.

Attestation.

Effect of

SECTION. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passage of this act, all records, surveys, patents, deeds, or other instruments of writing or exemplifications of office books, touching and concerning the title to any lands and tenements in this State, which are or may be kept in any public office in the State of Maryland, shall be proved and admitted in any court of law or equity in this State, by the attestation of the keeper of the said records, surveys, patents, deeds or other instruments of writing, or books aforesaid, and the seal of his office thereto annexed; and the said records, surveys, patents, deeds or other instruments of writing and exemplifications authenticated as aforesaid, shall have such faith and credit given to them in all courts of law or equity in this State, as they have by law or usage in the courts of the said State of Maryland.

When to be
recorded in
this State.

SEC. 2. *And be it further enacted,* That from and after the passage of this act, it shall be the duty of the recorder of deeds in the several counties of this State, to record all such records, surveys, patents, deeds or other instruments of writing, and exemplifications of office books, touching and concerning the title to any lands and

tenements in this State, authenticated as provided for in the first section hereof, whenever the same are presented to him for that purpose; and such record of the said recorder or a certified copy thereof, duly attested under the hand and seal of the said recorder of deeds of either of the counties in this State, shall be evidence in all courts of law or equity in this State. Copies thereof of evidence.

Passed at Dover, February 13, 1843.



CHAPTER CCCCXLV.

AN ACT to incorporate the Island Pond Marsh Company.

Private act.

Passed at Dover, February 13, 1843.



CHAPTER CCCCXLVI.

AN ACT respecting the admission of the printed laws of other States or Territories as evidence in all courts of law or equity in this State.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passage of this act, the printed acts of the several States and Territories of these United States, deposited in the State Library, from such States and Territories, shall have such faith and credit given to them, and all matters contained in them, in every court of law and equity of this State, as they have by law or usage in the courts of the States or Territories from whence the same are or shall be received; any law, usage or custom to the contrary thereof in anywise notwithstanding. What acts admissible. Effect of.

Passed at Dover, February 16, 1843.



CHAPTER CCCCXLVII.

AN ACT to repeal certain acts therein mentioned.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That an act entitled "An act to encourage the destruction of crows," passed at Dover, February 21, 1837; and an act entitled "A supplement to an act to encourage the destruction of crows," passed at Dover, February 20, 1839, be and the same are hereby repealed, made null and void, from and after the twenty-third day of April next. Chap. 132, ante 179, and chap. 243, ante 295, repealed.

Passed at Dover, February 16, 1843.

CHAPTER CCCCXLVIII.

AN ACT concerning guardians and wards, the sale of the real estate of minors, and the investment of money belonging to minors or the estates of deceased persons.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met.

Orphans' Court to appoint guardians, and the continuance thereof

SECTION 1. That the Orphans' Court shall have authority to appoint guardians to minors; the guardianship to continue of males, until their age of twenty-one years, and of females until their age of twenty-one years or marriage. But when a guardian is appointed of a minor under the age of fourteen years, unless such appointment be according to a deed, or the last will and testament of the minor's father, if the minor after arriving to the age of fourteen years shall choose for a guardian another person, the court shall appoint the person so chosen, if there be no just cause to the contrary; and the preceding guardianship shall be thereby superseded.

Testamentary guardian.

Minor may choose, when.

When the court may select a guardian.

SEC. 2. A father may by deed or last will and testament name a guardian for his child, and the person named shall be appointed, unless he refuse or neglect to give security, or there be other sufficient cause against appointing him. A minor of the age of fourteen years or upwards may choose a guardian and the court, if there be no just cause to the contrary, shall appoint the person chosen. When a minor is under the age of fourteen years, or resident out of this State and cannot conveniently appear in court to choose a guardian, or refuses or neglects to choose a person whom the court can approve, or who will give security, the court may appoint a guardian according to its own discretion.

Guardian to give bond.

SEC. 3. Every person appointed guardian shall, with sufficient surety or sureties, become bound to the ward in a penal sum to be determined by the court, by a joint and several obligation to be with the security approved by said court, with condition according to the following form:

Condition of it.

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

May be varied. The entries to be made

The condition may be adapted to the case of several guardians or of a female guardian or ward, by the requisite variation from said form. No entry of the appointment of a guardian shall be made until obligation be given and approved; and a note of the

giving of the obligation and of the penalty, and of the surety or sureties, shall be subjoined to the record of the appointment. The obligation shall be carefully preserved in said court. It shall not be necessary to the validity of the obligation that there be a certificate of the approving of it or of the security.

as to the appointment. Bond to be preserved—valid without certificate.

SEC. 4. If it shall appear in any case that the obligation or security is insufficient, whether it originally was or has become insufficient, the Orphans' Court shall order the guardian to give further security, and in case of neglect or refusal to obey said order, shall remove him from office. Further security shall be by obligation, with surety or sureties, in the same manner and form as original security.

Further security.

SEC. 5. The Orphans' Court shall have authority to remove a guardian for any sufficient cause, and a guardian may on his petition be allowed to resign his trust when it shall appear to the court proper to allow the same: and upon every such removal or resignation, and also upon the death of any guardian, the court may appoint another in his stead. The court shall direct the guardian so resigning or removed, to render a full account of his guardianship before the register, and may order him to pay and deliver all the money, effects and estate in his hands as such guardian to the successor in the guardianship, or to a receiver appointed by the court, and may enforce such orders by attachment for contempt or sequestration. The court may also order suit to be brought on the guardian bond, and such suit may be prosecuted in the name of the ward, although he may not have arrived at full age, by his next friend or guardian, and it shall in no manner affect or impair the right of excepting to the said guardian's accounts passed before the register.

Removal and resignation of guardian. His duty on removal or resignation. Court may order suit to be brought, &c.

SEC. 6. If any surety of an executor, administrator or guardian, shall apprehend danger of suffering from his suretyship, he may prefer to the Orphans' Court a petition for relief: and the said court shall have authority, if it shall appear that the petitioner is in danger of suffering injury or loss from his said suretyship, to make an order that the executor, administrator or guardian complained against, give to the petitioner sufficient counter security to be approved by the court; and in case of refusal or neglect to obey such order, the court shall have authority to remove the executor, administrator or guardian from office, and to order him to pay and deliver all the money, effects and estate in his hands as such executor, administrator or guardian, to another guardian or to a receiver by the said court appointed: and to enforce obedience to such order by attachment for contempt or sequestration.

Counter security by ex'rs, adm'rs, and guardians. Receiver to be appointed, when.

A receiver appointed under this section, or under section eighteen, shall on his appointment become bound with sufficient surety to the State in a joint and several obligation to be approved by the court, with condition in substance "to account for all moneys, effects and estate which shall come to his hands pursuant to his appointment, and to pay and deliver the same as the said court

His bond, &c.

shall order, and to well and faithfully execute the trusts and duties of his office of receiver;"

Valuation of ward's lands. SEC. 7. Upon the appointment of a guardian, if the ward have any lands or tenements, the court shall make an order that three judicious and impartial persons named by the court, shall view such lands or tenements, and estimate the yearly rental value thereof, and note the buildings, orchards, fences, and other improvements, the estimated portion of cleared land and woodland, and of meadow or marsh, whether any and what part may be cleared, and whether any and what repairs are necessary to the tenantable condition of the premises, and the probable cost of such repairs, and make return to the said court under their hands or the hands of a majority of them. Such return, if confirmed, shall authorize the guardian to do what shall be recommended by the commissioners in the premises. It shall not be conclusive to charge the guardian at all events, but only if by due diligence he may receive the estimated rental value, and if by such diligence he might or could have received more he shall account for the same. The court may for cause, set aside the return, and may make other orders for the same purpose. But if the guardian shall occupy or cultivate the lands of his ward, he shall in all cases be responsible for such estimated yearly rental value thereof as may be finally assessed as aforesaid.

Effect of valuation.

Guardian responsible for rental value, when.

Commissioners to value. All the commissioners must view the premises, but a majority may determine any matter. Before executing the order, they must be sworn or affirmed to perform their duty faithfully and impartially, according to the best of their skill and judgment.

Order, when to be executed. It shall be the duty of the guardian to procure such order to be executed within three months from the making of it. If he neglect this duty, or if the commissioners, after reasonable request, refuse or neglect duly to execute and return such order, it shall be a contempt of court, which may be punished by the said court by a fine not exceeding thirty dollars.

Accounts of guardian. SEC. 8. Every guardian shall render an account of his guardianship at the end of one year from his appointment, and shall fully account for all the money, effects and property of his ward that shall have come to his hands; and shall afterwards render accounts of his guardianship, from time to time, as the register shall require; but the register shall not require accounts to be rendered oftener than once every two years, unless there be special occasion.

Duty of the register. If the guardian shall fail to render an account at the end of one year from his appointment, it shall be the duty of the register to issue a citation, directing him to appear before the said register, on a day therein to be appointed to render his account as guardian as aforesaid; and if the said guardian shall fail to obey the said citation, the register shall thereupon issue process of attachment for contempt against him, and enforce the performance of his duty in this respect by imprisonment; but the register may for sufficient cause extend the time not exceeding six months.

He shall have authority to order guardians to render accounts

and to enforce obedience to such orders by attachment for contempt and imprisonment.

Sec. 9. A guardian shall have the care of the person of the ward and the possession and management of his real and personal property; and shall have authority to receive all debts, rents and things in action, due or belonging to the ward, and to sell the personal property of the ward of a perishable nature, and also with the direction of the Orphans' Court to sell any other property of the ward; and the receipts, discharges and transfers of the guardian made in good faith in the exercise of this authority, shall be valid and effectual, Powers of guardian.

A guardian shall be admitted to sue and defend for his ward. An infant may also sue by his next friend. In no suit at law or in equity, shall the plea demur or proceedings be deferred because of the infancy of a party plaintiff or defendant. Infant may sue by guardian, or next friend.

Sec. 10. No person shall have any right or authority as guardian unless he shall have been duly appointed by the Orphans' Court; except that a court of equity or of law, may in any action or suit against an infant, admit any person to defend such action or suit as guardian of the said infant, Who shall have authority as guardian.

But when a minor in any other State or Territory of the United States, having any property here, rights, credits or things in action, but having no guardian in this State, shall have a guardian in such other State or Territory, duly appointed according to the laws thereof, and invested by such laws with the care and management of the estate of such minor, and with authority to receive and liability as guardian to account for the same, such foreign guardian shall have all the rights, power and authority of a guardian regularly appointed by the Orphans' Court, upon his filing in the office of the clerk of the said court, in either county of this State, a certificate of his appointment to such guardianship, duly certified under the seal of the court or officer making such appointment, therein setting forth that said appointment was duly made according to the laws of said State or Territory in which the same was made, and that such guardian has given security in such guardianship according to the laws of such State or Territory, and the amount of such security; and that such guardian is by the laws of such State or Territory invested with the care and management of the estate of such minor, with authority to receive and liability as guardian to account for the same; *Provided*, that such foreign guardian shall not be entitled to recover or to receive any property rights, credits or things in action of his ward, unless it shall appear by the said certificate that he has given security in a sum at least equal to the amount of the property so to be recovered or received. When a foreign guardian shall have the rights and powers of a guardian appointed in this State. Certificate of his appointment.

The said certificate so filed shall be recorded, and shall remain of record in said office, and the same or a duly certified copy of said record shall be conclusive evidence of the matters therein set forth for all the purposes of this act. Certificate to be recorded, &c.

shall order, and to well and faithfully execute the trusts and duties of his office of receiver,"

Valuation of ward's lands. SEC. 7. Upon the appointment of a guardian, if the ward have any lands or tenements, the court shall make an order that three judicious and impartial persons named by the court, shall view such lands or tenements, and estimate the yearly rental value thereof, and note the buildings, orchards, fences, and other improvements, the estimated portion of cleared land and woodland, and of meadow or marsh, whether any and what part may be cleared, and whether any and what repairs are necessary to the tenantable condition of the premises, and the probable cost of such repairs, and make return to the said court under their hands or the hands of a majority of them. Such return, if confirmed, shall authorize the guardian to do what shall be recommended by the commissioner's in the premises. It shall not be conclusive to charge the guardian at all events, but only if by due diligence he may receive the estimated rental value, and if by such diligence he might or could have received more he shall account for the same. The court may for cause, set aside the return, and may make other orders for the same purpose. But if the guardian shall occupy or cultivate the lands of his ward, he shall in all cases be responsible for such estimated yearly rental value thereof as may be finally assessed as aforesaid.

Effect of valuation.

Guardian responsible for rental value, when.

Commissioners to value. All the commissioners must view the premises, but a majority may determine any matter. Before executing the order, they must be sworn or affirmed to perform their duty faithfully and impartially, according to the best of their skill and judgment.

Order, when to be executed. It shall be the duty of the guardian to procure such order to be executed within three months from the making of it. If he neglect this duty, or if the commissioners, after reasonable request, refuse or neglect duly to execute and return such order, it shall be a contempt of court, which may be punished by the said court by a fine not exceeding thirty dollars.

Accounts of guardian. SEC. 8. Every guardian shall render an account of his guardianship at the end of one year from his appointment, and shall fully account for all the money, effects and property of his ward that shall have come to his hands; and shall afterwards render accounts of his guardianship, from time to time, as the register shall require; but the register shall not require accounts to be rendered oftener than once every two years, unless there be special occasion.

Duty of the register. If the guardian shall fail to render an account at the end of one year from his appointment, it shall be the duty of the register to issue a citation, directing him to appear before the said register, on a day therein to be appointed to render his account as guardian as aforesaid; and if the said guardian shall fail to obey the said citation, the register shall thereupon issue process of attachment for contempt against him, and enforce the performance of his duty in this respect by imprisonment; but the register may for sufficient cause extend the time not exceeding six months.

He shall have authority to order guardians to render accounts

and to enforce obedience to such orders by attachment for contempt and imprisonment.

Sec. 9. A guardian shall have the care of the person of the ward and the possession and management of his real and personal property; and shall have authority to receive all debts, rents and things in action, due or belonging to the ward, and to sell the personal property of the ward of a perishable nature, and also with the direction of the Orphans' Court to sell any other property of the ward; and the receipts, discharges and transfers of the guardian made in good faith in the exercise of this authority, shall be valid and effectual, Powers of guardian.

A guardian shall be admitted to sue and defend for his ward. An infant may also sue by his next friend. In no suit at law or in equity, shall the parol demur or proceedings be deferred because of the infancy of a party plaintiff or defendant. Infant may sue by guardian, or next friend.

Sec. 10. No person shall have any right or authority as guardian unless he shall have been duly appointed by the Orphans' Court; except that a court of equity or of law, may in any action or suit against an infant, admit any person to defend such action or suit as guardian of the said infant, Who shall have authority as guardian.

But when a minor in any other State or Territory of the United States, having any property here, rights, credits or things in action, but having no guardian in this State, shall have a guardian in such other State or Territory, duly appointed according to the laws thereof, and invested by such laws with the care and management of the estate of such minor, and with authority to receive and liability as guardian to account for the same, such foreign guardian shall have all the rights, power and authority of a guardian regularly appointed by the Orphans' Court, upon his filing in the office of the clerk of the said court, in either county of this State, a certificate of his appointment to such guardianship, duly certified under the seal of the court or officer making such appointment, therein setting forth that said appointment was duly made according to the laws of said State or Territory in which the same was made, and that such guardian has given security in such guardianship according to the laws of such State or Territory, and the amount of such security; and that such guardian is by the laws of such State or Territory invested with the care and management of the estate of such minor, with authority to receive and liability as guardian to account for the same; *Provided*, that such foreign guardian shall not be entitled to recover or to receive any property rights, credits or things in action of his ward, unless it shall appear by the said certificate that he has given security in a sum at least equal to the amount of the property so to be recovered or received. When a foreign guardian shall have the rights and powers of a guardian appointed in this State. Certificate of his appointment. *Proviso.*

The said certificate so filed shall be recorded, and shall remain of record in said office, and the same or a duly certified copy of said record shall be conclusive evidence of the matters therein set forth for all the purposes of this act. Certificate to be recorded, &c.

When the maintenance, &c., of the ward may exceed his income.

SEC. 11. The Orphans' Court upon a proper case may direct a guardian to expend for the maintenance and education of his ward a specified sum, although such sum may exceed the income of the ward's estate; but without such direction the guardian shall not be allowed to exceed the clear income of his ward's estate.

Court may order certain property to be delivered to the ward.

SEC. 12. The said court may order that any property in the possession of the guardian as such, at the determination or ceasing of the guardianship, shall be delivered to the person who was ward, his heirs, executors or administrators, and to enforce obedience to such order by attachment for contempt or sequestration.

Guardian shall not dispute the ward's right.

SEC. 13. The guardian, or his heirs, executors, administrators or assigns, shall not dispute the right of the ward to any property that shall come to his possession as guardian, except such property as shall have been recovered from the guardian, or there be a personal action pending on account of it.

When a legacy or distributive share may be deposited in bank, by executor or administrator. Effect of deposit.

SEC. 14. If an executor or administrator cannot pay over money in his hands as such, because of the infancy or absence from the State of any person entitled to any legacy or distributive share of personal estate, or to any part thereof, it shall be lawful for such executor or administrator to deposit such legacy or distributive share or such money in the Farmers' Bank of this State, to the credit and account of the person or persons entitled to the same; and such deposit shall be a sufficient discharge of such executor or administrator and of his sureties for the money so deposited; if he shall observe and fulfil the further directions of this act.

Certificates of deposit to be delivered to the register, &c.

Such executor or administrator shall take from the cashier of the said bank, a certificate or certificates of the said deposit, and shall deliver the same to the register for the probate of wills and granting letters of administration in and for the county wherein such deposit is made, to be by him recorded agreeably to the provisions of the act entitled "An act concerning the acknowledgment and recording of acquittances to executors, administrators and guardians, and for limiting the time of excepting to their accounts," passed at Dover, February 9, 1825, and the record of the said certificate or certificates of deposit or a certified copy thereof shall be evidence.

Dig. 236.

When the parties entitled are minors, certificates of deposit to be filed in the Orphans' Court, &c. When recorded, the court shall have control of the deposits. Requests for life, &c.

And whenever any of the parties entitled to any money so deposited are minors, the executor or administrator so depositing the same to the credit of such minors, shall in respect to such minors further make return in writing, to the next Orphans' Court of the county wherein such deposit is made, and shall exhibit to and file in the said court, the original certificate or certificates of deposit: and the said certificates and return shall be recorded in the said court, which shall thereupon have the direction and control of the said deposits, for the benefit of the minors entitled to the same; and shall proceed to loan, invest or dispose of the same for the benefit of the said minors as hereinafter directed.

This section shall extend and apply to cases of bequests of personal property for life, or for a term of years, as well as to bequests of the absolute interest in such property.

SEC. 15. Whenever it shall appear to the Orphans' Court that it will be for the benefit of any minor, that the real estate owned by such minor, or any part thereof, should be sold, it shall be lawful for the Orphans' Court of the county wherein such real estate, or any part thereof shall lie, to direct a sale of all or any part of such real estate, to be made by the guardian of such minor, or by any trustee, for that purpose to be appointed by the court; and the money arising therefrom, after deducting all the expenses allowed by the court touching the said sale, may be ordered by the court to be paid to such guardian, to be accounted for as personal estate belonging to said minor in the regular course of his guardianship, according to the existing laws of this State: or such proceeds of sale may be ordered to be deposited in bank, to the credit of the minor, to be loaned, invested, or otherwise disposed of by the court as hereinafter directed for the minor's benefit.

Court may direct the real estate of minors to be sold for their benefit.

Proceeds of sale.

And in every case of sale of minors' real estate ordered under this act, the Orphans' Court shall have full power to direct that the purchase money, or any part thereof, may be secured by bond and mortgage, to be executed in manner and form and subject to the control and disposition of the Orphans' Court, for the minor's benefit as hereinafter provided for in this act with respect to all other investments.

Purchase may be secured, how.

After such sale shall be returned to, and confirmed by the court, the said court shall direct the guardian or trustee to make a deed or deeds to the purchasers thereof; and such purchaser under any deed, made in pursuance of the orders of the said court, shall have as full and ample title to the land or real estate so purchased, as the minor had thereto previous to the sale: *Provided nevertheless*, that the land or real estate so sold as aforesaid shall be subject, in the hands of the purchaser, to any lien or incumbrance properly existing against it at the time of the said sale.

Deed to purchaser and his title under it.

Lien preserved.

This section and the several provisions of this act, shall extend and apply to all cases of land or real estate owned by minors, and to all and every share, estate and interest, owned by a minor in real estate, whether the same be so owned in severalty, joint tenancy, coparcenary, or in common, or in possession, reversion or remainder, if the court shall consider the sale of such interest, share or estate, to be for the benefit of the minor.

Undivided interests and interests in remainder and reversion may be sold, &c.

SEC. 16. In every case of sale of minors' real estate ordered under this act, and in every case where the guardian's liability is or may be increased, the Orphans' Court shall have full power to require the guardian to give such additional security as may be deemed necessary, by obligation with surety or sureties, in the same manner and form as original security. And if, in any application for a sale of minors' land, the court shall think it proper for their information, the said court may appoint three commissioners to view the land and report upon the necessity or propriety of a sale.

Additional security on sale of minors' land by guardian.

Commissioners to report on propriety of sale.

SEC. 17. All money arising under the provisions of this act shall be deemed, taken and considered to be personal estate; and when any such money shall be ordered to be paid to, or shall otherwise come

Money arising from sale, personal

estate, and within condition of the bond.

to the hands of a guardian, the same shall be within the condition of the guardian bond, and the said guardian and his sureties, both in the original bond and in any further or additional bond which may be taken, shall be liable for the same, in the same manner as for other personal property of the ward.

Person may be appointed to take charge of minor's property, when.

SEC. 18. If a minor have real or personal property and have no guardian, the Orphans' Court shall have authority to appoint some person to take charge of such property, during the pleasure of the court, or until the appointment of a guardian. The court may make such regulations touching this matter as shall be deemed proper.

In case of real estate, the rent shall be payable into court, and shall be deposited in bank, if the court shall so order, to be invested or otherwise disposed of for the minor's benefit.

Court may make investments of money deposited in bank, &c.

SEC. 19. The Orphans' Court shall have power and authority to make investments of any money deposited in bank or paid into court to the credit of any minor, in such stocks in this State, or funded debt of the United States, as to the court may seem meet and proper, or by loan on judgment bond or mortgage or both, and with such surety or sureties as may be approved of by the court.

Such investments shall be in the name of the minor or minors entitled to the money, either individually or by designation as the children, legatees, heirs or representatives of a deceased person. If a loan be made on judgment bond, or bond and mortgage, it shall be limited to a time not exceeding one year and one month, and the judgment shall be entered and the mortgage recorded. But such loan may be continued from time to time, on the same or other satisfactory security.

Dividends, &c., on investments.

SEC. 20. The court shall have authority to order the dividends or interest on any such investment, or any part thereof, to be paid to any person as the next friend of the minor, to be applied in the maintenance and education of such minor, under such restrictions and conditions as the court shall order and direct.

Guardian to collect dividends, &c., due his ward, but shall not change investments without, &c.

SEC. 21. If there be a guardian to any such minor, such guardian shall be entitled to collect and receive the dividends or interest on any such investment, or any balance thereof remaining undisposed of by the court; but he shall not have power without the special order of the court, to sell, assign, transfer, collect or receive the stocks, debts, loans, judgments, mortgages or other securities, in which the said money shall be so invested by the court.

Court may change investments.

SEC. 22. The court shall have full power to change, renew, extend, terminate, call in and collect any such investment, to sell, assign and transfer the stock, or debt in which such investment is made, to re-invest the money for the benefit of the minors entitled to the same, and to appoint an agent for either of these purposes.

Investment may be ap-

If the investment shall have been made in the names or for the benefit of several minors, the court shall have full power to appor-

tion and divide the same among the parties entitled, as may be portioned, just, and assign to each his several share. &c.

SEC. 23. Whenever it shall be made satisfactorily to appear to the said court that any person for whose benefit any investment has been made as aforesaid, has arrived to full and lawful age, or being a female has married, the said court shall by order direct the scrip, certificates or other evidence of the investment, to be delivered to such person or his lawful agent, (or in case of his death before or after full age to his lawful representatives, or in case of the marriage of such female, before or after full age as aforesaid, to the husband of such female,) and shall direct and order the bank, company, or other corporation in whose stock or debt an investment has been made, to pay over to such person or his lawful agent or representatives, the dividends which have accrued on such stock or debt, or such part thereof as may remain; which order shall vest in such person or persons full and absolute power and control over such stock, debt or other investment, and all dividends or interest which may have accrued thereon, or any balance thereof that may remain.

When the scrip, certificates of stock or other evidence of investment shall be delivered to the minor, or his representatives.

SEC. 24. *And be it further enacted*, That on the application of a guardian, the Orphans' Court may direct money in his hands to be by him as guardian either lent at interest or invested in stocks in this State, or funded debt of the United States, and whenever the same shall be lent at interest, it shall be upon security to be approved of by the said court, and for any time not exceeding one year and one month from the date of such direction; and the said court on the application of the guardian may from time to time direct such loan to be continued on the same security for any time not exceeding one year; or if it be necessary to make the investment in stocks in this State, or funded debt of the United States, the same shall be designated in the order of the said court; and the guardian faithfully following the directions of the said court, shall not be liable for the failure of the security or any loss resulting from any such investment: *Provided* he shall have used due and reasonable care and diligence to prevent the same. If money cannot be lent at interest on good security, nor invested as aforesaid, the guardian shall not be charged with interest unless he derives benefit from or uses the said money.

Money in hands of guardian may on application, be invested.

Guardian following the order of the court, liable for no loss.

SEC. 25. *And be it enacted*, That the third, fourth, sixth, and all the following sections of the act entitled "An act concerning the Orphans' Court," passed at Dover, February 10, 1829, and the act entitled "An act to amend the act entitled 'An act concerning the Orphans' Court,'" passed at Dover, February 3d, 1835, and the act entitled "A supplement to the act entitled 'An act concerning the Orphans' Court,'" passed at Dover, February 18, 1839, and the act entitled "An act empowering the Orphans' Court to direct the sale of the real estate of minors," passed at Dover, February 15, 1839, and the supplement to said last mentioned act, passed at Dover, February 15, 1841, and the first, second, third and fourth

All of act concerning O. C.'s Dig. 419, except secs. 1, 2 and 5. chap. 337, vol. 8, chap. 222, vol. 9, chap. 213, vol. 9. chap. 319, vol. 9. secs. 1, 2, 3, 4, of chap.

120, vol. 9,
and chap.
217, vol. 9,
repealed.

Saving as to
past acts and
offences.

Certain acts
to be re-pub-
lished in con-
nection with
this act.

sections of the act entitled "A further supplement to the act entitled 'An act concerning the probate of wills and the administration of the personal estate of deceased persons,'" passed at Dover, February 18, 1837, and the supplement to the said last mentioned act, passed at Dover, February 16, 1839, be and the same are hereby repealed: *Provided*, that this act shall not apply to any transactions, business matter or thing done before the passage hereof, nor to any offence committed, but in respect to all such matters the acts hereby repealed shall continue and be in force; nor shall this repealing clause revive any law repealed by any act hereby repealed.

SEC. 26. *And be it enacted*, That the Secretary of State shall republish in connection with this act the "Act concerning the real estate of intestates," (Dig. 315,) as the same is amended by the supplement thereto, passed July 24, 1835, (9 vol. 6.) inserting section 2 of said supplement as a distinct paragraph at the end of section 1 of the original act; inserting section 3 as a distinct paragraph before the 27th clause of the original act; and further amending said original act in conformity with the supplement, by inserting in the 32d clause, 2d line, after the word "parts," the words "and an assignment of all the parts on the same day." These amendments being made, the title of said supplement, all of section 1, and the numbers and enacting clauses of sections 2 and 3, with the date of its passage, may be omitted in the republication.

Passed at Dover, February 16, 1843.

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(REPUBLICATION.)

CHAPTER CCCCXLIX.

Dig. 315.

AN ACT concerning the real estates of Intestates.

1 Descent.

a (4)

SEC. 1. When any person having title or any manner of right, legal or equitable, to any lands, tenements or hereditaments in fee simple, shall die intestate as to the same, such lands, tenements or hereditaments shall descend and pass in fee simple to the kindred, male and female, of said intestate in coparcenary according to the following course, that is to say: to every the children of the intestate, and the lawful issue of any such children who shall have died before the decease of the intestate, or such of them as there may be, but if there be no child of the intestate nor lawful issue of any such child, then to every the brothers and sisters of the intestate of the whole blood (a) and the lawful issue of any such brothers and sisters, who shall have died before the decease of the intestate or such of them as there may be; or if there be none such, to every the brothers and sisters of the intestate of the half blood and the lawful issue of any such brothers and sisters, who shall have died before

the decease of the intestate, or such of them as there may be, but if there be no brother or sister of the intestate, either of the whole or half blood, nor lawful issue of any such brother or sister, then to the father of the intestate, or if there be no father, to the mother of the intestate, and if there be no mother, then to the next of kin to the intestate in equal degree and the lawful issue of any such kin, who shall have died before the decease of the intestate, or such of them as there may be:

Subject, however, in all the cases aforesaid, to the rights of the surviving husband or widow, when there shall be such, as follows, that is to say:

If the intestate leave a husband, who shall have had by said intestate during their marriage issue born alive, whether such issue have lived or died, such husband shall hold all such lands, tenements or hereditaments, for the term of his life as tenant by the curtesy. If the intestate leave a widow; then if there be any child of the intestate, or lawful issue of any such child, said widow shall have one-third part of all such lands, tenements or hereditaments, to hold to her for the term of her life as tenant in dower; or if there be no child of the intestate, nor lawful issue of any such child, the said widow shall have one moiety or equal half part of all such lands, tenements or hereditaments, to hold to her for the term of her life, after the manner of tenant in dower; or if there be no kin or heir of the intestate, the said widow shall hold all such lands, tenements or hereditaments for the term of her life. The foregoing provisions concerning brothers and sisters shall be subject to the following modification, that is to say: any lands, tenements or hereditaments, to which the intestate shall have title or right as aforesaid, by descent or devise from his or her parent or ancestor, if there be no lawful issue of the intestate, shall descend and pass to every the brothers and sisters of the intestate of the blood of his or her said parent or ancestor, and the lawful issue of any such brothers and sisters, who shall have died before the decease of the intestate; but if there be none such, then according to said foregoing provisions in the same manner as other lands, tenements or hereditaments. The issue of children, brothers, sisters or other kin, who shall have died before the decease of the intestate, shall in all cases, take according to stocks by right of representation, that is to say: the same share, which such children, brothers, sisters or other kin, if living, would have taken; and this rule shall hold, although the descent shall be entirely to issue of deceased children, brothers, sisters or other kin. The term "kin," as used in this act, shall be construed to signify kin by blood or consanguinity; and the term "kindred" shall be construed to signify kindred by blood or consanguinity: and the degrees of consanguinity shall be computed according to the method of the civil law; but collateral kindred claiming through a nearer common ancestor, shall be preferred to any collateral kindred claiming through a more remote common ancestor.

Whenever a party entitled to a share of an intestate's real estate shall die, leaving a husband entitled to have such a share as "tenant by

2 Curtesy.
Ca. Lit. sect.
35.

3 Dower.

4 Brothers,
&c., of different blood--
rule in special cases.

5 Representation.
2 Blac. Com.
217, ch. 17,
rule 14.

6 "Kin,"
"kindred,"

7 Computation.

Chap. 3, sec.
2, ante p. 8.

the curtesy," the curtesy, "and such share shall be appraised and assigned or sold, and assigned by order of the Orphans' Court, such husband during his lifetime shall be a party entitled to have and receive the interest which shall be due from the assignee on the appraised value or proceeds of sale of such share, and may recover the same by scire facias on the recognizance of the assignee and his sureties, or by an action of debt for the said interest; and also such husband shall be a party entitled to have, receive, and to hold during his lifetime, the appraised value or proceeds of sale of such share, on entering into a recognizance to the State of Delaware, with sufficient surety or sureties, and in a penal sum to be approved by said court, with condition in substance "that the appraised value, or proceeds of sale of such share, or such part thereof as he shall receive, shall upon his death be paid to the parties entitled severally their just proportions, according to the act to which this is a supplement, or to their executors, administrators or assignees respectively, with interest from the death of such husband;" and such husband after entering into such recognizance, may by scire facias or action of debt on the recognizance of the assignee and his sureties, recover said aforesaid value or proceeds of sale of such share, together with such interests as may be due; and when a party entitled to a share of an intestate's real estate shall die, leaving a widow entitled to one-third or one moiety, or all of such share, for the term of her life, and such share shall be appraised and assigned, or sold and assigned by order of said court, such widow shall, for the term of her life, be a party entitled to have and receive the interest of such third part, moiety, or all of the appraised value or proceeds of sale of such share, which shall be due from the assignee, as the case may be, and may recover the same by scire facias on the recognizance of the assignee and his sureties, or by action of debt for the said interest; and also such widow shall be a party entitled to have and receive for the term of her life, the said one-third, moiety or all of the appraised value or proceeds of sale of such share, as the case may be, upon entering into a recognizance as aforesaid, with condition in substance, that the said one-third part (or one moiety or all) of the appraised value or proceeds of the sale of such share or such part thereof as she shall receive, shall after her death be paid to the parties entitled severally according to the act to which this is a supplement, or to his or her executors, administrators or assignees respectively, their respective, just and proportionable shares of the said one-third, moiety, or all of the appraised value or proceeds of sale of such share (as the case may be,) or such part thereof as she shall receive: and such widow, after entering into such recognizance as aforesaid, may by a scire facias or action of debt on the recognizance of the assignee and his or her sureties, recover the said one-third, moiety or all of the appraised value or proceeds of the sale of such share, as the case may be, and also such interest thereon as may be due; and if such widow shall become the wife of another husband before entering into such recognizance as aforesaid, then and in that case, if such last husband shall himself enter into such a recognizance as aforesaid, he shall be entitled to the same rights, privileges, actions and sums of money

Widow of a party entitled to a share assigned—her interest, &c.

aforesaid to which his wife would have been entitled, by her entering into such recognizance as aforesaid: *Provided nevertheless*, That it shall and may be lawful for the assignee of any such share as aforesaid, at any time before such recognizance as aforesaid shall be entered into, to pay into said court such sum as such husband or widow may be entitled to according to the provisions of this act; and from that time the interest thereon against him shall cease: *And provided further*, that nothing herein contained shall be construed so as to deprive a defendant of the benefit of the "Act for the limitation of certain personal actions, and of exceptions to accounts," in any *scire facias* or action before mentioned.

Assignee of share may pay money into court, when.

Dig. 397.

Sec. 2, Lands, tenements or hereditaments, which shall descend and pass to kindred of an intestate according to this act, shall be liable to partition, so that each owner may have his or her share apportioned to him or her in severalty, unless such partition would be detrimental to the interests of the owners; but if there be a tenant by the curtesy, such partition shall be postponed until his death or other previous determination of his estate; and if there be a widow of the intestate, partition of her part as such widow shall be postponed until her death or other previous determination of her estate; but after assigning the widow's part of such lands, tenements or hereditaments, partition of the residue thereof may be made, or other proceedings may be had concerning said residue in the same manner and of the same effect as if such residue were all the lands, tenements or hereditaments which the intestate had left to descend and pass according to this act; and after the death of the widow or other determination of her estate, partition of her said part may be made, or other proceedings concerning said part may be had in the same manner and of the same effect, as if such part were all the lands, tenements or hereditaments which the intestate had left to descend and pass according to this act.

8 Partition.

Such partition shall be fairly made between the parties entitled according to their just proportions, respect being had to the true value of the lands, tenements or hereditaments; and the manner of making said partition shall be as follows, viz:—if the parties entitled be children of the intestate, the lands, tenements or hereditaments shall be divided into as many shares as there are children, and one share shall be assigned to each child. If the parties entitled to shares be, some of them children of the intestate and others issue of deceased children, then the lands, tenements or hereditaments shall be divided into a number of shares equal to the number of such children and deceased children, and the said shares shall be assigned one to each child, and one to the issue of each deceased child; if the parties entitled to shares be all issue of deceased children of the intestate, then the lands, tenements or hereditaments shall be divided into a number of shares equal to the number of such deceased children, and one share shall be assigned to the issue of each deceased child; and each share assigned to the issue (if several) of a deceased child shall be subdivided among such issue after the same manner; and likewise if the parties entitled to shares be brothers,

9 Manner.

sisters or other kindred of the intestate, or issue of deceased brothers, sisters or other kindred, partition shall be made after the same manner, so that in every division in which there are parties or any party claiming according to stocks by right of representation, the representatives, however numerous, of one stock, shall have one share proportionate to their aggregate interest, and such share if assigned to several, shall be subdivided among the parties to whom it is assigned after the same manner; and further subdivision, if necessary, shall be made, until the share of each owner shall be apportioned to him or her in severalty; and the manner of partition shall be the same whether the deceased child or other kindred whose issue are parties to the partition, died before or after the decease of the intestate. If any child of the intestate, or any issue of such child shall have received any lands, tenements or hereditaments, as an advancement out of the intestate's estate, or by settlement of, or by way of gift from, the intestate, in his or her lifetime, or by means of purchase, the consideration of which was paid or satisfied by the intestate, such lands, tenements or hereditaments shall be estimated in the partition or distribution of the intestate's real estate, or of the appraised value or proceeds of sale of the same as part thereof, and shall be held by such child or issue for or towards his or her share of such estate, appraised value or proceeds; but such settlement, gift or other advancement of lands, tenements or hereditaments, shall not be considered in determining or assigning the widow's dower.

10 Advancement.

Proc. in
Chan. 182,
Ward vs.
Lent.

11 Proceed-
ings for par-
tition.
(41)

Petition.

12 Order.

For procuring partition of any lands, tenements or hereditaments, which shall have descended and passed to kindred of an intestate according to this act, any of said kindred or the widow of the intestate, or any person entitled by purchase or assignment from any of said kindred, or said widow to any part or share of said lands, tenements or hereditaments, may prefer to the Orphans' Court of the county wherein such lands, tenements or hereditaments are situate; or if the said lands, tenements or hereditaments are situate in several counties, then if the intestate resided in this State, to the Orphans' Court of the county of his or her last residence, or if the intestate did not reside in this State, to the Orphans' Court in either of the counties, in which any of said lands, tenements or hereditaments are situate, a petition stating the death of the intestate and the lands, tenements or hereditaments, as to which he or she having title or right as aforesaid died intestate, and all the facts requisite to enable the court to determine how and the parts and shares into which, the said lands, tenements or hereditaments should be divided, and the persons, to whom such parts or shares should be assigned, and praying that partition of the said lands, tenements or hereditaments may be made, or that the widow's part of the said lands, tenements or hereditaments may be assigned to her, and that partition of the residue thereof may be made; and thereupon the said court by an order, shall appoint five judicious and substantial freeholders to go to the said lands, tenements or hereditaments, and with the assistance of a skilful and impartial surveyor by them to be nominated, make partition thereof, (or) assign to the widow her part thereof, and make partition of the residue

thereof among the parties entitled in manner in said order to be prescribed, according to the form and effect of this act; in such order stating the widow's proportion (if any) and the divisions to be made, and the shares of the parties therein, and directing the said freeholders in the following particulars, viz: if the said freeholders or a majority of them shall be of opinion, that the said lands, tenements or hereditaments, or the said residue thereof cannot be divided into the number of primary shares directed without detriment to the parties, but can be advantageously divided into two or more parts, then they shall divide the same into so many and such parts as they shall deem most suitable and convenient, and shall appraise each of the said parts at the true value thereof in money; and in like manner, if the said freeholders or a majority of them shall be of opinion that any share assigned to several cannot be subdivided into the number of shares directed without detriment to the parties, but can be advantageously subdivided into two or more parts, then they shall subdivide such share into so many and such parts as they shall deem most suitable and convenient, and shall appraise each of the said parts at the true value thereof in money; or if the said freeholders or a majority of them shall be of opinion that no division can be made of said lands, tenements or hereditaments, or of said residue thereof, without detriment to the parties, then they shall make no division; but shall appraise the same at the true value thereof in money; and in like manner, if the said freeholders or a majority of them shall be of opinion that any share assigned to several will not admit of any subdivision without detriment to the parties, then they shall make no subdivision thereof, but shall appraise the same at the true value thereof in money; ^{13 Appraisalment.} ^{14 Except} this direction for appraising shall not be extended to the widow's dower. part; but her part shall always be assigned to her; and if at the time of making or renewing an order as aforesaid, all the parties entitled to shares in the partition be under the age of twenty-one years, ^{15 And case when all parties are minors.} then unless some one of them will arrive to that age by the return of said order, there shall be no direction for a division into fewer parts than the number of shares, or for any appraisement; likewise, if several parties entitled as representatives of one stock to one share, shall all be under the age of twenty-one years, then unless some one of them will arrive to that age by the return of the order, there shall be no direction for a subdivision of said share into fewer parts than the number of shares, or for any appraisement thereof; but in lieu of such direction, there shall be an instruction, not to proceed to make the partition or subdivision, unless the same can be made without detriment to the interests of the parties; and any division or subdivision into fewer parts than the number of shares although proper, and any appraisement shall be deferred, until there shall be a party in interest of the age of twenty-one years desirous thereof; and the said freeholders or a majority of them shall return to the next Orphans' Court of the same county, after the making ^{16 Return.} or renewing of such order their proceedings thereupon, duly certified under their hands, with such draught or draughts as they may have required annexed thereto; and if partition shall not have been made as prescribed by the order, because of the opinion of the free-

17 Acceptance at appraisalment.

(33)

(40)

18 Recognition.

(34)

(Limitation of personal actions—3)
(Satisfaction of judgments and recognizances.)—1.
19 Right of acceptance.

20 Acceptance when appraised in parts.

(32)

holders or a majority of them, that the same could not be made without detriment to the parties, such opinion, as well as the proceedings thereupon, shall be certified in the return; and if by the return it shall appear that the said freeholders or a majority of them are of opinion that no division of the said lands, tenements or hereditaments or said residue thereof can be made without detriment to the parties, and that they have accordingly appraised the same, as directed in such case, and if said return shall be approved by the said Orphans' Court, then the value according to the said appraisalment shall be substituted in the place of the said lands, tenements or hereditaments, or said residue thereof for distribution; and the said Orphans' Court shall assign the whole of the said lands, tenements or hereditaments or said residue, to one of the parties entitled, who will accept the same, and either pay to the other parties entitled, their just and proportionable shares respectively of said value, or with sufficient surety or sureties to be approved by the said court, enter into recognizance to be taken and acknowledged in said court to the State, in a penal sum to be determined by said court, with condition (in substance) to pay to the other parties entitled severally or their executors, administrators or assigns respectively, their respective, just and proportionable shares of the said value, with interest from such time, as the said court shall determine, in such manner and at such time, as may by the direction of the said court be prescribed and appointed in said condition: in such assignment the said court shall give preference to the parties entitled according to the following order, that is to say: sons of the intestate shall be preferred to daughters of the intestate; brothers of the intestate shall be preferred to sisters of the intestate; and of other kindred of the intestate of the same degree, males shall be preferred to females; and sons among themselves, daughters among themselves, brothers among themselves, and sisters among themselves, and of other kindred of the same degree, males among themselves and females among themselves shall be preferred according to seniority, the older to the younger: issue of deceased children, brothers, sisters, or other kin shall have preference according to stocks by right of representation, that is to say: the issue shall have the same preference, which would have been given to the parent if living; and this, whether the parent died before or after the decease of the intestate; and if there be several issue of the same parent, they shall among them have preference according to the same order, that is to say: males to females, and among males or females, the older to the younger, or if by the said return it shall appear that the said freeholders or a majority of them, are of opinion that the said lands, tenements or hereditaments, or the said residue thereof cannot be divided into the number of primary shares directed, without detriment to the parties, and that they have divided the same into two or more parts, and have appraised said parts as directed in such case, and if said return shall be approved by the said Orphans' Court, then the value according to the said appraisalment shall be partially substituted in the place of the said lands, tenements or hereditaments or said residue for distribution, and the said Orphans' Court shall assign one of the said parts to

one of the parties entitled who shall choose the same, and another of the said parts to another of the said parties, who shall choose the same, and so on until every part shall be assigned, if the parties respectively, or either of them will accept the same; and the party, to whom any part shall be assigned, shall pay to the other parties entitled severally their just and proportionable shares respectively, of the excess of the value of said part, according to the appraisement thereof, beyond the just share of said assignee of the aggregate values of all said parts, whenever all the parts shall be assigned on the same day, but when all the parts shall not be assigned on the same day, then to pay to the other parties entitled severally their just and proportionable shares of the value of the part assigned according to the appraised value thereof, beyond the just share of said assignee of the value of that part only, or shall with surety or sureties, enter into recognizance with condition to pay such excess in manner and form, as hereinbefore prescribed in case of acceptance of the whole premises: the court shall give preference to the parties entitled, and admit them to choose the said parts according to the order hereinbefore prescribed; but a party having chosen and a part being assigned to him or her, pursuant to such choice, shall not be admitted to choose another part, except by virtue of another right, until all the other parties shall have had privilege of choice; and the order of preference shall in this respect be modified accordingly; or if by the aforesaid return it shall appear concerning a share assigned to several either 1st, that it is the opinion of the said freeholders or a majority of them, that it will not admit of any subdivision without detriment to the parties, and that they have appraised the same, or 2nd., that it is the opinion of the said freeholders or a majority of them, that it cannot be subdivided into the number of shares directed without detriment to the parties, but that they have subdivided it into two or more parts and appraised said parts; and if such return shall be approved by the said Orphans' Court, the value according to said appraisement, shall be substituted in place of the share for distribution; and the said court shall assign, in the first case, the whole of the said share to one of the parties entitled, who will accept the same, and in the second case, the several parts, each to a party, who shall choose the same; and the party or parties, to whom such assignment shall be made, shall either pay or, with surety or sureties enter into a recognizance, with condition to pay to the other parties entitled their respective, just and proportionable shares of said value, or the excess of said value: and preference shall be given in respect to such assignment as hereinbefore prescribed, in like particulars concerning the said lands, tenements or hereditaments or said residue thereof.

If, in consequence of the infancy of the parties, or otherwise howsoever, an order shall be returned without partition, division, subdivision or appraisement, made of any lands, tenements or hereditaments, or of the residue thereof, after assigning the widow's part, the Orphans' Court upon the petition of any party or parties interested shall by an order, appoint five freeholders, with the powers and directions hereinbefore prescribed in this behalf, to make par-

Chap. 3, sec.
1, ante p. 7.

21 Recognizance.

(34, 40.)
22 Rights of acceptance.
(19.)

23 Share belong to several, appraised.
ed.

24 Acceptance.
(32)

25 New order.

(12, 13.)

tion or subdivision, as the case may require; and if partition or subdivision cannot be made into the number of shares stated, to make division or subdivision into fewer parts and appraise said parts, or if no division or subdivision can be made, to appraise the premises, or generally to do whatever may be requisite in the particular case to effect the partition, division, subdivision or appraisement of the premises, as hereinbefore prescribed: such order and the return thereupon shall be of the same nature, force and effect, as an original order and the return thereon, within the foregoing provisions; and the freeholders thereby appointed shall not be precluded by the return upon the former order, that partition or subdivision cannot be made without detriment to the interest of the parties, from considering the propriety of, and making partition or subdivision; but if an order be returned without partition, division, subdivision or appraisement in consequence of the opinion of the freeholders, that partition or subdivision could not be made without detriment to the interests of the parties, and of no further proceeding being directed because of the infancy of the parties, a subsequent order shall not be made except upon the petition of a party interested of the age of twenty-one years.

26 Party applying to accept, when there are prior rights.

Proceeding.

If a party entitled according to the order of preference to the acceptance or choice of any appraised premises, will not accept or choose the same and comply with the terms prescribed by this act in such case, the party next in order shall be admitted to such acceptance or choice; and if any party shall apply to be admitted to the acceptance or choice of any appraised premises pursuant to this act, and there shall be a party who shall stand prior according to the order of preference to the party so applying, and who shall not have declined to accept or choose the said premises, the said Orphans' Court, upon the request of the party so applying, shall grant a rule upon such prior party, or upon all prior parties, if there be several, to appear in said court on some certain day in said rule to be appointed, and claim the preference that may be due to him, her or them, of accepting or choosing said premises; and the said court shall direct that the said rule shall be served upon any party therein residing in the county, wherein such appraised premises are situate, by a copy thereof being delivered to such party, or left at his or her usual place of abode; and in case of an infant party, such service shall be upon the guardian, and in case of no guardian, upon the person with whom he or she resides; and if any party named or described in said rule do not reside in said county, then either that a copy of said rule shall be published for six successive weeks, in some newspaper or newspapers printed in this State, and designated by said court for that purpose; the first publication to be at least sixty days before the day of appearance, or that said rule shall, as to any such party, be served in any manner which the said court may deem proper to appoint; and such direction being complied with, unless the prior party or parties named or described in such rule, or his, her or their heirs or assigns, shall appear according to said rule, and accept or choose said appraised premises and comply with the terms prescribed by this act in such case, such prior party or parties shall be deemed to have abandoned the pro-

ference due to him, her or them; and the party so applying, shall be admitted to the acceptance or choice of said premises: but any party under the age of twenty-one years, or any party incapable because of idiocy or other incompetency of mind of accepting or choosing, shall be passed by in the order of preference, and the party next in order admitted; and the said Orphans' Court shall have jurisdiction to try and determine the fact of infancy, idiocy or other incompetency of mind, whenever the same shall come in question in administering this act.

Prior party incompetent.

When a party who shall stand prior according to the order of preference to a party applying to accept or choose any appraised premises, shall be incapable of accepting or choosing the same because of infancy, idiocy or other incompetency of mind, and the fact shall be made appear to the satisfaction of the court by oath or affirmation, then such prior party or parties shall be passed by, and the party next in order, shall be admitted to accept and choose in the same manner and as fully to all intents and purposes, as if such prior party or parties had been of full age and had refused to accept.

Chap. 3, sec. 3, ante p. 9.

The right of acceptance or choice of a party according to the order of preference, shall be incident to his or her share and pass with it; and the assignee or owner of a share by a derivative title, shall represent the original taker of said share, and have all the rights and privileges which such taker, if continuing the owner, would have.

27 Right of acceptance assignable.

If a married woman be entitled to the acceptance or choice of appraised premises, the assignment may be made to her husband, upon his entering into such recognizance as hereinbefore prescribed.

28 Husband's right.

But if it shall so happen in any case, that none of the parties entitled shall accept or choose the lands, tenements or hereditaments which shall have been appraised as aforesaid, or any part or parts which shall have been laid off in any division or subdivision and appraised as aforesaid, the said Orphans' Court shall have power to make an order that the said lands, tenements or hereditaments, or the said part or parts, be sold at public auction to the highest and best bidder or bidders; and the said court shall assign to the purchaser or purchasers the premises sold to him, her or them, pursuant to such order; he, she or they, paying to the parties entitled their just and proportionable shares of the purchase-money respectively, or with sufficient surety or sureties to be approved by said court, entering into recognizance to be taken and acknowledged in said court to the State, in a penal sum to be determined by said court, with condition to pay to the parties entitled severally or their respective executors, administrators or assigns, their just and proportionable shares of the said purchase-money respectively, with interest from such time as said court shall determine, in such manner and time as may by direction of said court be prescribed and appointed in said condition; such order shall be made upon the application of the parties entitled, if all said parties shall join in said application; but if all the parties entitled shall not join in such application, the court shall upon the application of any one or

29 Order for sale. (31, 41)

30 How procured.

more of the said parties, grant a rule upon the other parties to appear in said court on some day in said rule to be appointed, and show, if they have any cause, why such order shall not be made; and the court shall direct that such rule be served upon every party upon whom it is made, if residing in the county wherein the premises are situate, by a copy thereof delivered to such party or left at his or her usual place of abode, or in case of a minor, upon the guardian of such minor or other person with whom such minor resides as aforesaid; and if any party named or described in said rule, do not reside in said county, then either that a copy of said rule shall be published for six successive weeks in some newspaper or newspapers printed in this State, and designated by said court for that purpose, the first publication to be at least sixty days before the day of appearance, or that said rule shall as to any such party be served or published in any manner which the said court shall deem proper to prescribe; and such direction being complied with, such order shall be made, unless sufficient cause shall appear against making it; and the said court on hearing such rule, or upon the application of any one or more of the parties entitled, in its discretion may order that partition of premises appraised, which none of the parties shall accept or choose, shall be made among the parties according to their just interests, stating in such order the share of each party, and appoint five freeholders to make said partition, who may nominate a surveyor to assist them; but upon such application a summons shall be issued for summoning the parties not joining in said application, to appear and show if they have any objection to said partition; and if said parties or any of them do not reside in the county wherein the premises are situate, the court may direct a summons for them, or may grant a rule upon them to appear and show, if they have any objection to said partition, and direct such publication of said rule as may be deemed reasonable, and upon such direction for publication being complied with, may proceed in the same manner as if a summons were served.

31 Discretion of court to order partition instead of sale.

32 Acceptance of part, effect on acceptor's right in other parts.

In case of a division or subdivision into fewer parts than the number of shares directed and an appraisal of said parts, and an assignment of all the parts on the same day, a party to whom one of said parts shall be assigned, if the value thereof be equal to his or her share of the aggregate amount of said appraisal, shall be debarred of all right and interest in and to the other parts, which shall belong to the other parties exclusively of the party, to whom the assignment is made; and if the value of the part assigned be not equal to the share of the party to whom the assignment is made, of the aggregate amount of said appraisal, he or she shall have a claim and interest in and upon the other parts proportionate to the deficiency and no greater. Upon this principle the value or proceeds of sale of such other parts shall be distributed, or partition of said parts shall be made; but a party to whom a part is assigned after the other parties, and if none of them shall accept or choose the other parts, shall have privilege to choose said parts or either of them, and have the same assigned to him or her, paying or securing the shares of the value as herein prescribed,

The person or persons to whom (whether as one of the parties entitled to accept or choose, or as purchaser or purchasers at a sale pursuant to an order,) any lands, tenements or hereditaments, shall be assigned as aforesaid, by virtue of such assignment shall take all the estate, title and claim which the intestate at the time of his or her death had, in law or equity, in or to said lands, tenements or hereditaments, with the benefit of all acts and matters done after the death of the intestate for perfecting or securing the title, and shall hold the same paramount to all incumbrances created or suffered by, and to all right and claim of the heirs of the intestate, or any person claiming from or under them.

33 Title under acceptance.

Every recognizance entered into pursuant to this act, shall be a lien upon all the lands, tenements and hereditaments of the recognizors respectively within the county wherein the said recognizance is taken, which they shall have at the time of said recognizance or at any time after while it remains in force; and if such recognizance shall by order of the court in which it is taken, be recorded in the Orphans' Court of another county pursuant to this act, it shall be a lien upon all the lands, tenements and hereditaments of the recognizors respectively within such other county, which they shall have at the time of the recording of said recognizance, or at any time after while it shall remain in force, and the lien of said recognizance upon the lands, tenements or hereditaments assigned, (shares of the value or proceeds of sale whereof are secured by said recognizance,) shall have preference to any judgment entered or recovered against the person or persons to whom said lands, tenements or hereditaments are assigned, or any lien created or suffered by the said person or persons or any of them, although such judgment shall have been entered or recovered, or such lien shall have been created or suffered before said recognizance was entered into; and the sums due by said recognizance shall be paid before any such judgment or lien out of the proceeds of any sale of the said lands, tenements or hereditaments.

34 Lien of recognizance.

The jurisdiction of the Orphans' Court, to which any petition shall be preferred as hereinbefore proscribed, and the authority of the freeholders appointed on such petition, shall extend to all the lands, tenements and hereditaments which the intestate shall have left to descend and pass according to this act, although situate in several counties; but the said court upon the application of the parties or any of them, may specially restrict the authority of the freeholders to lands, tenements or hereditaments, situate in the county wherein such petition shall be preferred, if this shall be adjudged to be for the benefit of the parties. The authority of the freeholders appointed to make partition of premises appraised, which none of the parties shall accept or choose, shall extend to all the premises within the scope of the order, although situate in several counties. If all the lands, tenements or hereditaments be situate in, or if the authority of the freeholders is restricted to, one county, the court shall appoint freeholders residing in such county; in any other case the court may select freeholders from one county or from different counties according to its discretion. The said Orphans' Court shall order such part of its proceedings as shall

35 Lands in several counties.

concern lands, tenements or hereditaments in another county than that wherein the petition is preferred, to be certified to, and recorded in, the Orphans' Court of such other county; and such record shall receive credit and have force as an original record.

36 Majority of freeholders. The acts of a majority of the freeholders appointed pursuant to any provision of this act, shall be as valid as if concurred in and done by all of them; and the proceedings of said freeholders or a majority of them, being approved by the court, shall remain firm and stable.

37 Oaths. The freeholders appointed pursuant to any provision of this act, and the surveyor nominated by them shall, before entering upon the lands, tenements or hereditaments for the purpose of executing the order, be sworn or affirmed; that is to say, the freeholders to perform the duties incumbent upon them according to such order, and the surveyor to perform the service to which he is called, 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 the peace for either county of this State, or a burgess of the borough of Wilmington: and either of the freeholders named in an order shall have authority to administer said oath or affirmation to any other of said freeholders, or to the surveyor by them nominated.

38 Minors' guardians. A minor may by his or her guardian prefer a petition for partition or for the assignment of the widow's part; also a minor by his or her guardian, may make application for the sale or for the partition of appraised premises, which none of the parties will accept. But in no case shall partition, assignment or sale be made by virtue of this act, except of such lands, tenements or hereditaments, as were in the actual possession of the intestate at the time of his or her death, or shall have come to the possession of those claiming under him or her at the time said partition is prayed.

39 No proceeding except land be in possession.

40 Costs. The costs of any proceedings pursuant to the foregoing provisions of this act, shall be contributed by the parties according to their respective proportions of the estate, which is the subject of the proceedings; except that the Orphans' Court may direct that the widow or person entitled to her part shall contribute a greater or less proportion of such costs, if this shall be deemed just and equitable. The Orphans' Court may make an order for the payment of the costs: and if the estate be appraised and the same or any part thereof accepted or sold, the said court may order all the costs, which the parties entitled to the value or proceeds of the estate, or part so accepted or sold are liable to contribute, to be paid out of such value or proceeds; and in that case the balance of the said value or proceeds, after deducting such costs, shall be the value or proceeds to be paid or secured to the parties, as hereinbefore prescribed. The said court shall have power to compel obedience to any order for the payment of costs by attachment for contempt and imprisonment. Upon the petition of the widow or any person entitled to her part, an order may be made merely for assigning her part, without extending to the residue.

SEC. 3. All the provisions of the second section of this act, and the powers thereby granted shall extend and hereby are extended to all lands, tenements and hereditaments, as to which the owner thereof has died intestate before the passing of this act, if partition of the said lands, tenements or hereditaments, have not been made and confirmed, or if the same lands, tenements or hereditaments, have not been appraised and accepted: but no proceeding which has been had or which shall be had according to law, touching such lands, tenements or hereditaments, shall be hereby annulled or superseded; but such proceeding shall remain valid; and also such proceedings shall be of the same force and effect as if had under the said second section of this act, so as to be the foundation of any further proceeding authorized by said section.

41 Second section extended to prior cases.

SEC. 4. *Provided*, That nothing in this act, and no proceeding under it, shall affect in any manner any lien or incumbrance existing at the time of the intestate's death, upon any lands, tenements or hereditaments, which shall descend and pass according to this act, or any liability according to law of said lands, tenements or hereditaments, to the payment of debts or demands outstanding against the intestate.

42 Liens and liability for debts.

SEC. 5. Any person aggrieved by any order or decree of the Orphans' Court touching any the premises, may appeal therefrom to the Superior Court, and any such order or decree shall not be drawn in question except upon appeal.

43 Appeal.

Passed at Dover, February 5, 1827.



CHAPTER CCCCL.

AN ACT concerning the Orphans' Court, and the duties and fees of the Clerk and Cryer of that court.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That there shall be yearly in each county, two terms of the Orphans' Court, which shall commence on the same days as the terms of the Court of Chancery. The judges of the said Orphans' Court, or either of them in the absence of the other, shall have authority to hold special Orphans' Courts, as occasion may require. In the absence of both the judges, the clerk of the said court may open and adjourn the same from day to day.

General and special terms of Orphans' Court.

Clerk may open and adjourn court.

SEC. 2. The said court shall have authority to arrest and imprison the body, and to sequester goods and chattels, rights and credits, lands and tenements. It may issue process of citation, subpoena, attachment for contempt and sequestration. It may award commissions for taking depositions of witnesses beyond the reach

Powers of

of process, and of witnesses aged, infirm, or about to depart from the State, to be read in evidence if the attendance of the witnesses cannot be procured. The said court shall also have authority to direct issues of fact to be tried by a jury at the bar of the Superior Court.

Testimony
on Appeal.

SEC. 3. In cases in which there is an appeal from the said court, the testimony, at the request of either party, shall be reduced to writing and signed by the witnesses respectively; and on appeal the original depositions thus taken, shall be sent to the court having the appellate jurisdiction. Neither party shall be deprived of the benefit of an appeal because of the testimony not being reduced to writing, but in such case the parties may produce and examine witnesses in the court having appellate jurisdiction.

Limitation of
appeal.

Saving as to
infants, &c.

SEC. 4. No appeal from any decree or order of the Orphans' Court shall be received in the Superior Court, unless the petition or assignment of causes of appeal, with a certified copy of the record, be filed in the clerk's office of the Superior Court, within one year after the making of such order or decree: *Provided*, that this limitation, in respect to any person under disability of infancy, coverture, or incompetency of mind at the time of making the order or decree, shall begin to run from the ceasing of such disability.

Appeal no
stay without
security.

SEC. 5. An appeal shall not be a stay of proceedings in the Orphans' Court, unless the appellant give security, to be approved by the said court, to prosecute the said appeal with effect, and perform the order or decree appealed from, if not reversed upon the appeal, and to abide by and fulfil such order or decree as shall, upon the appeal, be made against the appellant.

Process.

SEC. 6. Process of citation, subpœna and attachment for contempt, may be issued into every county. Upon filing a petition in the clerk's office, process of citation if prayed for, shall be issued of course. Process of subpœna shall be issued on application to the clerk.

Return of
process.

Lien of se-
questration.

The court may appoint return days of process, and direct how process shall be made returnable. Process issued in vacation in respect to which there shall be no such appointment or direction, shall be returnable on the first day of the next term. A sequestration shall bind goods and chattels, rights and credits, lands and tenements, from the time of the service thereof, on the same respectively, and shall hold the same paramount to any transfers, liens, or acts of a subsequent date.

What shall
be recorded.

Records.

SEC. 7. The clerk of the Orphans' Court shall record in a fair, plain hand, in well bound and convenient books provided by him (the cost of which shall be allowed him by the Levy Court of the county) all petitions, orders, apportionments, returns, certificates, assignments, recognizances, exceptions, decrees, and proceedings connected with the business of said court, and any other paper which the court may order to be recorded. The court shall have the inspection of the records, and may make rules concerning the

keeping of the same. The books aforesaid shall be public records, and shall belong to the office. He shall keep an accurate index to every such book, arranged according to the alphabetical order of the surnames, in which proper entries of reference to the record shall be made immediately on the recording of any matter. Recognizances shall be recorded in a separate book, and each recognition shall be recorded within five days after taking it. Every other matter shall be recorded in a reasonable time, not exceeding three months from the time when it becomes proper to record it. A petition on which no order is made, a return, or certificate set aside, interrogatories or depositions, citations or other process shall not be recorded without special order, and a note of the issuing, filing or other act shall, unless there be other directions, be sufficient.

Index.

Record of recognizances.

Things not to be recorded without special order.

SEC. 8. The clerk of the Orphans' Court shall, within twenty days after the appointment of a guardian, deliver a memorandum under his hand and seal of office, of such appointment and the date thereof, and within twenty days after any valuation is returned, a memorandum of the amount thereof to the register of the county.

Clerk to deliver note of appointment to guardian. And of valuation to register.

If any clerk shall neglect to perform well and faithfully, any duty incumbent on him according to this act, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall pay to the State a fine of fifty dollars.

Penalty of clerk for neglect of duties.

And whereas, many of the duties required of the clerk of the Orphans' Court have been imposed by laws enacted since the passing of the general fee bill, and the allowance for such services is not uniform in the several counties, for remedy whereof and to bring all the fees of the said clerks together:—

SEC. 9. The clerk of the Orphans' Court shall be entitled to demand and receive the following fees, viz:—

Fees to clerk of Orphans' Court.

On the appointment of a Guardian.

For writing petition, fifty cents.

Exhibiting and filing the same, twenty-five cents.

Entering appointment and drawing and taking bond, fifty cents.

Certificate of appointment under seal, thirty-five cents.

Certificate to the register of wills, thirty-five cents.

Entering order to value ward's rents, twenty-five cents.

Issuing the said order in due form, fifty cents.

Recording the proceedings, one cent a line.

Entering approval by the court, fifteen cents.

Certificate of valuation to the register; thirty-five cents.

On the appointment of a receiver of minor's rents.

For writing petition, fifty cents.

Exhibiting and filing the same, twenty-five cents.

Entering appointment and drawing and taking bond, fifty cents.

Recording petition and bond, thirty-five cents.

Copy of appointment under seal (if requested) thirty-five cents.

Stating and filing receiver's account, one dollar, if under \$100: and two dollars if above \$100.

Recording the same, one cent a line.

On application for the sale of minor's lands, &c.

For writing petition, one dollar.

Exhibiting and filing the same, twenty-five cents.

Entering order of sale thereon, twenty-five cents.

Issuing order, fifty cents, and one cent a line.

Drawing and taking bond when ordered, fifty cents.

For each advertisement of sale when furnished, ten cents.

Receiving and filing return, twenty-five cents.

Entering order of approval, and for deeds each, twenty-five cents.

Drawing deeds, each two dollars.

Recording the proceedings, one cent a line.

On application for sale of Real Estate, by executors or administrators for the payment of debts.

For preparing notices of application, each seven cents.

Writing petition for sale, one dollar.

Exhibiting and filing the same, twenty-five cents.

Entering order thereon, twenty-five cents.

Stating and filing the account of debts and credits, one dollar.

Taking affidavit to same, and proof of notice to parties interested, fifty cents.

Writing and taking bond, fifty cents.

Issuing order, fifty cents, and one cent a line.

Each advertisement of sale prepared according to order, ten cents.

Drawing and filing return, one dollar.

Entering orders thereon, each twenty-five cents.

Preparing deeds for purchasers, if requested, each two dollars.

Recording the proceedings, one cent a line.

On investments, &c.

For filing return and certificate of an executor or administrator of deposit of money in bank, twenty-five cents.

Recording the same, fifty cents.

Entering order for investment of minors' money, fifty cents.

Publishing proposals for investment, (besides the cost of publication and postage,) one dollar.

Making investment under order of court and return, fifty cents.

Recording the return, one cent a line.

Drawing and taking bond to secure investment, fifty cents.

Drawing mortgage to secure investment, three dollars.

Receiving and filing certificate of stock, bond or mortgage, twenty-five cents.

Recording certificates of stock, each twenty-five cents.

For drawing and taking additional guardian bond, fifty cents.

Filing certificate of foreign guardian's appointment, fifty cents.

Recording the same, one dollar.

Copy under seal, (when requested,) seventy-five cents.

For drawing petition to exceed income, or for dividends or interest accrued on investments, twenty-five cents.

- For Exhibiting and filing the same, twenty-five cents.
 - Entering order thereon, twenty-five cents.
 - Drawing checks under seal, each twenty-five cents.
 - Recording the proceedings, one cent a line.
- For drawing petition for funds on a final settlement with award of court, one dollar.
 - Exhibiting and filing the same, twenty-five cents.
 - Entering order thereon, twenty-five cents.
 - Drawing checks, each twenty-five cents.

On the division of intestate lands.

- For writing petition for sale or division of lands, or assignment of dower, one dollar.
 - Exhibiting and filing the same, twenty-five cents.
 - Entering order pursuant to such petition, twenty-five cents.
 - Issuing order in due form under hand and seal of office, fifty cents, and the rate of one cent a line.
- For filing return and entering confirmation or other order thereupon, twenty-five cents.
 - Recording return and proceedings, one cent a line.
 - Recording draughts or plots, a sum to be settled by the court, not exceeding two dollars in any case, unless there be more than two several tracts of land whereof division shall be made or dower assigned.
- For writing, exhibiting and filing petition of acceptance of lands, &c., at appraised value, twenty-five cents.
 - Entering order pursuant to such petition, twenty-five cents.
 - Drawing and certifying recognizance for payment of shares of land appraised or sold, fifty cents.
 - Drawing up the assignment in due form, one dollar.
 - Recording acceptance, assignment and recognizance, one cent a line.
- For writing petition for rule on other parties to appear and accept lands, (when necessary,) fifty cents.
 - Exhibiting and filing the same, twenty-five cents.
 - Entering order pursuant to such petition, twenty-five cents.
 - Recording the proceedings, one cent a line.
 - Publishing rule in newspaper according to order (besides the cost of such publication and postage), for each paper, fifty cents.
 - Copies of the rule (if required) to be served on parties, twenty-five cents each, and one cent a line if over twenty lines.
 - Entering refusal to accept, twenty-five cents.
 - Taking and entering proof of the infancy of prior parties, one or more, twenty-five cents.
 - Entering order for sale of lands which none of the parties will accept, twenty-five cents.
 - Drawing and issuing order of sale, fifty cents, and one cent a line in addition.
 - Furnishing written or printed notices of sale of land under order of court, each ten cents.
 - Receiving and filing return, twenty-five cents.
 - Entering order thereon, twenty-five cents.

Miscellaneous.

- For issuing subpoena to give evidence including all the witnesses named for a party before issuing the same, twenty-five cents.
- For filing interrogatories, giving written notice thereof, and making entry of filing and notice, twenty-five cents.
- For issuing commission to take depositions, fifty cents, and one cent a line for copy of interrogatories annexed.
- For receiving and filing commission returned, with depositions, and publishing the same, and making entries, fifty cents; but if there be more than one commission on a side, then for each, after the first, twenty-five cents.
- For issuing citation or other process requiring a party to appear, fifty cents.
- For issuing an attachment or sequestration, one dollar.
- For filing exceptions to executors', administrators' or guardians' accounts, twenty-five cents.
 - Entering interlocutory order in such case, twenty-five cents.
- For advertising causes on trial lists, ten cents for each cause.
 - Entering dismissal of exceptions, twenty-five cents.
 - Entering final decree in case of allowance of any exception, or any correction in the accounts, fifty cents, and one cent a line.
- But one list of exceptions, though referring to several accounts, shall be deemed but one case, and the process and charge for fees shall apply to all as one case.
- For filing each account excepted to, seven cents.
- For correcting each account according to decree, and returning the same to the register corrected, with certificate in due form, twenty-five cents.
- For entering an order for counter security, fifty cents.
- For entering an order for binding an apprentice, fifty cents.
- For entering widow's election of dower or devise, fifty cents.
- For taking and filing a refunding or other bond not before specified, twenty-five cents.
- For drawing any petition not before mentioned, fifty cents.
- For filing and exhibiting the same, twenty-five cents.
- For entering any order not before specified, twenty-five cents.
- For entering satisfaction, ten cents.
- For an extract certified under hand, ten cents; and if the same shall exceed six lines, one cent a line additionally.
- For recording any matter proper for record, one cent a line; the line in all cases to be of ten words length; but this allowance shall not extend to give additional fee for entering any order or final decree, or any common docket entries, in case of exceptions.
- For a search where no other service to which a fee is attached by law is performed, seven cents.
- For affixing his seal of office to any writing not hereinbefore mentioned, and in respect to which no other fee shall be provided by law, twenty-five cents.

For list of liens or incumbrances furnished sheriff to hold inquisition, or apply proceeds of sale of land, twenty-five cents.

For copy or exemplification of a record under seal, thirty cents and one cent a line; but this fee shall not be charged unless such copy shall be in fact required and made, nor shall it authorize any additional charge for any matter hereinbefore provided for.

For a copy of a draught or plot, unless the parties can agree, a sum to be taxed by either of the judges of the court.

An administrator or trustee for making sale of lands or tenements under order of court, shall also be allowed his reasonable expenses for posting notices, crying vendue, &c.; and for commissions such sum as shall be allowed by the court, on a scale to be fixed by the court, not exceeding six per cent. on the first hundred dollars proceeds of sale, nor one per cent. on sums over four thousand dollars.

Fees to administrator, &c., on sale by order of court.

The cryer of the Orphans' Court shall be entitled to a fee of ten cents upon every appointment of a guardian or receiver; upon every order for division, assignment of dower, or sale of lands or tenements; also upon the confirmation of return upon every such order; upon every assignment of lands at valuation: upon every order for a deed of lands sold; upon every order for the loan or investment of money; upon every attachment for contempt or sequestration, and upon filing exceptions to accounts in any case.

Fees to cryer of Orphans' Court.

Sec. 10. *And be it enacted*, That the first, second, and fifth sections of the act entitled "An act concerning the Orphans' Court," passed at Dover, February 10, 1829, and so much of the act entitled "An act for regulating fees," passed at Dover, February 2, 1826, as relates exclusively to the fees of the clerk of the Orphans' Court and of the cryer in the Orphans' Court, namely: the part commencing on page 251 of the Digest, with the words "the clerk of the Orphans' Court," and ending on page 252 with the words "when such list is actually furnished, twenty-five cents," and the clauses on pages 254-5, commencing with the words "(in the Orphans' Court) upon," and ending with the words "in case of exceptions," be and the same are hereby repealed: *Provided*, that no penalty or provision of the said last mentioned act shall be hereby affected or impaired, but all and every the requirements, forfeitures, restraints and penalties of the said act, shall apply and extend to the fees hereby established in the same manner as if section nine of this act were incorporated in the said act: *And provided*, that this act shall not apply to any business or matter done in the said court or in the office of the said clerk, before the passing hereof.

Parts of certain acts repealed.

Saving as to penalties, &c.

Passed at Dover, February 21, 1843.

CHAPTER CCCCLI.

AN ACT *regulating the place of holding the general and special elections of Broadkilm hundred, in Sussex county.*

Place of holding.

SECTION 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 Broadkilm hundred, in Sussex county, shall be held at the Milton academy in the village of Milton, in said hundred, any law, usage or custom to the contrary notwithstanding.*

Passed at Dover, February 17, 1843.



CHAPTER CCCCLII.

Dig. 614.

A FURTHER SUPPLEMENT' 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.*"

Comm'rs. to open additional streets.

And make return to Sup. Court, &c.

Proviso as to damages.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Peter Maull, Joel Prettyman, Reece Wolfe, Shepard P. Houston and William Harris, of Sussex county, be and are hereby appointed commissioners to go upon the additional streets laid out by the commissioners appointed by the act to which this is a supplement, and to value and assess the damages to the several owners of the lands through which said streets are laid out, and to make a return of their proceedings, certified under their hands and seals, to the Superior Court of Sussex county, and if no objection be made, or if in the opinion of the said Superior Court no sufficient objection is made, the said Superior Court shall confirm the proceedings of the commissioners aforesaid, and thereupon the trustees of the town may open the said streets, but before entering upon the same; all the damages shall be paid to the person or persons entitled to receive the same: *Provided*, that all the damages assessed and costs attending the opening of the said additional streets shall be paid by private contribution.*

Passed at Dover, February 17, 1843.

CHAPTER CCCCLIII.

AN ACT to reimburse to the Registers of the Court of Chancery, the cost of the seal of their office respectively.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the county treasurer in each of the counties in this State, be and he is hereby authorized and directed to pay to the register of the Court of Chancery, in the county of which he is treasurer, the sum of ten dollars; that being the amount paid by each of the said registers to his predecessor in office, for the seal of the said court of which he is register. County treasurer to pay for costs of seals.

SEC. 2. *And be it further enacted,* That hereafter, no register in Chancery in this State shall demand or receive from his successor in office, any sum of money for the delivery of the seal of his office to his successor therein. No charge hereafter for seals.

Passed at Dover, February 17, 1843.



CHAPTER CCCCLIV.

A SUPPLEMENT to the act entitled "*An act to divide Mispillion hundred into two hundreds.*" Chap. 32, vol. 8.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the second section of the act to which this is a supplement, be amended by striking out the words "Tavern-house now occupied by Mrs. Anderson, in the village of Prospect" after the words "special elections under said act, at the" and inserting the words "house now occupied by George Walton, in the village of Vernon," and by striking out the words "Tavern-house now occupied by Mrs. Anderson, in the village of Prospect" after the words "said elections, had been the said" and inserting the words "house now occupied by George Walton, in the village of Vernon." And the said section shall be read and construed according to the foregoing amendment. Place of holding elections in, changed to Vernon.

Passed at Dover, February 17, 1843.

CHAPTER CCCCLV.

AN ACT to enable Nathaniel Connaway and Noble Connaway, Jun'r., to locate certain vacant land in Nanticoke hundred, Sussex county, and to complete their title to the same.

Private act.

Passed at Dover, February 17, 1843.



CHAPTER CCCCLVI.

Chap. 80,
ante 83.

A SUPPLEMENT to the act entitled "*An act to improve the navigation of Broadkilln Creek.*"

Balance of
the \$10,000
to build court
house in
Georgetown,
to be applied
to Broadkilln
creek.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the trustees appointed under an act entitled "*An act for the benefit of Sussex county,*" passed at Dover, February 13, 1835, be and they are hereby directed and required to pay over to the managers appointed under the act to which this is a supplement, the balance now remaining in their hands, or any money which may hereafter come to their hands under and by virtue of the provisions of the said act for the benefit of Sussex county, appropriating the sum of ten thousand dollars to the erection of a court-house at Georgetown in said county, and which said balance and money constitutes and forms part of the said sum of ten thousand dollars to be raised as in said act specified, to be applied and expended by the managers under the act to which this is a supplement, in the improvement of the navigation of Broadkilln creek, as directed by the said act to which this is a supplement.

Deficiency of
funds, how
to be sup-
plied.

SEC. 2. *And be it further enacted,* That if any deficiency shall exist in and about the making of the improvements contemplated by the act to which this is a supplement, after the application of the funds to be received by virtue of the provisions of the foregoing section, such deficiency shall be supplied in the manner prescribed by the provisions of the act to which this is a supplement.

Repairs to be
defrayed by
tax on ves-
sels.

SEC. 3. *And be it further enacted,* That if after the completion of the improvements to the navigation of said creek, the said improvements shall need any repairs by reason of freshets or otherwise, the managers appointed by the act to which this is a supplement, and their successors or a majority of them, are hereby authorized and empowered to lay a tax of two cents per ton on the amount of the tonnage of every vessel passing up and down the said creek; and the said managers shall have power to collect the same in the manner prescribed by the seventh section of the act to which this is a supplement.

Sec 4. *And be it further enacted*, That nothing in this act, or the act to which this is a supplement, shall be so construed as to authorize the laying out or cutting and making any canal so as to discharge the waters of Broadkill creek aforesaid into the Delaware bay at any point northwest of the present mouth of said creek.

No canal to be cut northwest of the creek.

Passed at Dover, February 20, 1843.



CHAPTER CCCCLVII.

AN ACT to amend the acts laying a tax on dogs in New Castle county.

Ante pp. 299, 391.

SECTION 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 Levy Court Commissioners of New Castle county, and they are hereby authorized and required to cause an accurate return to be made biennially by the assessors of the several hundreds in New Castle county, of all the dogs over six months old, owned or possessed by any person or persons within the said county, particularly noting the number owned or possessed or kept about one house, and when the said Levy Court Commissioners shall have so ascertained the number of dogs as aforesaid, they shall levy and cause to be collected, annually, from the said person or persons owning or possessing dogs, a tax as follows, that is to say: for each and every dog over one, the sum of one dollar; in case of a person having but one dog, no tax shall be laid and collected thereon; the said tax to be collected by the collector of the several hundreds in the said county in the same manner as the county rates and levies are collected, and to be paid over by the said collectors to the county treasurer for the use of said county, under the same penalties for default as are imposed in the collection of county rates and levies. And the collectors aforesaid shall be entitled to the same compensation as for collecting other county rates or levies.

Biennial returns to be made of dogs, over six months old.

Rate of tax and how to be collected, &c.

Compensation for collecting.

Sec. 2. *And be it enacted*, That dogs kept or staying about one house shall be deemed sufficient evidence of ownership to authorize the assessor to return the person, inhabiting said house, as the owner or possessor of such dogs; and if any person shall wilfully neglect to make return to the assessor of any dogs belonging to him or her within the meaning of this act, on proof of the same being made to the assessor, by the testimony of one or more respectable witnesses, it shall be the duty of the assessor to assess the owner of such dogs with double the amount of tax mentioned in this act.

Ownership of dogs.

Penalty for refusing to give in.

Sec. 3. *Be it enacted*, That nothing in this act shall be construed to affect any tax on dogs that shall have been heretofore laid in the said county, or to impair in any manner the right to collect the same.

This act not to affect taxes already laid.

Former acts repealed. *Sec. 4. And be it enacted, That the act entitled "An act laying a tax on dogs in New Castle county," passed at Dover on the 21st February, 1839, and the supplement thereto entitled "A supplement to an act entitled 'An act laying a tax on dogs in New Castle county, passed at Dover, February 21, one thousand eight hundred and thirty-nine,' " passed at Dover, February 17, eighteen hundred and forty-one, be and the same are hereby repealed.*

Passed at Dover, February 20, 1843.



CHAPTER CCCCLVIII.

AN ACT to incorporate the Delta Phi Literary Society of Delaware College.

Private act.

Passed at Dover, February 21, 1843.



CHAPTER CCCCLIX.

AN ACT concerning the division of school districts Nos. 57, 58 and 59, in New Castle county.

Comm'rs. to inquire concerning division. *SECTION 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 of the Legislature, That Dr. James N. Sutton, Col. John Higgins and John L. Turner, be commissioners to visit school district No. 57, school district No. 58 and school district No. 59, in New Castle county, and inquire concerning the extent of said districts, and the number of white children in each, who ought to enjoy the benefit of the school, with a view to determine concerning the necessity of a division of the said districts.*

Their oath, &c. *The said commissioners, before entering upon the inquiry, shall take an oath or affirmation, to be administered by either to the other, or by a justice of the peace, to perform their respective duties under this act, with truth and faithfulness; and they shall have power to examine witnesses upon oath or affirmation, and severally to administer such oath or affirmation. If, upon inquiry and careful examination, the said commissioners shall determine that the aforesaid school districts contain a number of white children entitled to the benefit of the schools, too great for three schools, and sufficient for four full schools, and that there ought to be a division of said districts so as to form four school districts, they shall make such division by laying off by bounds and lines, such parts from the said school districts as that the parts included by such bounds and lines, and the respective remainders of said school districts shall be four*

To make four districts if necessary.

convenient school districts: the said remainders to continue school districts with their original numbers of fifty-seven, fifty-eight and fifty-nine respectively, and the said additional district included by said bounds and lines, to be designed by its proper number succeeding the highest number of the school districts previously formed in the county. If such division be made, the said commissioners shall appoint the place of meeting for the school voters in the additional school district. A majority of the said commissioners being met shall have power to proceed and act. If the said commissioners or a majority of them shall make division as aforesaid, of the aforesaid school districts, they or a majority of them shall certify the same with their proceedings under their hands, to the next Levy Court and Court of Appeal of New Castle county; the said court shall take the same into consideration, shall hear objections, if any, and shall have power to make amendments or alterations in the bounds or lines certified, with the concurrence of two-thirds of the members present; and if the said proceedings as certified as aforesaid or amended or altered, shall be confirmed by the said court, with the concurrence of two-thirds of the members present, the said division of the aforesaid school districts according to the same, shall be established, and the additional school district thereby formed, shall become and be a separate school district in New Castle county, with the capacity, rights and powers of as school district according to law, and shall be entered by the trustees of the fund for establishing schools in the State of Delaware, among the school districts of said county, and account opened therewith; and in all dividends hereafter made by said trustee of the fund for establishing schools in the State of Delaware, the respective dividends which may be due or hereafter may become due, the said original districts No. 57, No. 58 and No. 59, shall be equally divided annually among the districts No. 57, No. 58, No. 59 and No. 74, and the school voters in said additional school district and the school committee thereof, shall have all the rights and powers of school voters and a school committee respectively, according to the laws of this State: and all the laws of this State concerning free schools are extended to said additional school district. The place of meeting, appointed as aforesaid for the school voters in said additional school district, shall be the place of holding all their meetings, stated and occasional, until another place shall be determined or appointed according to law. The Levy Court and Court of Appeal of New Castle county, if division shall be made and confirmed as aforesaid of the aforesaid school districts, shall cause a fair transcript of the proceedings (as amended or altered) to be entered upon their minutes with the entries of school districts, and said entry shall be deemed a record, they designating the said additional district by its proper number, as aforementioned; the respective remainders of the aforesaid school district number fifty-seven, the aforesaid school district number fifty-eight, and the aforesaid school district number fifty-nine (the said parts being laid off from them respectively as aforesaid,) shall continue school districts with their original numbers respectively; but all the white children within the lines of said additional school district, shall continue to have the same rights in school district No. 57, No. 58 or No. 59,

Numbers.

Comm'rs. to
appoint place
of meeting,
&c.Majority
may act.
Division to
be returned
to L. Court,
&c.Confirma-
tion of divi-
sion.Dividends
due the dis-
tricts to be
divided, &c.

New district.

Place of
meeting.L. Court to
enter copy of
the proceed-
ings, &c.Remainders
of original
districts.Rights of
children in
new districts.

as they now have, although division shall be previously made, until the Saturday preceding the first Monday of October next. The entry of confirmation in the Levy Court shall be sufficient, if made according to the following form, endorsed upon the certificate of proceedings, and therewith recorded: *In the Levy Court and Court of Appeal of New Castle county, the _____ day of _____ 1843, the foregoing proceedings having been examined and considered, are confirmed by the court, two-thirds of the members present, concurring.*

Form of entry by Levy Court.

SEC. 2. *And be it further enacted,* That the commissioners aforesaid or a majority of them, may recommend any other alteration of the school districts aforesaid; which, if approved by the Levy Court and Court of Appeal, with the concurrence of two-thirds of the members present, shall be effectual, and the said school districts established in conformity thereto.

Other alterations,

SEC. 3. *And be it further enacted,* That the commissioners aforesaid shall cause at least five days previous notice to be given by advertisements under their hands, posted in at least two of the most public places of each of the aforesaid school districts, of their meeting in one of the said school districts, to proceed to the performance of their duties under this act, specifying the day, hour and place of meeting. The said commissioners may adjourn from time to time; one only, if no other attend, shall have power to adjourn.

Notice of meeting of comm'rs.

Comm'rs. may adjourn.

SEC. 4. *And be it further enacted,* That in case of the death, resignation, inability or refusal to act of said commissioners, or either of them, the Levy Court and Court of Appeal of New Castle county shall have power to appoint commissioners, or a commissioner in his or their place; and the commissioners or commissioner so appointed, shall have all the powers and be liable to all the duties of the original commissioners or commissioner.

L. Court to fill vacancies in the number of.

SEC. 5. *And be it further enacted,* That the compensation to each commissioner shall be two dollars a day, for every day's attendance in discharge of the duties of this act, which shall be paid by the trustee aforesaid, upon certificate of allowance by the Levy Court, under the hand of the clerk of the peace of New Castle county, and the fees of the clerk shall be paid by the said trustee on certificate of allowance by said court, under the hand of the president; and the amount shall be deducted from the apportionment made to New Castle county, of the income of said fund before divided among the districts.

Pay of commissioners.

Fees of clerk of the peace.

SEC. 6. *And be it further enacted,* That if the additional school district be formed as aforesaid, the school voters in the said school district may meet at the place of meeting appointed as aforesaid, on the first Saturday of May next, at three o'clock in the afternoon, and appoint a chairman and secretary, and choose a clerk and two commissioners of the district, who shall continue in office until the next stated meeting and until successors are duly elected. The certificate of the proceedings shall be made, signed and de-

Time of meeting of voters in new district. Election of officers,

livered according to the provision of law relating to certificates of the meetings of school voters: notice of the meeting may be given by either clerk or commissioner of school district No. 57, No. 58 or No. 59. A failure to give notice shall not vitiate the proceedings,

Passed at Dover, February 21, 1843,

CHAPTER CCCCLX.

A FURTHER ADDITIONAL SUPPLEMENT to the act en-
titled "An act concerning the New Castle and Frenchtown Turn-
pike and Rail-road Company." Chap. 82,
8 vol. 83.

SECTION 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 when any share or shares of the capital stock of the New Castle and Frenchtown Turnpike and Rail-road Company are or may be held by any person or persons as trustee or trustees for the use of any other person or persons, or of any corporation or copartnership, such trustee or trustees shall vote at all elections of directors, and upon all questions coming before any meeting of stockholders, according to the written directions of the person or persons, corporation or copartnership, for whose use the said share or shares of stock are or may be held in trust. But if such person or persons be under the age of twenty-one years, or if no such written directions shall be given as aforesaid, then such trustee or trustees may vote according to his or their discretion. Trustees of
stock em-
powered to
vote accord-
ing to writ-
ten direc-
tions, &c.

SEC. 2. *And be it further enacted,* That from and after the passing of this act, it shall and may be lawful for the said New Castle and Frenchtown Turnpike and Rail-road Company to make an agreement with the Philadelphia, Wilmington and Baltimore Rail-road Company, for the last said company to convey passengers and transport merchandise by the rail-road of the last said company, for the joint and mutual benefit of both companies, at such seasons and for such length of time in each year, as by the respective boards of directors of the said companies shall be considered most advisable to the interests of both the said companies; and the receipts arising from the business of conveying passengers and transporting merchandise by the said Philadelphia, Wilmington and Baltimore Rail-road Company, for the joint benefit of both companies, shall be applied in the following manner, to wit: first, to the repairs and expenses of the rail-roads, steamboats, locomotive engines, cars, buildings, and other property of the said companies, and to all other expenses necessarily incurred in and for the carrying on and conducting the business of the said companies. Company au-
thorized to
contract with
P. W. and B.
R. R. Co., to
convey pas-
sengers, &c.,
on the road
of the latter
for joint be-
nefit of both
companies.
Application
of the re-
ceipts arising
therefrom.

¹ Incidental
expenses.

as they now have, although division shall be previously made, until the Saturday preceding the first Monday of October next. The entry of confirmation in the Levy Court shall be sufficient, if made according to the following form, endorsed upon the certificate of proceedings, and therewith recorded: *In the Levy Court and Court of Appeal of New Castle county, the _____ day of _____ 1843, the foregoing proceedings having been examined and considered, are confirmed by the court, two-thirds of the members present, concurring.*

Form of entry by Levy Court.

SEC. 2. *And be it further enacted,* That the commissioners aforesaid or a majority of them, may recommend any other alteration of the school districts aforesaid; which, if approved by the Levy Court and Court of Appeal, with the concurrence of two-thirds of the members present, shall be effectual, and the said school districts established in conformity thereto.

SEC. 3. *And be it further enacted,* That the commissioners aforesaid shall cause at least five days previous notice to be given by advertisements under their hands, posted in at least two of the most public places of each of the aforesaid school districts, of their meeting in one of the said school districts, to proceed to the performance of their duties under this act, specifying the day, hour and place of meeting. The said commissioners may adjourn from time to time; one only, if no other attend, shall have power to adjourn.

Notice of meeting of comm'rs.

Comm'rs. may adjourn.

SEC. 4. *And be it further enacted,* That in case of the death, resignation, inability or refusal to act of said commissioners, or either of them, the Levy Court and Court of Appeal of New Castle county shall have power to appoint commissioners, or a commissioner in his or their place; and the commissioners or commissioner so appointed, shall have all the powers and be liable to all the duties of the original commissioners or commissioner.

L. Court to fill vacancies in the number of.

SEC. 5. *And be it further enacted,* That the compensation to each commissioner shall be two dollars a day, for every day's attendance in discharge of the duties of this act, which shall be paid by the trustee aforesaid, upon certificate of allowance by the Levy Court, under the hand of the clerk of the peace of New Castle county, and the fees of the clerk shall be paid by the said trustee on certificate of allowance by said court, under the hand of the president; and the amount shall be deducted from the apportionment made to New Castle county, of the income of said fund before divided among the districts.

Pay of commissioners.

Fees of clerk of the peace.

Time of meeting of voters in new district. Election of officers,

SEC. 6. *And be it further enacted,* That if the additional school district be formed as aforesaid, the school voters in the said school district may meet at the place of meeting appointed as aforesaid, on the first Saturday of May next, at three o'clock in the afternoon, and appoint a chairman and secretary, and choose a clerk and two commissioners of the district, who shall continue in office until the next stated meeting and until successors are duly elected. The certificate of the proceedings shall be made, signed and de-

livered according to the provision of law relating to certificates of the meetings of school voters: notice of the meeting may be Notice. given by either clerk or commissioner of school district No. 57, No. 58 or No. 59. A failure to give notice shall not vitiate the proceedings,

Passed at Dover, February 21, 1843,

CHAPTER CCCCLX.

A FURTHER ADDITIONAL SUPPLEMENT to the act en- Chap. 82,
titled "*An act concerning the New Castle and Frenchtown Turn- 8 vol. 83.*
pike and Rail-road Company."

SECTION 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 when any share or shares of the capital stock of the New Castle and Frenchtown Turnpike and Rail-road Company are or may be held by any person or persons as trustee or trustees for the use of any other person or persons, or of any corporation or copartnership, such trustee or trustees shall vote at all elections of directors, and upon all questions coming before any meeting of stockholders, according to the written directions of the person or persons, corporation or copartnership, for whose use the said share or shares of stock are or may be held in trust. But if such person or persons be under the age of twenty-one years, or if no such written directions shall be given as aforesaid, then such trustee or trustees may vote according to his or their discretion. Trustees of stock empowered to vote according to written directions, &c.

SEC. 2. *And be it further enacted,* That from and after the passing of this act, it shall and may be lawful for the said New Castle and Frenchtown Turnpike and Rail-road Company to make an agreement with the Philadelphia, Wilmington and Baltimore Rail-road Company, for the last said company to convey passengers and transport merchandise by the rail-road of the last said company, for the joint and mutual benefit of both companies, at such seasons and for such length of time in each year, as by the respective boards of directors of the said companies shall be considered most advisable to the interests of both the said companies; and the receipts arising from the business of conveying passengers and transporting merchandise by the said Philadelphia, Wilmington and Baltimore Rail-road Company, for the joint benefit of both companies, shall be applied in the following manner, to wit: first, to the repairs and expenses of the rail-roads, steamboats, locomotive engines, cars, buildings, and other property of the said companies, and to all other expenses necessarily incurred in and for the carrying on and conducting the business of the said companies. Sec- Company authorized to contract with P. W. and B. R. R. Co., to convey passengers, &c., on the road of the latter for joint benefit of both companies. Application of the receipts arising therefrom.

1 Incidental expenses.

- 2 Tax to the State. condly, to the payment of the annual sum of one thousand dollars payable by the said Philadelphia, Wilmington and Baltimore Railroad Company to the State of Delaware, in semi-annual payments.
- 3 Mortgage of May 31, 1842. Thirdly, to a certain indenture of mortgage of the said Philadelphia, Wilmington and Baltimore Rail-road Company, bearing date the twenty-first day of May, one thousand eight hundred and forty-two, to and for the same objects, uses and trusts, and in the same order and manner as therein designated and set forth, and according to the true intent and meaning of the stipulations and provisions therein contained; and afterwards, and expressly subject thereto, to any other debt or debts lawfully owing by the last said company, which may be secured by any other indenture of mortgage heretofore executed by the said company, according to the true intent and meaning thereof. Fourthly, to the payment of the annual sum of three thousand dollars, payable by the said New Castle and Frenchtown Turnpike and Rail-road Company, to the State of Delaware, in semi-annual payments, one moiety for the benefit of the school fund, and the other moiety for the use of the State, the said sum being for stock of the Chesapeake and Delaware Canal Company, assumed by the said Turnpike and Rail-road Company, and for other liabilities. Fifthly, to the payment of the interest upon the loan of seventy-one thousand five hundred dollars, and the redemption of the principal when it falls due, of the said New Castle and Frenchtown Turnpike and Rail-road Company, created on the first day of July, one thousand eight hundred and thirty-three, bearing an interest at the rate of five and a half per centum per annum, payable semi-annually, and redeemable on the first day of July, one thousand eight hundred and fifty-three. And lastly, if any surplus of said receipts shall remain, such surplus shall be applied to the payment of such dividends among the stockholders of both the said companies as their separate and respective boards of directors, for the time being, may deem proper from time to time to declare.
- And any other mortgage heretofore executed.
- 4 Sums due the State for canal stock assumed by N. C. & F. R. Co.
- 5 The loan of N. C. & F. R. Co. of \$71,500.
- 6 Dividends to stockholders.

Part of sec. 4, chap. 203, vol. 8, repealed.

SEC. 3. *And be it further enacted*, That so much of the fourth section of the act entitled "A further supplement to the act entitled 'An act concerning the New Castle and Frenchtown Turnpike and Rail-road Company,'" passed on the twenty-second day of January, one thousand eight hundred and thirty-three, as provides for the conveyance by the said New Castle and Frenchtown Turnpike and Rail-road Company, of passengers and merchandise of steamboats belonging to any other company, shall be and the same is hereby repealed, made null and void.

This act to be accepted by the said companies, &c.

SEC. 4. *And be it further enacted*, That in case the said New Castle and Frenchtown Turnpike and Rail-road Company, and the said Philadelphia, Wilmington and Baltimore Rail-road Company, shall not respectively on or before the first day of May next, signify their acceptance of this act by some writing under their common seal of incorporation, to be transmitted to the Governor of this State, to be filed in the office of the Secretary of State, this

act and the provisions therein contained shall then cease and become void.

Passed at Dover, February 21, 1843.



CHAPTER CCCCLXI.

AN ACT concerning the Philadelphia, Wilmington and Baltimore Rail-road Company.

WHEREAS, under an arrangement made between certain stockholders of the Philadelphia, Wilmington and Baltimore Rail-road Company, and stockholders of the New Castle and Frenchtown Turnpike and Rail-road Company, in the month of February, one thousand eight hundred and thirty-nine, a large amount of the capital stock of the latter company was transferred to stockholders of the former company; and the said Philadelphia, Wilmington and Baltimore Rail-road Company, agreed to pay to the stockholders of the said New Castle and Frenchtown Turnpike and Rail-road Company, the sum of five dollars for every share of their stock which should be transferred under the said arrangement; and whereas, to secure the payment of the said sum, the said Philadelphia, Wilmington and Baltimore Rail-road Company, issued certificates of loan under their common seal, to the said stockholders of the New Castle and Frenchtown Turnpike and Rail-road Company, which loan so created forms part of the debt of the said Philadelphia, Wilmington and Baltimore Rail-road Company, secured by their indenture of mortgage bearing date the twenty-first day of May, one thousand eight hundred and forty-two; and whereas, the said Philadelphia, Wilmington and Baltimore Rail-road Company, agreed with such stockholders of the last said company, who, under the said arrangement, so exchanged as aforesaid their stock for the stock of the said New Castle and Frenchtown Turnpike and Rail-road Company, to replace the said stock so exchanged by them by issuing to them certificates of stock of the said Philadelphia, Wilmington and Baltimore Rail-road Company, to the same amount of the stock of the last named company, so exchanged by them as aforesaid; and whereas, the shares of stock of the said New Castle and Frenchtown Turnpike and Rail-road Company, so transferred under the said arrangement, have been since transferred to one or more trustee or trustees under the special trust and confidence that he or they should hold the same to and for the use of the said Philadelphia, Wilmington and Baltimore Rail-road Company, and to and for no other use and purpose whatsoever; and whereas, it is represented to this Legislature, under the corporate seal of the said Philadelphia, Wilmington and Baltimore Rail-road Company, that the said shares of stock so held in trust did on the twenty-first day of May, one thousand eight hundred and forty-two, belong to and now are the property of the said Philadelphia, Wilmington and

Baltimore Rail-road Company, and is part of the property pledged and intended to be pledged by their mortgage before mentioned, bearing date the day and year last aforesaid.

Certain acts confirmed.

SECTION 1. Therefore, 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 the said arrangement and transfers, and exchange of stock as aforesaid, the indenture of mortgage aforesaid, and the loan and stock created by the said Philadelphia, Wilmington and Baltimore Rail-road Company as aforesaid, be and they are hereby confirmed and made valid and effectual in law.

Trustees of stock in N. C. & F. R. Co. for the benefit of P. W. & B. R. Co., authorized to transfer the same to the latter company, &c.

SEC. 2. And be it further enacted, That it shall be lawful for any trustee or trustees holding stock in the said New Castle and Frenchtown Turnpike and Rail-road Company, in trust for the Philadelphia, Wilmington and Baltimore Rail-road Company, to transfer by themselves or by attorney the said stock to the last mentioned company; and the said Philadelphia, Wilmington and Baltimore Rail-road Company, are hereby authorized and empowered to hold the said stock in their corporate name and capacity for their own use and benefit; subject, however, to the said mortgage of the 21st May, 1842, and to the several trusts, uses and objects in the said mortgage specified and declared. And upon certificates for said stock being issued to the last-mentioned company in their corporate name, the said Philadelphia, Wilmington and Baltimore Railroad Company, shall be entitled to the same rights and privileges as any other stockholder in the said New Castle and Frenchtown Turnpike and Rail-road Company may or can exercise.

Trustees of stock empowered to vote according to written directions, &c.

SEC. 3. And be it further enacted, That in all cases where any share or shares of the capital stock of the said Philadelphia, Wilmington and Baltimore Rail-road Company, are or may be held by any person or persons as trustee or trustees for the use of any other person or persons, or of any corporation or copartnership, such trustee or trustees shall vote at all elections of directors and upon all questions coming before any meeting of stockholders, according to the written directions of the person or persons, corporation or copartnership, for whose use the said share or shares of stock are or may be held in trust: but if such person or persons be under the age of twenty-one years, or if no such written directions shall be given as aforesaid, then such trustee or trustees may vote according to his or their discretion.

Preamble.

SEC. 4. And whereas, the State of Delaware is entitled to receive annually from the New Castle and Frenchtown Turnpike and Rail-road Company the sum of three thousand dollars, payable in semi-annual payments, one moiety for the benefit of the school fund and the other moiety for the use of the State; and whereas, the said New Castle and Frenchtown Turnpike and Rail-road Company, on the first day of July, one thousand eight hundred and thirty-three, created a loan redeemable on the first day of July, one thousand

eight hundred and fifty-three, and issued certificates therefor to the several loan-holders, bearing an interest at the rate of five and an half per centum per annum, payable semi-annually on the first days of January and July in each year, the principle of which loan is seventy-one thousand five hundred dollars; and whereas, the State of Delaware is entitled to receive annually from the said Philadelphia, Wilmington and Baltimore Rail-road Company, the sum of one thousand dollars, payable in semi-annual payments; and whereas, the said Philadelphia, Wilmington and Baltimore Rail-road Company owes to the State of Delaware the sum of eighty thousand seven hundred and ninety-three dollars and eighty-three cents, payable with interest at the rate of six per centum per annum, which said sum with other loans of the last said company payable with interest, is secured by an indenture of mortgage of the last said company bearing date the twenty-first day of May, one thousand eight hundred and forty-two: and whereas, the said Philadelphia, Wilmington and Baltimore Rail-road Company, to secure the payment of other claims against the last said company, with interest, have executed another mortgage bearing date the twenty-sixth day of May, in the year last aforesaid: and whereas, for the purpose of better securing the payment of the said annual sums payable to the State of Delaware in the manner aforesaid, and the interest upon the said loans before mentioned, of each of the said companies, it is deemed to be for the benefit of all the parties interested, namely, the State of Delaware, the loan-holders and stockholders of each of the said companies, that the business of the said companies in conveying passengers and transporting merchandise should be managed and conducted by the said companies for their joint and mutual benefit: therefore,

Be it farther enacted, That from and after the passing of this act, it shall and may be lawful for the Philadelphia, Wilmington and Baltimore Rail-road Company, to make an agreement with the New Castle and Frenchtown Turnpike and Rail-road Company, for the last said company to convey passengers and transport merchandise by the steamboats and rail-road of the last said company, for the joint and mutual benefit of both companies, at such seasons and for such length of time in each year as by the respective boards of directors of the said companies shall be considered most advisable for the interests of both the said companies; and the receipts arising from the business of conveying passengers and transporting merchandise by the said New Castle and Frenchtown Turnpike and Rail-road Company, for the joint benefit of both companies, shall be applied in the following manner, to wit:—first, to the repairs and expenses of the rail-roads, steamboats, locomotive engines, cars, buildings and other property of both the said companies, and to all other expenses necessarily incurred in and for the carrying on and conducting the business of the said companies. Secondly, to the payment of the said annual sum of three thousand dollars, payable by the said New Castle and Frenchtown Turnpike and Rail-road Company to the State of Delaware, in semi-annual payments as aforesaid, the said sum being for stock of the Chesapeake and R. Co.

Company authorized to contract with N. C. & F. R. Co. to convey passengers, &c., on road of the latter, for joint benefit of both companies. Application of the receipts arising therefrom.

1 Incidental expenses.

2 Sums due the State for canal stock assumed by N. C. & F. Co.

- 3 The loan of N. C. & F. R. Co. Delaware Canal Company, assumed by the said Turnpike and Rail-road Company, and for other liabilities. Thirdly, to the payment of the interest upon the said loan of the said New Castle and Frenchtown Turnpike and Rail-road Company, and the redemption of the principal when it falls due. Fourthly, to the payment of the said annual sum of one thousand dollars, payable by the said Philadelphia, Wilmington and Baltimore Rail-road Company, to the State of Delaware, in semi-annual payments as aforesaid. Fifthly, to the said indenture of mortgage of the said Philadelphia, Wilmington and Baltimore Rail-road Company, bearing date the twenty-first day of May, one thousand eight hundred and forty-two, to and for the same objects, uses and trusts, and in the same order and manner as therein designated and set forth, and according to the true intent and meaning of the stipulations and provisions therein contained; and afterwards and expressly subject thereto, to any other debt or debts lawfully owing by the last said company, which may be secured by any other indenture of mortgage heretofore executed by the said company according to the true intent and meaning thereof. And lastly, if any surplus of said receipts shall remain, such surplus shall be applied to the payment of such dividends among the stockholders of both the said companies, as their separate and respective boards of directors for the time being may deem proper from time to time to declare.
- 4 Tax to the State of P. W. & B. R. Co.
- 5 To mortgage of May 21, 1842.
- And any other mortgage heretofore executed.
- 6 Dividends to stockholders.

This act to be accepted by the said companies, &c.

SEC. 5. *And be it further enacted*, That in case the said Philadelphia, Wilmington and Baltimore Rail-road Company, and the New Castle and Frenchtown Turnpike and Rail-road Company, shall not respectively, on or before the first day of May next, signify their acceptance of this act by some writing under their common seal of incorporation, to be transmitted to the Governor of this State, to be filed in the office of the Secretary of State, this act and the provisions therein contained, shall then cease and become void.

Passed at Dover, February 21, 1843.



CHAPTER CCCCLXII.

A FURTHER ADDITIONAL SUPPLEMENT *to the act entitled "An act to enable William Inskeep, of New Castle county, to raise his mill-dam, and for other purposes therein mentioned."*

Private act.

Passed at Dover, February 21, 1843.

CHAPTER CCCCLXIII.

AN ACT to enable John W. Evans to locate certain vacant lands in Kent county, and to complete his title to the same.

Private act.

Passed at Dover, February 21, 1843.



CHAPTER CCCCLXIV.

AN ACT to secure the money lent by this State to the Philadelphia, Wilmington and Baltimore Rail-road Company.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State treasurer be and he is hereby expressly authorized, required and directed, for and in behalf, and in the name of the State of Delaware, to give and signify the assent of the said State, to a certain indenture of mortgage, bearing date the twenty-first day of May, in the year of our Lord one thousand eight hundred and forty-two, made and executed by the Philadelphia, Wilmington and Baltimore Rail-road Company to Samuel Breck, Charles Henry Fisher and Edwin Swift, trustees, in trust for the purposes mentioned and declared in the said indenture of mortgage, and to accede to the terms and provisions thereof, and thereby to secure to the said State, the benefits and advantages of the provisions of the said indenture of mortgage, according to the true intent and meaning thereof, in regard to the payment of the principal and interest, of the sum of eighty thousand seven hundred and ninety-three dollars and eighty-three cents, due and owing from the said Philadelphia, Wilmington and Baltimore Rail-road Company to the said State, and meant and intended with other debts of the said company, to be secured by the said indenture of mortgage; such assent of the said State, to the said indenture of mortgage, shall be in writing, under the hand and seal of the said State treasurer, and attested by one or more credible witnesses, and shall be delivered or transmitted by the said State treasurer, to the president or secretary of the said Philadelphia, Wilmington and Baltimore Rail-road Company: *Provided always nevertheless*, that before the said State treasurer shall give and signify such assent as aforesaid, the said Philadelphia, Wilmington and Baltimore Rail-road Company, and the said New Castle and Frenchtown Turnpike and Rail-road Company, shall each accept and signify their acceptance of the act entitled "An act concerning the Philadelphia, Wilmington and Baltimore Rail-road Company," and of the act entitled "A further additional supplement to the act entitled 'An act concerning the New Castle and Frenchtown Turnpike and Rail-road Company,'" ac-

State treasurer directed to signify the assent of the State to the mortgage of May 21, 1842, &c.

Form of assent.

Before such assent is signified, the P. W. & B. R. Co., and N. C. & F. R. Co. to accept certain acts, and the P. W. & B. R. Co. also to

execute a
new mort-
gage, &c.

cording to the manner in the said acts prescribed: *And provided also*, that before the said State treasurer shall give and signify such assent as aforesaid, the president and directors of the said Philadelphia, Wilmington and Baltimore Rail-road Company shall likewise, for and in behalf, and in the name of the said company, and on or before the tenth day of May, in the year of our Lord one thousand eight hundred and forty-three, make, execute, acknowledge and deliver to the trustees named in the said indenture of mortgage, under the corporate seal of the said company, to be signed by the said president, and attested by the secretary of the said company, and to be recorded in each of the counties of each of the three States, through which the said road passes or is located, a deed of the said Philadelphia, Wilmington and Baltimore Rail-road Company, therein and thereby granting, assigning, transferring and mortgaging unto the trustees aforesaid, all the estate, right, title and interest, which the said Philadelphia, Wilmington and Baltimore Rail-road Company, now have or hereafter may acquire, either in law or in equity, or otherwise howsoever, in and to the shares of the capital stock of the New Castle and Frenchtown Turnpike and Rail-road Company, amounting to thirty-one thousand, three hundred and seventy-two shares of said capital stock, now held by or standing in the name of Thomas Smith, trustee; to be held by them the said trustees upon, and to and for the same uses, trusts, and objects specified, mentioned and declared, in the aforesaid indenture of mortgage; a copy of which it shall be the duty of the said president and directors to forward to the State treasurer.

State treasurer on execution of new mortgage to surrender a certain bond of the company.

SEC. 2. *And be it further enacted*, That immediately after giving such assent, for and in behalf and in the name of the said State as aforesaid, and delivering or transmitting the same as aforesaid, it shall be the duty of the said State treasurer, and he is hereby expressly authorized, directed and required, to surrender and deliver up to the said Philadelphia, Wilmington and Baltimore Rail-road Company, the bond of the said company, with Matthew Newkirk, Allan Thompson, David C. Wilson and William Chandler as sureties, heretofore taken as security for the payment to the State, of the said debt of eighty thousand, seven hundred and ninety-three dollars and eighty-three cents: and the said State treasurer is hereby authorized, required and directed, to receive in lieu of the said bond, new certificates from the said company, to be issued under their corporate seal, to the State of Delaware, for the said sum of eighty thousand, seven hundred and ninety-three dollars and eighty-three cents, mentioned in the said mortgage, and in the manner therein provided.

New certificates to be received in lieu of the bond, for the loan of the State.

If the said companies refuse to comply with the conditions herein

SEC. 3. *And be it further enacted*, That if the said Philadelphia, Wilmington and Baltimore Rail-road Company, or the said New Castle and Frenchtown Turnpike and Rail-road Company, or either of them, shall neglect or refuse to accept, and signify their acceptance of the act entitled "An act concerning the Philadelphia, Wilmington and Baltimore Rail-road Company," and of the act en-

titled "A further additional supplement to the act entitled 'An act concerning the New Castle and Frenchtown Turnpike and Railroad Company,'" according to the manner and within the time in the said acts specified; or if the said president and directors of the said Philadelphia, Wilmington and Baltimore Railroad Company shall neglect or refuse to make, execute, acknowledge, deliver and cause to be recorded the deed, as in the first section hereof provided, on or before the tenth day of May, one thousand eight hundred and forty-three, and to transmit a copy thereof to the State Treasurer as aforesaid; it shall be the duty of such State Treasurer, to certify the fact of such refusal or neglect, in writing under his hand to the Governor of this State, who shall forthwith direct the Attorney General, to proceed to collect the loan of the said State, in such manner as he may deem the most efficient and expeditious.

before prescribed S. treasurer to certify same to governor, who shall direct the Attorney General to proceed to collect the loan of this State.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXV.

AN ACT to enable John R. Adams to locate certain vacant land, situate in Northwest Fork Hundred in Sussex county.

Private act.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXVI.

AN ACT to authorize Jacob Boone and James Wooters to erect gates across a road.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall and may be lawful for Jacob Boone and James Wooters to erect and place two gates across the road running through their lands, and leading from George Bonwill's mill to the road leading from Frederica to Berrytown, in Kent county, at such places as shall best suit their convenience,

Authorized to erect two gates, &c.

SEC. 2. And be it enacted, That if any person or persons shall injure or destroy the said gates, or either of them, or open and leave them or either of them open, he, she or they, shall forfeit and pay for every such offence, a sum not exceeding ten dollars, which may be recovered as debts of like amount are recoverable by the laws of this State; by any person who shall sue for the same: *Provided*, that it shall be the duty of the said Jacob Boone and James

Penalty for injuring or leaving open.

Owners to

keep gates in
good state.

Wooters, or the person or persons to whom the lands upon which the said gates may be placed, shall or may at any time belong, to keep the said gates in good repair, and convenient to be opened and shut.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXVII.

A FURTHER SUPPLEMENT to an act entitled "*An act to enable the owners and possessors of the meadow ground, marsh and cripple on Red Lion creek, in New Castle county, to put the banks, dams, sluices and flood-gates in repair, and to raise a fund to defray the expenses thereof.*"

Private act.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXVIII.

Dig. 173.

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

Place of elections in Brandywine hundred changed.

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 general and special elections, in and for the hundred of Brandywine, in the county of New Castle, shall be held at the house known by the name of the "Blue Ball Tavern" now occupied by Isaac Anderson, and situated on the Wilmington and Great Valley Turnpike.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXIX.

AN ACT concerning negro and mulatto insolvent prisoners.

SECTION. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "A supplement to the act entitled 'An act concerning insolvent prisoners'" passed at Dover, February 10, 1832, be and*

Chap. 174,
vol. 8, p. 206,

the same is hereby revived and declared to be in full force and effect, as it regards and in case of, the imprisonment of negroes and mulattoes, any thing in the act entitled "An act concerning imprisonment for debt" passed at Dover, February 20, 1841, to the contrary notwithstanding.

revived as to
negroes and
mulattoes.

Passed at Dover, February 22, 1843.

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CHAPTER CCCCLXX.

AN ACT to authorize the sale of certain property therein mentioned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the escheator of Kent county in this State, be and he is hereby authorized to sell at public vendue, to the highest and best bidder or bidders, a certain house and lot of ground of which a certain Mitchell Anderson, free negro, late of Mispillion hundred, in the said county, deceased, died seized, and which it is said has escheated to the State.

Escheated
property of
M. Anderson,
to be
sold, &c.

SEC. 2. *And be it enacted,* That the said sale may be made at any time after the passing of this act, by giving ten days' notice thereof by advertisements, posted in at least five of the most public places in Mispillion hundred aforesaid.

Sale and notice.

SEC. 3. *And be it enacted,* That the purchaser at the said sale shall receive all the right and title of this State to the said house and lot of ground; but the sale nor any provision contained in this act, shall not be construed to affect the right or interest of any person or persons to the said house and lot of ground, whether the said right or interest be as heir or creditor of the said Mitchell Anderson, or as claimant of the said house and lot of ground.

Title under
the sale.

SEC. 4. *And be it enacted,* That the escheator of Kent county aforesaid, shall be authorized to make, execute and acknowledge to the purchaser of the said property, upon payment to him, the said escheator, of the purchase money, a deed for the said house and lot of ground, conveying to the said purchaser all the right and title of this State to the same.

Escheator to
execute a
deed for the
State's right.

Passed at Dover, February 22, 1843.

CHAPTER CCCCLXXI.

AN ACT for regulating the construction and use of wears, gill-nets and seines in Love's creek in Sussex county.

No wear, gill-net or seine to extend further than half way across the creek, &c.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That it shall and may be lawful for any person or persons residing in Sussex county to make, construct, or place in any part of Love's creek in said county, any wear or wears, gill-nets and seines, under the following limitations and restrictions, to wit: no wear, gill-net or seine, shall be set or placed in the waters of said creek so as to extend to more than half the distance across said creek: *Provided always,* that the clear space of twenty feet shall be left between the said wear, gill-net or seine, and the shore on the opposite side: *And further,* that no wear, gill-net or seine, shall be placed nearer to another than one hundred yards.

How the same shall be removed if set contrary to the above provisions, &c.

SEC. 2. *Be it enacted,* That if any person or persons shall place, put, keep, or use any wear, gill-net or seine, in or across the waters of Love's creek aforesaid, contrary to the provisions of this act, it shall be the duty of any justice of the peace for Sussex county, upon sufficient complaint made to him by any resident of Sussex county, to issue a warrant to any constable of said county, requiring such constable to remove and destroy any such wear, gill-seine or net, placed contrary to the provisions of this act; and the owner or owners of such wear, gill-net or seine, shall be liable for all the costs attending such removal, and the costs shall be adjudged by the justice of the peace for said county, issuing the warrant for the removal or destruction thereof.

General right to remove.

SEC. 3. *And be it further enacted,* That it shall and may be lawful for any person or persons to destroy any wear, gill-net or seine, placed across said creek contrary to the provisions of this act.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXXII.

AN ACT to repeal the act entitled "A supplement to the act entitled 'An act to revive and continue in force 'An act prohibiting the use of wears, hedges and gill-nets in St. Jones' creek.'"

Chap. 342, 9
vol. p. 394,

Chap. 342, 9
vol. p. 394,
repealed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "A supplement to the act entitled 'An act to revive and continue in force 'An act prohibiting the use of wears, hedges

and gill-nets in St. Jones' creek' " passed at Dover, February 18, 1841, be and the same is hereby repealed, made null and void.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXXIII.

A FURTHER SUPPLEMENT to the act entitled "*An act respecting the partition of lands and tenements, among joint tenants and tenants in common.*" Dig. p. 168.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the summons ordered to be issued by the register of the Court of Chancery, in the first section of the act to which this is a supplement shall, from and after the passage of this act, be according to the following form:—

_____ County, ss. The State of Delaware, to _____
(insert here the name or names of the person or persons concerned, who may not have joined in the petition.)

Form of summons to be issued in Chancery for partition.

***** We command you and each of you, that you be and
L. S. appear before our chancellor at _____ at our Court of
***** Chancery, there to be held on the _____ day of _____ next, and show cause, if any, you or either of you have, why partition of the following lands and tenements, viz,—(here describe the said lands and tenements,) should not be made into _____ equal parts, to be assigned in the following manner, to wit: _____ of the said parts to _____ to hold to him and his heirs and assigns in severalty: _____ of these parts to _____ to hold to him and his assigns in severalty, for and during the term of his natural life (or other estate as the case may be, and so on if there be more parties setting forth each share:) and this you may not omit at your peril. Witness _____ at _____ the _____ day of _____ in the year of our Lord one thousand eight hundred and _____

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXXIV.

AN ACT relative to school district No. 18, in Kent county.

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

Committee
authorized to
raise further
sums for
school in the
district.

Mode of rais-
ing the same.

Collection
thereof.

Collector, his
duty and
compensa-
tion.

Proviso.

during the present, or any other year hereafter, the sum of money to be raised by tax or subscription, together with the sum to be received from the State, shall be in the opinion of the school committee of school district No. 18, in Kent county, for the time being, or a majority of them, inadequate or not sufficient to keep up and maintain, in the said school district, a good and sufficient school as contemplated and provided for in the third section of the act of assembly entitled "An act for the establishment of free schools (Digest, 490,) then and in such case, it shall and may be lawful for the school committee of the said school district or a majority of them, and they, or a majority of them, are hereby authorized and empowered, in addition to the money to be raised by tax or subscription, and to be received from the State as aforesaid, to raise and levy such further sum as they may deem necessary and proper for the purposes aforesaid, by ordering and directing that such sum per quarter, per each and every child or pupil that attends the said school, and which the said school committee, or a majority of them may see fit to charge therewith, shall be paid by the parent, guardian, or person sending such child or pupil, into the hands of the school committee of said school district at the end or expiration of every quarter; and in case of default of payment of any such quarter charge for the space of ten days after the expiration of any such quarter, the same may be handed over to the collector of said district, and shall be collected by the said collector of the said school district, in the same manner as school taxes are now authorized to be collected by the law of this State; and the collector of the said school district shall be answerable on his bond, as now provided by law, for the collection and payment over of the said quarter charges, and shall have the same compensation as now provided by law for collecting and paying over school taxes: *Provided however*, that this section shall not have any force, effect or operation, in any year in which the school voters of said district shall not have resolved to raise by tax, or shall not have in fact raised by voluntary contribution the sum of three hundred dollars, as provided by the existing school laws of the State.

Committee
authorized to
admit pupils
from other
districts, &c.

SEC. 2. *And be it further enacted*, That the school committee of the said school district No. 18, in Kent county, or a majority of them for the time being, shall have power and authority to admit into the said school, according to their discretion and on such terms and conditions as they may deem right and proper, pupils from any other districts in Kent county; the money arising therefrom to be received by the said committee for the use and benefit of the said school, and to be accounted for by the said committee as other moneys received by them for the said school.

Voters of the
district au-
thorized to
refuse the
foregoing
sections, &c.

SEC. 3. *And be it further enacted*, That at every annual election of clerk and commissioners for the said school district No. 18, in Kent county, the school voters in said district, may by a majority of their votes refuse to accept the first two sections of this act, or either of them; but this act and the whole of it may be enforced by the present school committee of said district until the next an-

nual election of clerk and commissioners in said district, and thereafter by every school committee elected in said district, unless at every annual election thereafter of clerk and commissioners in said district; a majority of the school voters in said district by their votes shall refuse to permit the school committee to act under the same.

Passed at Dover, February 22, 1843.



CHAPTER CCCCLXXV.

AN ACT concerning retailers of goods, wares and merchandise.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That every person who shall deal in the selling of any goods, wares, or merchandise, foreign or domestic, is and shall be deemed and taken to be a retailer of merchandise, within the meaning of this act, except first: that wholesale dealers in foreign goods, wares and merchandise, both buying and selling the same in the original cask, case, box or package, wherein the same shall have been imported, are and shall be in respect to such unbroken goods, exempted from the provisions of this act. Second, that wheat, corn, rye, oats and other grain, lime, wood, bark, staves, lumber and other produce, bought for the purpose of exportation or sale, or to be exported or sold in bulk, shall not be considered a part of the stock or trade of such retailer for the purpose of this act: and third, that dealers in dry goods only, whose stock in trade does not exceed two hundred dollars; feme-sole traders in dry goods only, whose stock in trade does not exceed four hundred dollars, shall also be exempt from the provisions of this act.

What traders deemed retailers within the meaning of this act.

SEC. 2. *And be it enacted,* That every person within this State, who shall on the first day of June next be a retail dealer in goods, wares or merchandise, except as before excepted in the first section, shall before the said day, and every person who after the said day shall become or intend to become such retail dealer as aforesaid, before he shall begin to sell by retail as aforesaid any goods, wares or merchandise as aforesaid, apply for and obtain from the clerk of the peace of the county in which he may reside, a license for carrying on the business of retailing as aforesaid; which license shall be granted for the term of one year, and shall be renewed annually. And if any person within this State shall, after the said first day of June next, deal in the selling of merchandise as aforesaid, without having obtained a license therefor, such person shall, in addition to the payment of the duty hereinafter mentioned, forfeit and pay the sum of one hundred dollars, with full costs of prosecution, to be recovered by indictment in any Court of General Ses-

Every retailer or to procure a license for carrying on the business.

License to continue for one year.

Penalty for selling without license, &c.

Or at more
than one
place by color
of one li-
cense.

sions of the Peace and Gaol Delivery in this State: and no such license shall be sufficient for the selling of goods, wares or merchandise as aforesaid, by retail, at more than one place at the same time; and any person who by color of such license shall sell any goods, wares or merchandise, by retail as aforesaid, at more than one place at the same time, shall be deemed to be without license, and shall forfeit and pay the like sum of one hundred dollars, in addition to the duty as aforesaid, to be recoverable as hereinbefore directed.

Secretary of
State to have
licenses
printed, &c.

SEC. 3. *And be it enacted*, That the Secretary of State for the time being, shall cause to be printed in proper form, a license for retailing goods, wares or merchandise as aforesaid, which shall be sealed with the seal of his office, signed by the Governor, countersigned by the Secretary of State, and put into the hands of the clerks of the peace in the respective counties of this State, to be by them distributed to any person who may apply therefor, and pay the price hereinafter directed.

Powers and
duties of Sec.
of State,
clerks of the
peace and
auditor of ac-
counts.
Ante p. 230.

SEC. 4. *And be it enacted*, That the Secretary of State, Clerk of the Peace in each county of this State and Auditor of Accounts, be and the same are hereby invested with all the powers and authority conferred on them respectively by, and made subject to all the provisions and liabilities imposed upon them respectively in the second, third, fifth and seventh sections of the act entitled "An act requiring Clerks of the Peace to pay to the State Treasurer, instead of the Secretary of State, certain sums received for fees to the State," passed at Dover, 8th February, 1830.

Retailers to
file with the
clerk of the
peace, certi-
ficates of the
value of their
stock of
goods, &c.

SEC. 5. *And be it enacted*, That every person who is or shall be deemed and taken to be a retailer of merchandise within the meaning of this act, except as is hereinafter excepted, shall in the month of May, in this and every year hereafter, file with the clerk of the peace in the county in which he shall reside, a certificate in writing, duly signed, in which he shall honestly and truly state the aggregate value of his stock of goods, wares or merchandise, on hand at the time of filing such statement, according to the original prices the same were purchased for, and to which said certificate shall be annexed or added the oath or affirmation of such person, made before the clerk of the peace, or some judge or justice of the peace, that according to the best of his knowledge and belief, the value of the said goods, wares or merchandise, does not exceed the value or amount as stated in said certificate.

Time of pay-
ment, and
rate of duty
to be paid, on
taking out
license,

SEC. 6. *And be it enacted*, That every such retailer of merchandise as aforesaid, except as before mentioned in the first section of this act, and except as hereinafter provided, shall on or before the first day of June, in this and every year hereafter, pay to the clerk of the peace of the county in which he shall reside, on taking out the license directed by this act, a tax or duty of two dollars and fifty cents, if the value of his goods, wares or merchandise, shall not exceed one thousand dollars; if above one thousand dollars, a tax or duty of twenty-five cents on each and every hundred dol-

lars value of the said goods, wares and merchandise, as mentioned in the certificate to be filed as aforesaid: *Provided however*, that any retailer as aforesaid, who shall pay to the clerk of the peace of the county in which he shall reside, thirty dollars, may have a license to retail goods, wares or merchandise, without filing any statement as aforesaid, or paying any other tax or duty.

SEC. 7. *And be it enacted*, That it shall be the duty of the clerk of the peace in each of the counties of this State, in every license by him delivered out under this act, to state the duty or tax received by him therefor.

Tax to be stated in the license.

SEC. 8. *And be it enacted*, That it shall be the duty of the collector of the taxes in each of the hundreds of the respective counties, in the month of May, in this and every year hereafter, to make a list of all the wholesale dealers and retailers of goods, wares or merchandise, within their respective hundreds, and on or before the first day of June in this and every year hereafter, deliver the said list to the clerk of the peace of the county, to be filed of record; and it shall be the duty of the attorney-general to compare the said lists with the certificates filed as aforesaid, and to prepare and prosecute indictment against all who appear not to have obtained a license and ought to have obtained the same.

Collectors to deliver lists of the wholesale and retail dealers in their respective hundreds, to clerks of peace.

SEC. 9. *And be it enacted*, That the act entitled "An act laying duties on licenses to retailers of foreign goods, wares and merchandise," passed at Dover, January 31st, 1821, and the act entitled "A supplement to the act laying duties on licenses to retailers of foreign goods, wares and merchandise," passed February 7th, 1822, be and the same are hereby repealed.

Former acts, Dig. 462-3-4, repealed.

Passed at Dover, February 23, 1843.



CHAPTER CCCCLXXVI.

An act to incorporate the Smyrna Library Company,
Private act.

Passed at Dover, February 23, 1843.



CHAPTER CCCCLXXVII.

AN ACT to change the name of Daniel Elzey Moore to Daniel Moore Bates.

Private act.

Passed at Dover, February 23, 1843.

LAWS OF THE STATE

CHAPTER CCCCLXXVIII.

A SUPPLEMENT to an act entitled "*An act to enable John D. Rodney and Jacob Forsell, of Sussex county, to erect a mill-dam across the head waters of Love's Creek, called Bundick's Branch, the boundary line between Lewes and Rehoboth and Indian river hundreds, Sussex county, at a place therein mentioned, and to erect a saw-mill thereon.*"

Private act.

Passed at Dover, February 23, 1843.



CHAPTER CCCCLXXIX.

AN ACT to enable Curtis W. Jacobs and William Holland, of Worcester county, State of Maryland, to work their slaves in this State.

Private act.

Passed at Dover, February 24, 1843.



CHAPTER CCCCLXXX.

AN ACT to prevent the sale of spirituous liquors to the students of Delaware College.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That no person or persons whosoever, shall sell or dispose of any spirituous liquor or liquors, wine, porter, beer, ale, or cider, within two miles of Delaware College, to any student or students of the said college, or of the academical department thereto attached, or to any other person for them; and if any person or persons whosoever, shall knowingly and wilfully sell or dispose of any spirituous liquor or liquors, wine, porter, ale, beer, or cider, to any student or students of said college, or academical department, or to another person for them; or if any person or persons, with intent to evade this act, shall buy or procure any such liquor or liquors for or in behalf of any such student or students, such person or persons so offending shall forfeit and pay a fine of ten dollars, to be recovered as debts of the like amount are made recoverable by the laws of this State, by any person who shall sue for the same, and to be distributed, one moiety thereof to the person so suing as aforesaid, and the*

All persons
forbidden to
sell liquor to,
for the use of
students at
Newark.

Penalty
therefor.

other moiety thereof to be paid to the trustee of the school fund for the benefit of said fund.

Passed at Dover, February 24, 1843.



CHAPTER CCCCLXXXI.

AN ACT *limiting the number of constables in Dover hundred, in Kent county.*

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the first Tuesday in March next, the number of constables in Dover hundred, in Kent county aforesaid, shall be two instead of three, one of whom shall reside in the town of Dover.*

Number
limited to
two.

Passed at Dover, February 24, 1843.



CHAPTER CCCCLXXXII.

A FURTHER SUPPLEMENTARY ACT *to the act entitled "An act for stopping St. George's Creek and for embanking and draining a quantity of marsh and cripple on both sides of said creek, being deemed about three thousand acres, situate in Red Lion and St. George's hundreds, and county of New Castle, and for keeping the dykes and drains belonging to the same in good order and repair.*

Private act.

Passed at Dover, February 24, 1843.



CHAPTER CCCCLXXXIII.

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

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

Restrained
from running
at large with-
in certain
limits in Re-
hoboth neck.

provisions of the act to which this is a supplement shall extend to and be in force within the following described limits in Rehoboth neck, in Lewes and Rehoboth hundred, Sussex county, that is to say:—Beginning at the beach on the line between the lands of Peter Marsh, Senior, and Joseph H. Dodd, running thence with the said lines and the public road, until it comes to the northeast corner of the lands of Joshua Burton, of Wm., thence with the north line thereof a straight course to the Rehoboth school house, thence with the public road to the bridge at the flat lands, thence with a straight course to the bridge at the north corner of the lands of David Walker, thence with the line of David Walker and the heirs of Joseph Shankland to Love's creek, thence to Rehoboth bay, thence with the bay shore to the southeast corner of the land of Henman Rhoads, deceased, thence with the lines of the beach and upland to the place of beginning.

Passed at Dover, February 25, 1843.



CHAPTER CCCCLXXXIV.

AN ACT supplementary to the act entitled "An act to enable all the religious denominations in this State to appoint trustees, who shall be a body corporate, for the purpose of taking care of the temporalities of their respective congregations."

Dig. p. 459.

Rector, warden and vestrymen of E. churches incorporated trustees for certain purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the word "trustees" in the act to which this is a supplement, and also in the act entitled "An act for enabling religious societies of Protestants within this government to purchase lands for burying-grounds, churches, houses for worship, schools, etc.," shall be construed and taken to apply to and embrace the words "rector, wardens and vestrymen of the Protestant Episcopal Church," and all the powers, rights, privileges, franchises, immunities and authority in the said acts vested in the said trustees, shall be and the same are hereby given to and conferred on the said rector, wardens and vestrymen, of any Protestant Episcopal Church within this State.*

Passed at Dover, February 25, 1843.

CHAPTER CCCCLXXXV.

AN ACT to authorize the erection of a bridge over Love's Creek in Sussex county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Thomas Walker, Reese Wolf, Robert B. Robinson, John Hamilton Burton and Dagworthy Derrickson, be and they are hereby appointed commissioners to erect and build a bridge across Love's Creek, the boundary between Indian River and Lewes and Rehoboth hundreds, in Sussex county, at such place on the said creek, as they or a majority of them shall determine upon, and to make causeways leading to the said bridge across the marsh, on each side of the said creek: and also to erect, build and make all proper and necessary abutments, wings, banks, ways and other works for the use, support and preservation of said bridge and causeway.

Comm'rs to
build bridge
and cause-
ways.

SEC. 2. *And be it further enacted,* That the said bridge shall be so constructed as to admit boats without masts to pass under it with ease; it shall be at least sixteen feet wide, and the abutments and causeways shall be at least twenty feet wide: and there shall be on each side of the bridge and abutments a strong railing, three and a half feet high: and for the space of sixteen feet over the deepest part of the said creek, the said bridge shall be at least eight feet high above the top of ordinary tides.

Construction
and dimen-
sions of the
bridge.

SEC. 3. *And be it further enacted,* That the said bridge shall be made of good and substantial materials, in a workmanlike manner; and shall, together with the said causeways, be fully made and completed at the individual cost, charge and expense of such persons as may voluntarily contribute to the making thereof, and no part of such cost, charge or expense, shall be borne by the county of Sussex, or any of the hundreds of said county; and the persons so making the said bridge, shall in like manner and before making the same, pay any damages which may arise to any person through or upon whose land the said bridge or causeways may be laid out; which damages shall be assessed by three impartial persons, to be appointed by the Superior Court.

To be built
well, and at
private ex-
pense.

SEC. 4. *And be it further enacted,* That when the said bridge and causeways shall be fully completed and made to the satisfaction of a committee of the Levy Court of said county, to be appointed for the inspection of the same, the said bridge and causeways shall be accepted by the said Levy Court, and shall then and thenceforth be maintained, repaired and kept up at the joint and equal expense of the said hundreds of Indian River and Lewes and Rehoboth.

After it is
built to be
kept up at
the expense
of the coun-
ty.

SEC. 5. *And be it further enacted,* That roads leading from and to the said bridge and causeways shall be laid out, opened and

Roads lead-
ing thereto.

made, and the damages thereon assessed and paid in the same manner with other public roads in the said county of Sussex.

Passed at Dover, February 25, 1843.



CHAPTER CCCCLXXXVI.

AN ACT concerning the divisions of school districts No. 8, No. 19, and No. 23, in New Castle county.

SECTION 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 of the Legislature, That Samuel Canby, John Logan and Joseph Ca* be and they are hereby appointed commissioners to visit school district No. 8, school district No. 19, and school district No. 23 in New Castle county, and inquire concerning the extent of said school districts, and the number of white children in each who ought to enjoy the benefit of the school, with a view to determine concerning the necessity of a division of the said districts. The said commissioners before entering upon the inquiry, shall take an oath or affirmation, to be administered by either to the other, or by a justice of the peace, to perform their respective duties under this act with truth and faithfulness: and they shall have power to examine witnesses, upon oath or affirmation, and severally to administer such oath or affirmation.

Comm'rs. appointed to visit the districts, &c.

How the same shall be divided and numbered, in case division is necessary.

Place of meeting in new district.

Majority of com'rs. may act.

Division to be returned to L. Court, and proceed.

If upon inquiry and careful examination the said commissioners shall determine that the aforesaid school districts ought to be divided, so as to form four school districts, they shall make such division by laying off by bounds and lines, such parts from the said school districts as that the parts included by such bounds and lines and the respective remainders of said school districts, shall be four convenient school districts: (the said remainders to continue school districts, with their original numbers of eight, nineteen and twenty-three respectively; and the said additional district, included by said bounds and lines, to be designated by its proper number, succeeding the highest number of the school districts previously founded in the county,) if such division be made, the said commissioners shall appoint the place of meeting for the school voters in the additional school district.

A majority of the said commissioners being met, shall have power to proceed and act. If the said commissioners, or a majority of them, shall make division as aforesaid, of the aforesaid school districts, they or a majority of them, shall certify the same, with their proceedings under their hands, to the next Levy Court and Court of Appeal of New Castle county; the said court shall take the same into consideration—shall hear objections, if any, and shall have power to make amendments or alterations in the bounds or lines,

certified with the concurrence of two-thirds of the members present; and if the said proceedings as certified as aforesaid, or amended or altered, shall be confirmed by the said court, with the concurrence of two-thirds of the members present, the said division of the aforesaid school districts according to the same, shall be established; and the additional school district thereby formed, shall become and be a separate school district in New Castle county, with the capacity, rights and powers of a school district according to law, and shall be entered by the trustee of the fund for establishing schools in the State of Delaware, among the school districts of said county and an account opened therewith; and in all dividends hereafter made by said trustee of the fund for establishing schools in the State of Delaware, the respective dividends which may be due, or hereafter may become due, to the said original districts No. 8, No. 19 and No. 23, shall be equally divided annually among the districts No. 8, No. 19, No. 23 and No. 75: and the school voters in said additional school district, and the school committee thereof shall have all the rights and powers of school voters and a school committee respectively, according to the laws of this State: and all the laws of this State concerning free schools, are extended to said additional school district. The place of meeting appointed as aforesaid for the school voters in said additional school district, shall be the place of holding all their meetings, stated and occasional, until another place shall be determined or appointed according to law.

ings there-
upon.

Rights and
powers of
new district
after confir-
mation.

The Levy Court and Court of Appeal of New Castle county, if division shall be made and confirmed as aforesaid of the aforesaid school districts, shall cause a fair transcript of the proceedings (as amended or altered) to be entered upon their minutes, with the entries of school districts, and said entry shall be deemed a record, they designating the said additional district by its proper number as aforementioned; the respective remainders of the aforesaid school district number eight, the aforesaid school district number nineteen and the aforesaid school district number twenty-three (the said parts being laid off from them respectively as aforesaid) shall continue school districts with their original numbers respectively; but all the white children within the lines of said additional school district shall continue to have the same rights in school districts number eight, number nineteen or number twenty-three, as they now have, although division shall be previously made, until the Saturday preceding the first Monday of October next. The entry of confirmation in the Levy Court shall be sufficient, if made according to the following form, indorsed upon the certificate of proceedings and therewith recorded. In the Levy Court and Court of Appeal of New Castle county the — day of — 1843, the foregoing proceedings having been examined and considered, are confirmed by the court, two-thirds of the members present concurring.

Transcript to
be entered
upon the
minutes of
the L. Court,
&c.

Form of en-
try.

SEC. 2. And be it further enacted, That the commissioners aforesaid, or a majority of them, may recommend any other alteration of the school districts aforesaid, which if approved by the Levy Court and Court of Appeal, with the concurrence of two-thirds of

Comm'rs.
may recom-
mend other
alterations,
&c.

the members present shall be effectual, and the said school districts established in conformity thereto.

Notice of
meeting of
comm'rs.

SEC. 3. *And be it further enacted,* That the commissioners aforesaid, shall cause at least five days' previous notice to be given by advertisements under their hands, posted in at least two of the most public places of each of the aforesaid school districts, of their meeting in one of the said school districts, to proceed to the performance of their duties under this act, specifying the day, hour and place of meeting. The said commissioners may adjourn from time; one only if no other attend, shall have power to adjourn.

L. Court to
fill vacancies
among com-
missioners.

SEC. 4. *And be it further enacted,* That in case of the death, resignation, inability or refusal to act of said commissioners or either of them, the Levy Court and Court of Appeal of New Castle county shall have power to appoint commissioners or a commissioner in his or their place, and the commissioners or commissioner so appointed shall have all the powers, and be liable to all the duties of the original commissioners or commissioner.

Compensa-
tion of com-
missioners
and clerk of
the peace,
and how
paid.

SEC. 5. *And be it further enacted,* That the compensation of each commissioner shall be two dollars a day, for each and every day's attendance in discharge of the duties of this act, which shall be paid by the trustee aforesaid upon certificate of allowance by the Levy Court, under the hand of the clerk of the peace for New Castle county, and the fees of the clerk shall be paid by the said trustee on certificate of allowance by said court, under the hand of the president; and the amount shall be deducted from the apportionment made to New Castle county of the income of said fund before divided among the districts.

Meeting of
voters and
appointment
of officers in
the new dis-
trict.

SEC. 6. *And be it further enacted,* That if the additional school district be formed as aforesaid, the school voters in the said school district may meet at the place of meeting appointed as aforesaid, on the first Saturday of May next, at three o'clock in the afternoon, and appoint a chairman and secretary, and choose a clerk and two commissioners of the district, who shall continue in office until the next stated meeting and until successors are duly elected. The certificate of the proceedings shall be made, signed and delivered according to the provision of law relating to certificates of the meetings of school voters; notice of the meeting may be given by either clerk or commissioner of school districts No. 8, No. 19, or No. 23; a failure to give notice shall not vitiate the proceedings.

Passed at Dover, February 25, 1843,

CHAPTER CCCCLXXXVII.

A SUPPLEMENT to the act entitled, "*An act for the benefit of Sussex county.*"

Vol. 8, chap.
368, p. 399.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Governor of the State, for the time being, shall have power to appoint three persons, and from time to time to supply any vacancy or vacancies that may occur in the number, to be superintendents under the provisions of this act, and the act to which this is a supplement, whose duty it shall be to devise, direct and superintend the improvement of the navigation of the said Broad Creek, in Sussex county; and for this purpose, they or a majority of them shall have power to make contracts, to employ workmen, to procure machinery, means and materials, and to do every other act and thing, which may be necessary or expedient to carry on and complete the said work of improvement.

Sec. 2. *And be it further enacted,* That the said superintendents or a majority of them, in discharging the duty enjoined upon them as aforesaid, shall have full power and authority from time to time to enter upon the said creek and the lands adjacent thereto, at such places as they may deem expedient, and to raise and construct wharves and embankments upon the shores of the same, so as to contract the width thereof, and to survey and lay out, and to cut and open canals and artificial channels through the said lands, and to divert the water of the said creek from its natural bed, and to conduct it into and through the said canals and artificial channels when cut and opened: and to re-enter upon the said creek and the lands adjacent thereto, from time to time, so often as the same shall become necessary, to amend and repair the said works and improvements, and to build, construct and open others, and to amend and repair the same when built and constructed: and to do whatever else may be meet and proper in the premises, to improve and facilitate the navigation of the said creek.

Sec. 3. *And be it further enacted,* That whenever application shall be made for that purpose, to the judges of the Superior Court in and for Sussex county, by the said superintendents or a majority of them, the said judges shall appoint five commissioners, and whenever it shall be necessary or expedient for the said superintendents to enter in and upon and occupy any lands for the purpose of making and constructing any wharves or embankments, or of cutting and opening any canals or artificial channels, or for such other purposes as may be convenient and necessary for improving the navigation of the said creek; if the owner or owners of the said land shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for any injury that may be done to said land by such entry and occupation, the said commissioners on being notified by the said superintendents or a majority of them, shall go upon the said lands and assess

Comm'rs. to
be appointed
when neces-
sary, to as-
sess dama-
ges, &c.

How the damages may be paid in case the owner is a minor or non-resident.

Majority of commis's. may act, their compensation, &c.

Superintendents to give bond before they enter upon their office.

Expenses of the improvements, how defrayed.

Accounts of superintendents and their compensation.

Trespassers, &c., how punished.

the damages of such owner or owners, on oath or affirmation fairly and impartially, and the said commissioners shall certify their finding and award to both parties: whereupon, the said superintendents on paying the damages so assessed, shall become entitled to enter and occupy the said lands for the purposes by them required forever. In case the owner or owners of any such lands shall be a minor or non-resident, or for any cause incapable of receiving the said damages, the superintendents may deposit the amount of the same to the credit of such owner or owners in the Farmers' Bank of the State of Delaware, subject to his or her or their order; whereupon, the said superintendents shall be entitled to enter and occupy the said lands as aforesaid. A majority of the said commissioners may act in assessing damages pursuant to the provisions of this section, and each one shall be allowed the sum of one dollar for every day that he shall be actually engaged in such service. The expenses of the assessment of said damages shall always be paid by the said superintendents out of the fund hereinafter mentioned.

SEC. 4. And be it further enacted, That the said superintendents before entering upon the duties enjoined upon them by this act, shall each become bound to the State of Delaware in an obligation with security, to be approved by the Governor, in the penalty of ten thousand dollars, for the faithful performance of the trusts confided to, and of the duties imposed upon him by this act. And for the purpose of defraying the expenses of such works as they may undertake, construct and establish for the improvement of the navigation of the said creek, the said superintendents or a majority of them, shall have authority to draw upon the trustees appointed by virtue of the act to which this is a supplement, from time to time, for such sums of money as shall be necessary for that purpose: and the said trustees are hereby required to pay to the said superintendents upon their drafts, such sums as they from time to time shall require for that purpose, and the said trustees shall cause every such draft when paid, to be deposited in the office of the clerk of the peace in and for Sussex county, whose duty it shall be to preserve the same: and the said superintendents shall annually account to the Levy Court of the said county, in the month of March, for all sums of money by them drawn as herein provided for. Each of the said superintendents shall receive a reasonable compensation for their labor and expense in performing the duties of his office, to be allowed by the said Levy Court, and to be paid out of the fund for the improvement of the navigation of the said Broad Creek.

SEC. 5. And be it further enacted, That if any person or persons shall commit any trespass upon the works and improvements commenced or completed by the said superintendents for the purposes hereinbefore mentioned, or the machinery and materials used and employed in making and constructing the same: or shall unlawfully do anything to oppose, retard or delay the said superintendents in the said work of improvement, or to injure or impair the works

commenced and established for the purpose, or to obstruct and impede the navigation of the said creek after the same shall have been improved, every person so offending shall be liable to be sued therefor by the said superintendents, in such forms of action and before such tribunals as injuries of a like nature and description may be sued for by the laws of this State, and upon conviction thereof, shall pay to the said superintendents, for the benefit and improvement of the navigation of the said creek, the full amount of damages which shall have been sustained thereby.

SEC. 6. *And be it further enacted*, That this act shall be deemed and taken to be a public act, and as such may be pleaded and given in evidence in all the courts of law and equity in this State. This a public act.

SEC. 7. *And be it further enacted*, That so much of the act to which this is a supplement as is inconsistent with the provisions of this act, be and the same is hereby repealed, made null and void. Certain parts of former act repealed.

Passed at Dover, February 25, 1843.



CHAPTER CCCCLXXXVIII.

AN ADDITIONAL SUPPLEMENT to the act entitled "*An act to alter and re-establish the charter of the borough of Wilmington.*" Dig. p. 675.

SECTION 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 city council of Wilmington, in the month of January in each year, to publish in two newspapers of Wilmington, a statement of the fiscal concerns of the city for the past year; which statement shall set forth the whole amount of the existing debt of the city, whether by certificate, bond, note or otherwise, to whom due, the rate of interest paid out, when payable; also, the operations of the sinking fund for that year, and the whole amount of debt extinguished by it from the commencement of its operations; also, the whole receipts in the treasury for the same year, the sources from which it is received, and the amount received from each source: also, the payments made during the year, the times when paid, the amount paid to each individual, and the consideration or service for which it is paid. City council to publish annual statements of the fiscal concerns of the city, &c.

SEC. 2. *And be it further enacted*, That under the power to borrow money heretofore granted to the city council, it shall not be lawful for the said council to contract debts or liabilities of any kind or description whatsoever, to an amount exceeding the present debt of the city of Wilmington; and if at any time the said city council shall by resolution, ordinance or otherwise, borrow or con- Power to borrow money and contract debts restricted. Members voting for, per-

sonally liable for a breach of this restriction, and the city exempted from the payment.

Voting to borrow money.

Proviso in case of damage to the water works.

tract debts beyond the present debt of the city of Wilmington, or borrow or contract any additional debt until the existing debts and liabilities shall be reduced within the prescribed limit of the present debt aforesaid, the number voting for such excess or additional debt shall be liable in their own persons and estates for the amount of such excess or additional debts; and it is hereby expressly declared, that the debt so construed beyond the said present debt, shall not constitute a legal claim against the city; and in all questions before the said council for borrowing money, the ayes and noes shall be called and entered on the minutes of the council, and shall be so entered and preserved by the clerk of the council, under a penalty for each neglect of one hundred dollars, to be recovered by indictment in the Court of General Sessions at New Castle, or by any person or persons suing for the same: *Provided nevertheless*, that if by any casualty or accident the Brandywine Water-works, or any part of them, shall become so injured or damaged as to interrupt or prevent the regular supply of water to the inhabitants of Wilmington, and the ordinary means of the city shall not be sufficient to repair them and restore a full and sufficient supply, then the said council shall have power to borrow such sum or sums of money as shall be sufficient and necessary, with the money on hand in the treasury, for that special purpose and no more; which loan shall be extinguished by the sinking fund as soon as practicable.

Annual estimates of expenses and revenue, and appropriations for expenditures.

Extraordinary appropriations.

Penalty of city treasurer, for paying money contrary to the foregoing provisions.

SEC. 3. *And be it further enacted*, That the city council shall, early in November in each year, have estimates prepared and laid before them of the probable expenses and the probable revenue and resources of the city for the ensuing year, and an ordinance shall be passed at the first stated meeting of January in each year, making appropriations for the expenditures of that year, which appropriations shall be based as nearly as may be, upon the estimates made in November, and the appropriations specified and arranged under the heads or items designated in the said estimates; and it is hereby expressly declared and provided, that unless some extraordinary occasion not foreseen or anticipated at the time of the passage of the said ordinance, shall require further appropriations, the expenditures of the year under any head or item of appropriation shall not exceed that item of appropriation, and that in no event shall any money be paid out of the treasury unless the same shall be appropriated by ordinance; and that in case any further provisions be required, over and above that made in the January appropriation, the extraordinary occasion or necessity requiring the same shall be set forth in the ordinance making the additional appropriation, and the said ordinance shall not pass unless two-thirds of all the members of council shall vote for the same, which shall be recorded on the minutes of the council. And if the city treasurer shall pay any money out of the treasury contrary to the provisions of this act, or shall permit any money to be drawn from it beyond the appropriations for the year, unless further provision be made by ordinance, he shall forfeit and pay a fine of five hundred dollars, to be recovered by indictment in the Court of

General Sessions of the Peace, in and for New Castle county; and he and his sureties shall be personally liable to the city for any money exceeding the appropriation so paid by him. And it shall be the duty of the clerk of the council annually to publish in two newspapers of the city of Wilmington, a copy of the ordinance making appropriations for the year, and of any ordinance making additional appropriations together with the estimates of the year; and if the said clerk shall fail or neglect to perform this duty, he shall forfeit and pay a fine of fifty dollars for each offence, to be recovered by indictment as aforesaid.

Duty of clerk
of the coun-
cil.

Penalty for
neglect.

SEC. 4. *And be it further enacted*, That to constitute a sinking fund, the clear sum of at least five hundred dollars shall be annually set apart from the first money paid into the city treasury on account of the water rents; which sum is hereby solemnly pledged to the payment and redemption of the funded debt of the city, and shall be applied to no other purpose or purposes whatsoever. And the city treasurer for the time being is hereby constituted and appointed commissioner of the sinking fund, and shall open an account as commissioner, in which he shall credit annually the first receipts of the water rents as they shall come in, until they shall amount to the aforesaid sum of five hundred dollars, and the said money shall be subject only to the order of the said commissioner, and shall be invested by him as soon as practicable: *First*, by the purchase of certificates of the funded debt of the city, at a price not exceeding its par value, and in all cases he shall give the preference to this mode of investment.

Sinking fund
established.

Commission-
er thereof,
his powers
and duties.

Mode of in-
vesting said
fund.

Second, If no opportunity presents itself for investment in certificates, then the said commissioner is hereby directed to loan the said money upon undoubted landed security, to be approved by the city council, bearing an interest of not less than six per centum per annum payable semi-annually, the interest accruing on which shall as it is received, be credited to the sinking fund and be applied, with the principal, to the redemption of the funded debt as heretofore prescribed.

And when a certificate or certificates of the funded debt shall have been purchased as aforesaid, the same shall be laid forthwith before the council and cancelled in its presence, and so much of the public debt as they represent, shall be extinguished.

SEC. 5. *And be it further enacted*, That the said commissioner shall make a report every three months to the city council of his proceedings, and shall receive annually a compensation of fifty dollars for his services; and that he shall give security to be approved by the city council in at least two thousand dollars, for the faithful performance of his duty.

Reports,
compensation
and security
of commis-
sioner.

SEC. 6. *And be it further enacted*, That no precept shall be issued by the city council, directing the paving and curbing of any foot-way or gutter in the city, unless upon the application of fifteen freeholders residing or holding property in the street, lane or alley in which such paving and curbing are directed to be done; and it

Restriction
as to paving
and curbing
streets.

shall be the duty of the city commissioner, when such precept is issued, to see that it be executed according to the proper ground, plan and regulation of the city; and after it is so done, he shall give a certificate to that effect, to the owner or owners of the property so curbed and paved, a duplicate of which certificate he shall deliver to the clerk of the council, who shall record the same in a book to be kept for that purpose, and carefully file and preserve the certificate; and no owner or owners of property to whom such certificate is thus given, shall be liable for any change or error of regulation, or subsequent curbing and paving of the same property by order of the city council, but the expense of the same shall be defrayed by the city.

Council not
to release or
exempt any
person from
taxes.

Donations to
fire compa-
nies.

SEC. 7. *And be it further enacted*, That the council shall not have power to release or exempt any person or persons who are properly liable to taxation, from their proper share or proportion of the taxes of the city, either by commutation for other services, by gratuity or otherwise; but all laws or ordinances creating such releases or exemptions are hereby repealed, or recinded and made null and void. And in any future donations or appropriations to the fire companies of the city of Wilmington, the amount shall not exceed the sum of one hundred and fifty dollars to any one company, annually, or one thousand dollars in the whole, in any one year.

Passed at Dover, February 25, 1843.



CHAPTER CCCCLXXXIX.

AN ACT to confirm the marriage between Aaron M. Prettyman and May Ann Bell West.

Private act.

Passed at Dover, February 27, 1843.



CHAPTER CCCCXC.

AN ACT to enable Archibald Cahall to locate certain vacant land in North-west Fork Hundred, in Sussex county, and to complete his title to the same.

Private act.

Passed at Dover, February 27, 1843.

CHAPTER CCCCXCI.

AN ACT to amend the election laws of the State of Delaware.

WHEREAS, it is highly important to preserve the elections in their Preamble.
purity, and to secure the confidence of the people in the integrity
of those who conduct them: Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, the judges and clerks of the general election, for each of the hundreds and election districts of this State, shall be selected as follows, that is to say: the person who is elected inspector of the said election, shall choose one of the said judges, and the person who was a candidate for the same office, but who was defeated, shall choose the other of the judges. If there shall have been more than one candidate for the office of inspector, who was defeated, then the highest in vote of those defeated, shall choose the second judge. Each of the judges so selected shall choose one clerk of the said election. If it shall so happen that the judges as aforesaid, or either of them, shall not have been selected as aforesaid, at the time of opening the said election, then the voters present may select such judge or judges: the selection shall be determined by a majority of the voters present, in such manner as may be at the time considered best for ascertaining the sense of the majority. Mode of selecting judges and clerks of elections.

SEC. 2. *And be it further enacted by the authority aforesaid,* That for the purpose of preventing frauds, by the pretended receipt of old taxes, and by the antedating of receipts for tax, that no collector in this State, shall collect any tax upon his duplicate after two years, from the date of his warrant; but that after the lapse of two years from such date, every such tax shall be extinguished, and no collector shall have power to give a receipt therefor. *And it is hereby further enacted and declared,* that every tax which shall have been returned and regularly allowed by the Levy Court as delinquent, shall be and the same is utterly extinguished, and no collector or other person in his name, shall have power to collect the same, or give a receipt therefor, and any receipt given for such tax shall be void; and if any collector shall receive any such tax or give a receipt therefor, contrary to the provisions of this section, or shall fraudulently antedate or postdate any tax receipt, or shall use any other fraud in giving such receipt, he shall be deemed guilty of a misdemeanor, and on conviction thereof by indictment, shall forfeit and pay to the State a fine of one hundred dollars: and shall also forfeit and pay to any person who will sue for and recover the same, the further sum of one hundred dollars, with costs of suit. The Levy Court shall examine and settle the delinquent list of each collector, at its meeting in March every year, and make allowance of delinquents. Upon the allowance of any delinquency, the name of such delinquent shall be struck from the assessment No tax to be collected after two years.
Tax extinguished by delinquency.
Penalty for collecting, &c.
Names of delinquents to,

be stricken from tax lists &c. list, and also from the collector's duplicate, and shall not be again restored until the delinquent is again lawfully assessed.

Time of making and publishing assessments.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the assessors for each hundred in this State, in the year eighteen hundred and forty-four, and in every year thereafter, shall make and complete the assessments for their respective hundreds, by the fifteenth day of January, and shall, on or before the twenty-third day of said month, publish by posting in at least five of the most public places in such hundred, a list of the names of the persons assessed, arranged in alphabetical order, setting down separately the amounts assessed as real, personal and capitation, or poll tax, and carrying out the aggregate amount so assessed against each name: and shall, at the same time, and at the same places, and in the same manner, give notice that they will attend at the place of holding the general election in such hundred on the last Saturday in said month, from the hour of ten o'clock, A. M., until the hour of five o'clock, P. M., for the purpose of correcting any errors which may then be shown to him by any resident of such hundred in his assessment, and for the purpose of assessing any such resident as he may have omitted. And additions to, and corrections of the said assessment lists, may also be made by the Levy Court and Court of Appeal, in session at any stated or regularly adjourned session of the said court, before the first day of April in any year. No assessment shall be made after the last day of March, nor shall any alteration of the assessments be made after that time, except in the lawful allowance of delinquencies. If any assessor, collector, clerk of the peace, or other person, shall fraudulently add to, or take from the said assessments, as finally settled by the Levy Court at its last session in March, such person shall be guilty of a misdemeanor; and, on conviction thereof by indictment, shall forfeit and pay to the State, a fine of five hundred dollars.

Correction of errors therein.

No assessment to be made after 31st of March.

Penalty for altering assessment.

Double votes to be rejected.

SEC. 4. *And be it enacted,* That in reading out the ballots at any general election, or at any election for inspectors and assessors, which may be hereafter held, a double vote, that is to say, two or more ballots or tickets voted together by the same person, shall not be counted or tallied, but each of the ballots or tickets comprising such double vote, shall be rejected by the judges of the election,

Passed at Dover, February 27, 1843.



CHAPTER CCCCXCII.

A FURTHER SUPPLEMENT to the act entitled "*An act for the benefit of Sussex county.*"

Vol. 8, chap. 368, p. 399.

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

Governor be, and he is hereby empowered to appoint three additional commissioners in the city of Wilmington, to superintend the drawing of the lottery authorized by the act entitled "An act for the benefit of Sussex county, passed at Dover, February thirteenth, eighteen hundred and thirty-five," Additional comm'rs. to be appointed.

SEC. 2. *And be it further enacted*, That each of the commissioners to be appointed as aforesaid, shall take an oath or affirmation, before any judge or justice of the peace in this State, faithfully to perform the duties entrusted to them under the said act, and shall receive from the managers, out of the proceeds of said lottery, one dollar each, for every day's attendance at the drawing of said lottery. Comm'rs. to be sworn, &c. Their compensation.

SEC. 3: *And be it further enacted*, That the commissioners whose appointment is hereby authorized, shall have all the powers and perform all the duties provided for in relation to commissioners, under the said act to which this is a supplement. Their powers,

SEC. 4. *And be it further enacted*, That so much of the original act to which this is a supplement, as entitled the commissioners to receive two dollars each, for every day's attendance at the drawing of said lottery, be and the same is hereby repealed. Certain parts of former act repealed.

Passed at Dover, February 27, 1843,



CHAPTER CCCCXIII.

A SUPPLEMENT to the act entitled "An act concerning dower, partition and waste." Dig. p. 164.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That whenever hereafter any lands, tenements, hereditaments and premises, are bound by any lien, whether by judgment, recognizance, mortgage, or otherwise howsoever, and the owner or owners, or any one or more of them, or any person or persons whatsoever for them or in their behalf, shall wantonly and wilfully with a view to prejudice, injure, or defeat said lien; make, do, or commit any waste in the said lands, tenements, hereditaments and premises, then and in every such case, it shall and may be lawful for the person or persons holding such lien, whether legally or equitably, to apply to the chancellor of this State, either in vacation or term time, for an injunction to restrain the said waste; and the said chancellor, if under the circumstances of the case, he deems the same proper, may direct an injunction to be awarded as in common cases of injunctions to restrain waste: or the person or persons holding such lien as aforesaid, may apply to the Superior Court of the Remedy by injunction & writ of estoppelment to stay waste, extended to judgment creditors, mortgages, &c.

county wherein such lands, tenements, hereditaments and premises are situate, for a writ of estrepement; and the said court are hereby authorized and empowered to award the same.

Passed at Dover, February 27, 1843.



CHAPTER CCCCXCIV.

Dig. p. 276. **A FURTHER SUPPLEMENT** to the act entitled "*An act to prevent the exportation of flour not merchantable.*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passing of this act, all wheat flour, rye flour and kiln-dried corn meal, exported or intended to be exported from this State, to any port or place within the United States, where there are inspection laws, shall be exempt from inspection.

Exempted
from inspection,
when.

SEC. 2. *And be it further enacted,* That the act entitled "An additional supplement to an act entitled 'An act to prevent the exportation of flour not merchantable,'" passed at Dover, January, twenty-fifth, A. D., eighteen hundred and eight, and so much of the said act to which this is a further supplement, and the supplement thereto, passed at Dover, January twenty-sixth, A. D., eighteen hundred and four, as are inconsistent with this act, be and the same are hereby repealed.

Inconsistent
provisions of
former acts
repealed.

SEC. 3. *And be it further enacted,* That so much of the act entitled "An act to alter and re-establish the charter of the borough of Wilmington," passed at Dover, the thirty-first day of January 1809, as vests the power of appointing inspectors of flour in the borough council, be and the same is hereby repealed.

Appointment
of flour in-
spectors
taken from
city council.

Passed at Dover, February 27, 1843.



CHAPTER CCCCXCV.

Ante. p. 201. **AN ACT** to revive and continue in force the act entitled "*An act to encourage the growth and reeling of silk within this State.*"

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all and every the

provisions of the act entitled "An act to encourage the growth and reeling of silk within this State," be and the same are hereby revived, and shall continue in force for and until the full end and term of two years, from the day of the passing of this act. Provisions of former act continued,

Passed at Dover, February 27, 1843.



CHAPTER CCCCXCVI.

AN ACT for the relief of Homœopathic Physicians.

SECTION 1. *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 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,'" passed at Dover, the twenty-ninth day of January, A. D., eighteen hundred and thirty-five, commencing with the words: "*Provided always nevertheless*" in the twelfth line thereof, and concluding with the word "same" at the end of the said act, shall not be deemed and taken to apply to any practitioner on the Homœopathic system exclusively. Homœopathic physicians allowed to charge and sue for professional services.

SEC. 2. *And be it further enacted by the authority aforesaid,* That such practitioners of medicine, upon the Homœopathic system exclusively, shall have full power and right, and are hereby fully authorized, permitted and allowed to charge, receive, demand, claim, sue for and 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 service rendered, or medicine administered or prescribed in or about the same, as the nature of the case may admit, and as may be consonant to right, equity and good conscience; to be recovered in the like manner, as debts of the same amount are recoverable according to the laws of this State, How recoverable. any custom, usage or law to the contrary notwithstanding.

SEC. 3. *And be it further enacted by the authority aforesaid,* That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such. A public act.

Passed at Dover, January 27, 1843.

CHAPTER CCCCXCVII.

AN ACT to authorize and empower the Seaford Bridge Company to sell and dispose of the bridge and real estate belonging to the said company, and to make title thereto.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That it shall and may be lawful for the president, directors and company of the Seaford Bridge Company, whenever a majority of the stockholders of the said company, at any general or special meeting thereof shall so determine and direct, to sell or dispose of the bridge and other real estate belonging to the said company, upon such terms and conditions as they shall deem most conducive to the best interest of the stockholders, to the highest and best bidder or bidders therefor; and upon such sale as aforesaid, the president of the said company shall, for and in behalf and in the name of said company make, execute, acknowledge and deliver to the purchaser or purchasers of the said bridge or other real estate, a deed or deeds of the said company under its corporate seal, to be signed by the president of the said company and attested by the secretary thereof; and such deed or deeds, so made and executed as aforesaid, are hereby declared to be valid and effectual in law, to pass to the purchaser or purchasers aforesaid all the estate, right, title, interest, property, claim and demand of the said company of, in, to and out of the said bridge and real estate aforesaid.

SEC. 2. And be it further enacted, That the purchaser or purchasers aforesaid, shall have and enjoy all the rights, privileges, franchises, powers and authority, and be subject to all the liabilities, restrictions, limitations and duties, granted to or imposed upon the said Seaford Bridge Company, by the terms and provisions of 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."

SEC. 3. And be it further enacted, That the money to arise from such sale as aforesaid, shall be applied in such manner as the stockholders of the said Seaford Bridge Company, or a majority of them, shall at the general or special meeting of the stockholders convened for the purpose of effecting such sale, by any resolution in writing determine and appoint.

Passed at Dover, February 27, 1843.

CHAPTER CCCCXCVIII.

A FURTHER ADDITIONAL SUPPLEMENT to the act entitled "An act providing for the recovery of small debts." Dig. p. 330.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the fourteenth section of the act entitled "An act providing for the recovery of small debts," (as the same is printed in the revised edition of the laws,) shall be and the same is hereby amended, by striking out of the eighth and ninth lines, of the said section, the words "six calendar months nor less than fifteen days from the date thereof," and inserting in lieu thereof, the words "six calendar months nor less than three calendar months from the date thereof." *Provided always nevertheless,* that when no goods or chattels of the defendant can be found, the return of that fact may be made at any time after two days from the date thereof; and in every edition of the laws hereafter to be published, the said act shall be printed as herein amended.

Passed at Dover, February 28, 1843.

CHAPTER CCCCXCIX.

AN ACT to incorporate the Wilmington Literary Institute.

Private act.

Passed at Dover, February 28, 1843.

CHAPTER D.

A FURTHER SUPPLEMENT to the act entitled "An act authorizing a lottery for the benefit of Delaware College, and for other purposes therein mentioned." 8 vol. chap. 362, p. 392.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That from and after the passage of this act, all the powers, rights and authority conferred upon the managers appointed under the act to which this is a further supplement, shall cease and determine, and the State Treasurer, with the advice of the Attorney General, be and he is hereby authorized and empowered to make, do and perform, all such act or acts, deed or deeds, contract or contracts, for the

Powers heretofore vested in the managers, conferred on the State treasurer. &c.

State, as may be necessary, right and proper, for the more speedily and effectually raising and securing the payment of the balance of the money authorized by the act to which this is a further supplement, or such part thereof as within the time limited can be raised, and for carrying into effect the provisions of last mentioned act or of any supplement thereto: *Provided*, that nothing herein contained shall be held, deemed or taken, to render the said State liable or accountable for any monies not actually received by the said State Treasurer, in his official capacity as such State Treasurer.

Proviso.

Passed at Dover, February 28, 1843.



CHAPTER DI.

8 vol. chap. 176, p. 176. **A FURTHER SUPPLEMENT** to an act entitled "*An act to prevent the use of fire-arms by free negroes and free mulattoes, and for other purposes.*"

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That the proviso in the first section of the act to which this is a further supplement, and all and every the provisions of the said act, or of any supplemental act thereto, which authorizes the issuing, by a justice of the peace, of a license or permit to a free negro or free mulatto to have, use and keep in his possession, a gun or fowling piece, be and the same are hereby repealed, made null and void.

No license to be hereafter issued to keep a gun.

Passed at Dover, February 28, 1843.



CHAPTER DII.

Anto. chap. 298, p. 334. **AN ADDITIONAL SUPPLEMENT** to the act entitled "*A further supplement to the act entitled 'An act to alter and re-establish the charter of the borough of Wilmington.'*"

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the mayor's court of the city of Wilmington shall not be deemed or taken to be a court having common law jurisdiction; and that all power or authority to entertain or exercise any common law jurisdiction by the said mayor's court, and all and every the provisions of any of the laws of this State, granting to or vesting in the said mayor's court any common law jurisdiction, or power to ex-

Mayor's court to exercise no common law jurisdiction.

ercise such jurisdiction, be and the same are hereby abrogated, repealed, and made null and void.

Passed at Dover, February 28, 1843.

CHAPTER DIII.

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

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the monies now in 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, State Treasurer and Auditor of Accounts, up to the first Tuesday of January, eighteen hundred and forty-five, 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 journals of the Senate and House of Representatives, and the residue thereof to the payment of any sums of money for which provisions shall be made by law.

Objects to
which appro-
priated.

Passed at Dover, February 28, 1843.

CHAPTER DIV.

AN ACT for the payment of claims against the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the State Treasurer be and he is hereby authorized and directed to pay the following claims:—To John W. Houston, Secretary of State, J. W. Hous. for over payment by him of allowance for contingent expenses of office, making index and marginal notes to, and superintending the printing and distribution of the acts of eighteen hundred and forty-one, and preparing and superintending the reprinting and publication of the 8th vol. of Delaware Laws, one hundred and forty-six dollars and seventy-five and one-half cents: to James L. Heverin J. L. Heve. for freight and hauling twelve tons of coal, twenty-four dollars: to Thomas W. Records, sheriff of Sussex county, for transporting T. W. Re. arms and accoutrements of the State, five dollars: to Andrew Staf- cords.

- A. Stafford. ford, for services as commissioner to run and mark the division line between the counties of Kent and Sussex, fifteen dollars: to John Sorden, for the same services, fifteen dollars: to Peter Callaway, for the same services, fifteen dollars: to William Tharp, for the same services, fifteen dollars: to Charles T. Fleming, surveyor, for services in running and marking the said divisional line and making plot and return, sixty dollars: to James Carroll, chain carrier, in running and marking the said line, nine dollars: to Nathan Cordery, for same services, nine dollars: to Josiah M. Yates, bush cutter, for services in and about the running and marking of the said lines, five dollars: to Gardiner H. Wright, State Treasurer, for postage to 1st Jan. 1843, and advertising forms of drafts for school committees, &c., thirty-five dollars and twenty-five cents: to Nathan Slaughter, for five cords of hickory wood, fifteen dollars: to Richard Harris, for putting twelve tons of coal into Court-house cellar, one dollar and fifty cents: to John Rice, assignee of Henry H. Cannon, for publishing acts ordered to be published, and printing, seventy-two dollars and forty cents: Alderdice, Jeandell and Miles, advertising Governor's proclamation, two dollars and fifty cents: to Porter & Naff, for advertising in Delaware State Journal, from 26th February, 1841, till 18th November, 1842, inclusive, sixty-four dollars and sixty cents: to Joseph Buckmaster, attendance on Court of Errors and Appeals, and ringing bell, &c., fifteen dollars and eighty cents: to Thomas S. Buckmaster, for work done on State-house, one dollar and fifty cents: to George P. Fisher, for balance on furniture for Senate, and superintending printing of Geological Report, &c., ninety-three dollars and sixty-four cents: to John Noblitt, for balance due on furniture for House of Representatives and Senate, forty-eight dollars: to Israel Townsend, for fee per license to sell clocks refunded, said liconse having never been taken out, fifty dollars: to Caleb Wolcott, attendance as sheriff on Court of Errors and Appeals, and services in case of State against Temple, and State against Mitchell Anderson, twenty-eight dollars and four cents: to Jeremiah Howes, for two years' subscription to Niles' National Register, to September, eighteen hundred and forty-two, and for binding same, thirteen dollars: to John H. Eccleston, late clerk, for attendance on Court of Errors and Appeals, and for fees as late prothonotary, twenty-one dollars and eighty-five cents: to Charles Kimmey, Jr., clerk, for attendance on Court of Errors and Appeals, and fees as prothonotary, and for stationery, twenty-two dollars and eighty-seven cents: to James C. Mansfield, prothonotary, defendant's attorney and erier's fees, in case State against Phelin & Co., seven dollars and thirty-nine cents: to Washington E. Moore, late sheriff of New Castle county, for services in delivering Jacob R. Griffin, on a writ of habeas corpus, twenty dollars: to Henry C. Waples, executor of William D. Waples, deceased, late State Treasurer, for postage and expenses in attending suits, State against Temple, and State against Phalen & Co., twenty-eight dollars and fifty-three cents: to Jeremiah Allen, for constable's fee refunded, five dollars: to James Moon, for services for bringing into this State from Pennsylvania, a certain James H. Wilson, a fugitive from justice, on the requisition of the

Governor, forty-nine dollars and twenty-five cents; to Simon Spearman, auditor, for two years' postage and for printing and advertising, thirty-one dollars and thirty-eight cents: to John N. Harker, for balance due for advertising to eighteenth November, eighteen hundred and forty-two, twenty-nine dollars and eighty cents; to Thomas Cloward, for balance on drapery for Senate, ten dollars: to L. Bancroft, for painting Representative chamber, twenty-five dollars: to Albert Webster, for services and expenses in bringing into this State from Maryland, a certain Henry Clay, a fugitive from justice, on the requisition of the Governor; and also, services and expenses in going to Baltimore to identify stolen property, one hundred and ninety-one dollars and thirty-nine cents: to Joseph P. Comegys, for balance for repairs on the picture of Gen. Washington, repairs to the Legislative hall, for services in taking care of the books and papers belonging to the House of Representatives, and for purchase of stationery and fuel, fifty-eight dollars and twenty cents: to Elijah Crouch, for finding lumber and making trussels, one dollar and fifty cents: to John Struthers and sons, balance on Hazlett monument with interest, one hundred and twenty dollars and ten cents: to Sipple and Pennewill, for articles furnished at the Hazlett ceremony; also, for board and lock, twelve dollars and fifty-four cents: to John R. Bostick, for same, nine dollars and twenty-eight cents: to John P. Manlove, for same, four dollars twelve and one-half cents: to William Hufflington, for eight days' services as a member of the committee to superintend the disinterment of Col. Hazlett, twenty-four dollars: to Moses Rash, for five cords of hickory wood, to be paid to Edward Lord, fifteen dollars.

Sec. 2. *And be it enacted*, That the State Treasurer be, and he is hereby authorized to pay to the Secretary of State, the sum of three 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 Assembly, at the next biennial session.

Passed at Dover, February 28, 1843.

RESOLUTIONS.

CHAPTER DV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a committee to consist of three members on the part of the House of Representatives and two members on the part of the Senate, be appointed to examine the accounts of the State Treasurer, count the cash on hand, and make report to the General Assembly.

Committee to
examine ac-
counts of S.
Treasurer.

Adopted at Dover, January 4, 1843.



CHAPTER DVI.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State be authorized to distribute the works in his possession, containing the statistical information of the sixth census of the United States, &c., equally among the three counties; one copy of each to be placed in the State Library, and one in the Library of Newark College.

Distribution
of the census.

Adopted at Dover, January 6, 1843.



CHAPTER DVII.

Resolved by the House of Representatives of the State of Delaware, by and with the concurrence of the Senate, That Gardiner H. Wright be and he is hereby appointed State Treasurer.

G. H. Wright
S. Treasurer.

Adopted at Dover, January 12, 1843.

CHAPTER DVIII.

Resolved by the House of Representatives of the State of Delaware, S. Spearman, by and with the concurrence of the Senate, That Simon Spearman Auditor of Accounts, be and he is hereby appointed Auditor of Accounts.

Adopted at Dover, January 12, 1843.



CHAPTER DIX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the prothonotaries of Distribution the several counties of this State, be authorized to distribute gra- of the laws of tuitously the volumes of the Laws of this State in their possession, the State. from the first to the seventh inclusively.

Adopted at Dover, January 13, 1843.



CHAPTER DX.

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 Appointment of directors of the Farmers' Bank. of the State of Delaware on the part of the State, agreeably to the act of the General Assembly in such case made and provided: for the principal Bank at Dover, Thomas Mifflin, Presley Spruance and Elias Naudain; for the branch at Wilmington, John Flinn, Hyland B. Pennington and Edward G. Bradford; for the branch at New Castle, Thomas Stockton, George Platt and Nathaniel Young; for the branch at Georgetown, William Dunning, Lewis West and Peter N. Rust.

Adopted at Dover, January 19, 1843.



CHAPTER DXI.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a committee to con-

Committee
to examine
accounts of
managers of
Del. College
lottery.

sist of two members on the part of the Senate and three on the part of the House, be appointed to examine the accounts of the managers appointed under the act entitled "An act authorizing a lottery for the benefit of Delaware College, and for other purposes therein mentioned."

Adopted at Dover, January 20, 1843.



CHAPTER DXII.

Resolutions
requesting
Congress to
retrocede Pea
Patch Island
to this State,
for the pur-
pose of trying
the title to
the same.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That for the purpose of settling the title to the Pea Patch Island in the Delaware river; it is necessary that the Supreme Court of the United States should have original jurisdiction over the suit or controversy in which that title should be tried; especially, as adverse and contradictory judgments in favor of the different claimants have been had and obtained in the courts of the United States for the third and fourth judicial circuits; and as the party claiming against the United States has not assented to the proposition of Congress to try the title in the State of Maryland.

Resolved by the authority aforesaid, That for the purpose of giving to the Supreme Court of the United States original jurisdiction of the controversy or suit necessary to a proper and conclusive decision of the said title, the Congress of the United States be and is hereby requested to retrocede the said island to the State of Delaware.

Duty of the
Governor in
case retro-
cession is
made.

Resolved further by the authority aforesaid, That in the event of such retrocession, the Governor of this State be and he is hereby directed to take all the necessary steps to establish her title thereto without delay; and that as soon as this State shall have recovered the said island, and vindicated her right thereto, her faith shall stand pledged to cede the said island again to the United States on payment of the expenses incurred in maintaining her said title, to the end that the United States may no longer be harrassed in their efforts to build a fort on the said island for the protection and defence of the country.

Resolved, That copies of the foregoing resolutions be forthwith forwarded to our Senators and Representative in Congress, to be laid before their respective Houses.

Adopted at Dover, January 23, 1843.

CHAPTER DXIII.

Resolved by the Senate and House of Representatives, That this Resolution refusing to
 General Assembly refuse to ratify and confirm the return of the
 commissioners, appointed under the joint resolutions of the Legis- confirm the
 lature, adopted on the 16th February, 1841, to run and mark the line run be-
 division line between the counties of Kent and Sussex, from the tween Kent
 south prong of the head of Riggs' mill-pond to the line of the State and Sussex
 of Maryland. counties.

Adopted at Dover, February 7, 1843.



CHAPTER DXIV.

Resolved by the Senate and House of Representatives of the State
of Delaware in General Assembly met, That the State Treasurer be S. Treasurer
 and he is hereby authorized and empowered to purchase for the to procure a
 use of the State, a fire-proof safe, provided the cost thereof shall fire proof
 not exceed the sum of sixty dollars. safe.

Adopted at Dover, February 23, 1843.



CHAPTER DXV.

Resolved by the Senate and House of Representatives of the State Attorney Ge-
of Delaware in General Assembly met, That the Attorney General neral direct-
 be directed to institute such suits or other process as he may deem ed to insti-
 advisable, for the recovery of the amount received by the managers, tute proceed-
 or any of them, under the act of the 11th February, 1835, entitled ings to recov-
 "An act authorizing a lottery for the benefit of Delaware College, er certain
 and for other purposes therein mentioned," and by them retained, monies from
 and which is now due and payable to the State. of Del. Col-
 lege lottery.

Adopted at Dover, February 24, 1843.



CHAPTER DXVI.

Resolved by the Senate and House of Representatives of the State
of Delaware in General Assembly met, That the Secretary of State

Sec. of State
to close the
9th vol. of
the laws.

be, and he is hereby authorized and directed to close the ninth volume of the laws of this State, with the acts passed at the present session, notwithstanding the same may not exceed six hundred pages.

Table of pri-
vate acts and
general in-
dex.

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 ninth volume, and that he cause two hundred copies of the said table of private acts and general index to be printed, for the purpose of being bound with the said ninth volume.

Number of
copies to be
bound.

Resolved by the authority aforesaid, That the Secretary of State cause to be bound, so as to correspond with the other bound volumes of the laws, as many copies of the said ninth volume, with the said table of private acts and 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 the whole number of copies so to be bound, shall not exceed two hundred.

Acts of the
special ses-
sion of 1835,
to be reprint-
ed, &c.

Resolved by the authority aforesaid, That inasmuch as the printed copies of the acts passed at the said special session of the Legislature, commenced and held at Dover, on Tuesday the twenty-first day of July, in the year of our Lord one thousand eight hundred and thirty-five, do not correspond in form, size and type, with the other printed copies of the laws of the State, it shall be the duty of the Secretary of State to cause to be reprinted two hundred copies of the said acts, passed at the said special session, so as to correspond with the other printed copies to be included in the said ninth volume of the laws, and that the copies when reprinted, shall be bound with the said ninth volume.

Distribution
thereof when
bound.

Resolved by the authority aforesaid, That when the aforesaid volume shall have been bound, the Secretary of State shall retain in his office ten copies, and deliver to the Senate five copies, to the House of Representatives ten copies, and to the following officers in each county, one copy for the use of their respective courts, namely: to the Register for the probate of wills and granting letters of administration, Register in Chancery, Clerk of the Orphans' Court, Prothonotary 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 hereby authorized to sell the same at one dollar per copy, and make return thereof as the law directs.

Adopted at Dover, February 27, 1843.

CHAPTER DXVII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Library of this State, be and the same is hereby placed under the control of the judges of the Superior Court, who may make such rules and regulations in relation to the same, and to the books therein, as to them may seem proper.

Custody of
the State Li-
brary.

Adopted at Dover, February 27, 1843.



CHAPTER DXVIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer be and he is hereby authorized and required to place the sum of two thousand three hundred and forty dollars (being the amount paid by Messrs. D. S. Gregory & Co., and J. G. Gregory & Co., under an act entitled "An act concerning lotteries," since declared unconstitutional by the Court of Errors and Appeals,) to the credit of the said D. S. Gregory, on account of sums now due, or hereafter to be due, and payable to the said treasurer, under the contract of the said D. S. Gregory with the managers of the lottery, authorized by the act entitled "An act authorizing a lottery for the benefit of Delaware College, and for other purposes therein mentioned."

Duty of S.
Treasurer in
regard to
certain mo-
neys paid by
Gregory &
Co.

Adopted at Dover, February 27, 1843.



CHAPTER DXIX.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William Kennedy, Joseph P. Comegys, and John D. Rodney, of the House of Representatives, and Dr. Joseph Maull and Joseph Smithers, of the Senate, 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 forty-four (1844), 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.

Committee of
the Legisla-
ture appoint-
ed to meet in
Dover, in
Jan. 1844.

Duties of the committee. *Resolved*, That it shall be the duty of the 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 newspapers printed in this State, for the space of one month from the time of effecting the same.

Powers of the committee. *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 indexes thereto; and to make such allowances 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.

Compensation of the committee, and the payment thereof. *Resolved*, That said committee shall receive the same compensation as is by law allowed to the 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 Treasury not otherwise appropriated; and the chairman of said committee shall have power and 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, February 27, 1843.



CHAPTER DXX.

Auditor of Accounts to audit the account of Elijah Cannon, &c. *Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the auditor of accounts be and he is hereby authorized and directed, to audit and settle the account of Elijah Cannon, late State Treasurer, against the State, and to draw an order on the State Treasurer for any sum or balance he may find due and owing, (if he shall find anything due and owing) to the said Elijah Cannon from the State; which order the State Treasurer is hereby authorized and directed to pay out of any moneys in the treasury not otherwise appropriated.

Adopted at Dover, February 28, 1843.



CHAPTER DXXI.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That George P. Fisher be

and he is hereby appointed to take charge of the books and papers of the Senate. G. P. Fisher,
care of books
of Senate.

Adopted at Dover, February 28, 1843.



CHAPTER DXXII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That John R. McFee be and he is hereby appointed to take charge of the books and papers of the House of Representatives. J. R. McFee,
care of books
of House of
Representa-
tives.

Resolved, That Joseph P. Comegys be and he is hereby authorized and requested to purchase the necessary stationery for the next General Assembly: and the State Treasurer is hereby directed to pay to the said Joseph P. Comegys, on his order, the sum of fifty dollars, to enable him to carry the provision of this resolution into effect: and the said Joseph P. Comegys is hereby directed to present his accounts and vouchers to the next session of the Legislature for their allowance. J. P. Come-
gys to pur-
chase station-
ery for next
General As-
sembly, &c.

Adopted at Dover, February 28, 1843,



CHAPTER DXXIII.

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 the chamber of the Senate and of the hall of the House of Representatives, and to take care of the furniture belonging to the same. J. Buckmas-
ter, care of
S. chamber
and hall of
H. of Rep's.

Resolved further, That it shall be the duty of the said Joseph Buckmaster to pay strict attention to the proper airing of the said rooms, and to the furniture belonging to each, and to keep the same in the best condition within his power. His duty as
to the same.

Resolved further, That for the faithful performance of the duties above specified, the State Treasurer shall pay to the said Joseph Buckmaster, the sum of fifty dollars for the services aforesaid, from the day succeeding the adjournment of this General Assembly, until the first Tuesday in January, A. D, 1845. Appropria-
tion therefor.

Adopted at Dover, February 28, 1843.

CHAPTER DXXIV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Levy Court and Court of Appeal of New Castle county, be authorized to examine the claim of Charles Ferguson, of New Castle county, for damages done to his lands by reason of a part of the Gap and Newport Turnpike being located upon the same; and if to the said Levy Court it shall seem proper, to award him such damages as are just to be paid out of the treasury of New Castle county.

L. C. of N. C. county to inquire of certain injuries done C. Ferguson by Gap & Newport turnpike, &c.

Adopted at Dover, February 28, 1843.



CHAPTER DXXV.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in case the Levy Court and Court of Appeal of Kent county, shall appropriate the sum of one hundred dollars, for the purpose of repairing the State-house, in the town of Dover, then the sum of two hundred dollars shall be and the same is hereby on that condition, appropriated out of the funds of the State for the said purpose; the said three hundred dollars to be expended under the direction of the Levy Court of said county, in repairing the walls of the said building, and painting the same, and otherwise rendering them impervious to the weather; and also in repairing and improving and painting the roof and the windows, and doing other necessary repairs to said building, and the State Treasurer is hereby authorized and required to pay the said sum of two hundred dollars to the order of the said Levy Court.

Conditional appropriation of \$200 to repair the state house, &c.

Report on repairs to be made to the next legislature.

Resolved further, That the person or persons appointed by the said Levy Court to superintend the aforesaid repairs, shall report and render a full account of the expenditure of the said sums of money, to the General Assembly at the next session thereof.

Adopted at Dover, February 28, 1843.



CHAPTER DXXVI.

Resolved by the Senate and House of Representatives in General Assembly met, That the State Treasurer in placing the sum of

dollars, two thousand three hundred and forty, to the credit of D. S. Gregory, on account of the sums now due or hereafter to be due and payable to the said State Treasurer, under the contract of the said D. S. Gregory with the managers of the lottery, authorized by the act entitled "An act authorizing a lottery for the benefit of Delaware College, and for other purposes therein mentioned," shall deduct from the said sum of dollars two thousand three hundred and forty, the amount of the expenses sustained in prosecuting the suit or suits against Phalen & Co.

Mode in which D. S. Gregory is to be credited with the sum payable to the S. Treasurer under the contract with the managers of Del. College lottery.

Adopted at Dover, February 28, 1813.



CHAPTER DXXVII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Willard Hall, James W. Thompson, Lewis P. Bush, Robert B. Porter and Henry F. Askew, be a committee, who are requested to communicate to the Legislature at its next session, a report upon the condition of the insane in this State, what alteration should be made in their treatment, an estimate of the probable cost of erecting an asylum, and the probable yearly cost of the same, and such other information as they may deem proper to communicate.

Committee appointed to report to the next legislature upon the subject of an Insane Asylum, &c.

Adopted at Dover, February 28, 1813.



CHAPTER DXXVIII.

Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That George P. Fisher be and he is hereby authorized and directed to have made for the Senate chamber two walnut cases, one of said cases to contain the papers, and the other the books belonging to the Senate.

G. P. Fisher authorized to procure two cases for Senate chamber.

Resolved, That the State Treasurer be and he is hereby authorized and directed to pay to the said George P. Fisher, on his order, the sum of fifty dollars to enable him to carry into effect the foregoing resolution; and the said George P. Fisher is hereby required to present his accounts and vouchers for the service herein imposed upon him, to the next session of the Legislature, for their allowance.

Payment and account therefor.

Adopted at Dover, February 28, 1813.

SECRETARY'S OFFICE,

Dover, May 15, 1843.

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 third day of January, and closed on Tuesday the twenty-eighth day of February, in the year of our Lord one thousand eight hundred and forty-three.

JOHN W. HOUSTON,

Secretary of the State of Delaware.

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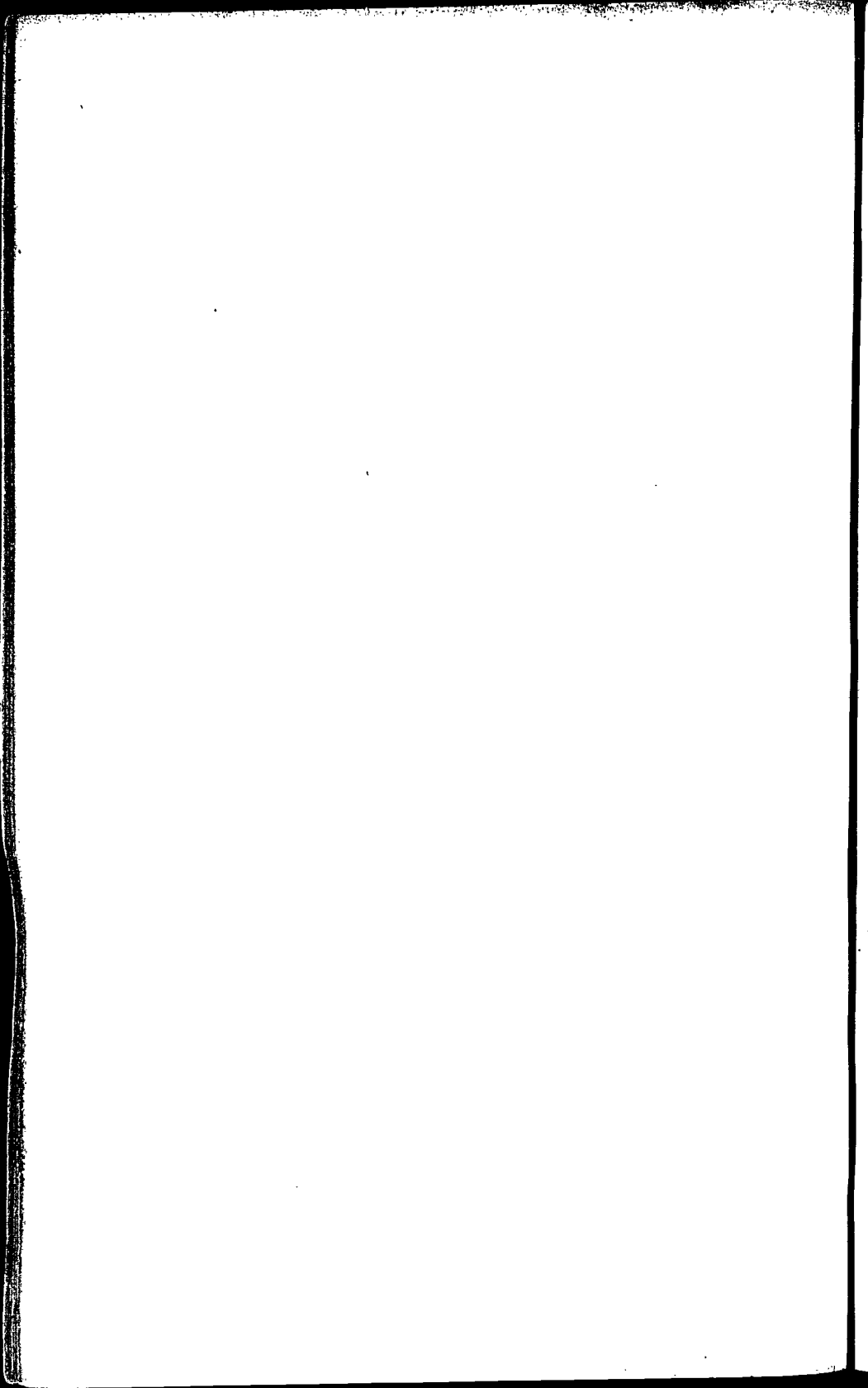
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TO THE

NINTH VOLUME

OF THE

LAWS OF DELAWARE.

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