Be it enacted by the Senate and House of Representatives of the State of Delaware in General assembly "Thro-thirds of lach branch of the Legislature concurring therein as follows trait: Section I- That James Milliams, Calet S. Pennewill,

David & Cumphins, George M. Whittaker and Robert-I Reynolds be, and they are hereby appointed commissioners, whose duly it shall be to view the premises, and they or a majority of them having so viewed the same, are hereby expressly authorized empowered and directed with the assistance of a skillful Surveyor, to be by them selected, to survey, locate and lay down on a plot the Townof Clayfor in Kent County, designating ito limito, and making, describing and nam= ing thereon its Sheets and ally; and they shall, when the same is completed, return the said blot to the Recorder's office at Dover to be recorded, with their certificate Athereon, endorsed and signed by the said Commissioners, or a majority of them, that they have performed the duties in that behalf by this Section required, and that the said plot represents the said
from of blayfor with its boundaries and limits, as by
them located and defined. The Commissioners
and the Surveyor before entering upon their indee this
Section shall be severally duly sworn or affirmed to
discharge such duties with fidelity, and in the
bestificate annexed to the aforesaid plot it shall
be shown that this qualification was complied with.

Section 2 Immediately after the return of the said plotand its delivery to the Recorder of Deeds it Shall be the duty of the said Commissioners, named in the first Section of this act, or a majority of them, to give notice in writing under their hands, or the hands of a majorily of them, to the inhabitants of the Townsof Claylon, that on a day to be designated in such notice, not more than ten days after the date thereof the said Commissioners, or a majority of them will hold an election in the said town of Claylon, at a place and between the hours designates in such notice for the election of five Communication for the said Town of Claylon; who shall be chosen from among the inhabitants of the said town. Such notice shall be posted in at least four of the most public places in the I will obtely for at least five days before the day of holding such section.

The Commissioners so chosen at such special election shall continue in office muttle the first Salurtay in may a. D. 1888.
At such special election the Commissioners shall be voted for by ballot and all persons who are bona Fide residents within the territorial limits of the said town, as established by the the said plot, who are above the agl of 21 years, and who shall have paid the County tay for the year 1886, shall be en =

at-such election three of the Commissioners named in the first- Section of this act shall be the Judes thereof, and they shall receive and count the balloto and ascertain the result, and when so ascertained shall make five certificates thereof. and give one such certificate to each of the Com mussioners chosen at said election. They shall also certify to the Recorder of Deeds in and for Kent-bounty that such election has been held stating the time at which it was held and the names of the hersons chosen Commission ers; and such certificate shall be recorded in the said office, and the record or a certified copy thereof shall be evidence. The Commissioners chosen under the authority of this Section and their Successors in office to be chosen has hereinafter provided, shall be, and they are hereby declared to be a body politic and corporate in factand in law by the name; Slyle and title of "The Lower of Clayton; and by that name may sue and be sued, plead and be impleaded in all bouts of law rand equity.

The said Commissioners so to be chosen, and their successors in office, in addition to the powers hereinafter conferred, Shall have power to regulate the Sheets, alleys and sidewalks of the said town, and may direct- the latter, or such parts of them, as they may determine, to be put in a safe and pass. able condition at the expense of the lowners of the lands adjacent. On complaint of any citizen or of their own motion, they shall have fauthority to drawine any chimneys, Store pipe fixtures drawy other matter dangerous to the town, and it radica: ged by them dangerous, to require and compel the dauger to be removed, to prevent or remove all musances therein, and to probabit the firing of guns or pistols, the making of box-fires or setting off fire= works, or any dangerous short or practice in said Anon. and the said Join Commissioners shall have full power and authority from hime to hime to enact and ordan all such by-laws and reg. ulations for the government and management of the said town and its affairs, as to them share Deem judicious and expedient, prouded always that

they rare not repugnant to the Constitution of the United States or of this State or inconsistent with

Section 3 - That - the Jown Commissioners, as chosen under authority of Section 2 of this act-shall con= Some in office until the first Datuday in May, a.D. 1878, on which day in that year theto shall be held in the said Town of Claylon, at the School-house, he-Tween the hours of 20, clock and 40 clock P.M. raw elect ion for five Commissioners; one of whom Shall be chosen for one year, one for two years, one for three. years, one for foreyears and one for five years; andro the first Saturday in may in each succeeding your there. after there shall be an electron held for one bommest ioner to serve for five years. all of said Commis sioners shall be freeholders within the limits of said lown. In ease of any vacancy in the office of looms missioner by death, resignation, refusal to serve refusal to greatify, or removal out of the lowing, the remaining bornussioners Shall have power to fill the bocarry or vacancies thereby created, until the

next annual election when another or others shall be chosen for the inexpired term of the person or persons originally ralected. The Justite of the Peace resident in the said town, for if there be none, the nearest Justice of the Peace 1, and two citizens of the said lowing chosen by the people present entitled to vote, Shall hold the said electron and shall decide the legality of the votes offered. They shall receive the balloto, ascertain the result and certify the same on the books of the Commiss. roniers. At such electron every male and ferriale laya. He of said lown, above the Fage of 21 years, who shall have paid the lown lax last assessed to theno shall be entitled to vote.

Section 4-The Commissioners first chosen under authority of this act shall within five days after receiving the Certificales of their electron, meet at some suitable place, to be by them selected in the said town, and duly organize by the electron of one of their own number as Charman of the Board. And its shall also the duly of the Jour Commissioners chosen

in any year thereafter, to meet on the Tuesday following Mui election, and organize the Board in like manner. The Chairman of the Board of Fown Commissioners Shall preside at the regular meetings of the Board when present, and shall perform and discharge all such duties as shall be prescribed by the Ordinances and Regulations of the said lown. on case such Chairman be absent at any meeting, Me Board may elect a Chairman Pro tem for the special occassion. The warrants on the Town Treasurer for The payment of any money shall be signed by the Chairman of the Board or in case of his absence by the Chairman Pro Cem.

Section- 5- There shall be four stated meetings of the Commissioners in every year, as follows, to wit: on the second Saturday of May, September, Jamuary and april, and also such additional meetings as may be provided for by ordinance in that behalf, or whenever any three of the said Commissioners or any little taxables of the said bommssioners or any little taxables of the said town shall in muriting addressed to the Chairman of the Board, request a Special meeting; and in such request— the object for special meeting shall be stated. At any such stated or special meeting, ordinances or rules for the yord government of the said town, the improvement of its streets, the repairs or construction of drains and water courses, the planting and protecting of ornamental trees, and for all other matters relating to the general welfore of the said lown, may be ordanied and enacted.

Section 6- The Commissioners first chosen, under au= Chority of Dection 2 and their successors in office, Shall at their first stated meeting in every year determine the amount of taxes to be raised in Said town for that year, meluding lax on Real and Personal property, holl lax and lax on dogs, and they shall appoint an assessor who may or may not be one of their our number, to make an assessment of persons and property in said lown, and they shall also appoint a Collectorand Treasurer. In case the Commissioners to be chosen under authority of Section 2, Shall not have been chosen before the Lecond Salunday of May in the year 1887, then and in that case, they shall hold a special meeting on the

Salviday next succeeding their election, at which special meling they shall perform the duties by this Section designated and imposed.

Section-7- It shall be the duty of the assessor of the said lown, within thirty days after his election, to make a (me, correct; just and impartial valuation and assess. ment of all Real Estate and assessable personal purp: erly within said lown, and also an assessment of all the male celizens residing within the said town, above the age of 21 years, as well those owning as not owning Real Estate within its limits; and also to ascertain the number of dogs within the said lown, and assess the owner or keeper of a dog or dogs, one dollar for each male dog and two dollars for lack female dog. In making assessments for other than dogs, the said assessor Shall be governed by the valuations fixed and ascertained by the Country assessment, as well to hold lay as to real estate and personal property. and if there be any assessable properly within the limits of the said lown, which does not appear

whom the County assessment, or if there be individ: uals residing within the said town, who would be subject to holl lay, who do not appear whom such County Assessment, the assessor shall assess all such upm a foliation and basis corresponding with the County assess. ment. When such assessment shall be completed, the assessor shall forwith make and return a duplicate thurst to the bonnissioners, and the Commissioners here fortherth give notice to the effect that they will set together in a certain place and on a certain day, to be designated by them, not less than five days from the dec of such notice, between the hours of three and sixo clock in the afternoon, to hear appeals from said assessment. at such lime they shall have full power and authority to correct the same. after such appeal day, the Commissioners shall forthruth ascerbane and fix the rate necessary, to raise the sum which they shall have determined to raise, together with the coshs and exe penses of collecting the same, and shall delived the duplicate or a copy thereof, with their warrant in that behalf, to the Collector of the said lown, whose duly it shall be collect the amount rated to each

layable. The Collector shall have and be possessed of all the powers and remedies for the collection of the said town laxes as now are or shall be hereafter be confined by law whom the Collectors of County Caxes.

Seclion 8- It shall be the duty of the Dery Court of Kent- Country annually to appropriate and kay over to the Treasurer of the Said Four of Claylou such sum as said Dery Court shall deem just and reasonable, to be expended and used in the manisteriance or repairs of the Sheeto of said town, which are now largely made up of parts of the Public Roads of Kent Country, and which are now maintained at the Country expense.

Section 9. It shall be the duty of the Four Commis. Sioners annually to appoint an alderman and Journ Constable for the said town, and if there be a Justice of the Peace resident in the said town, he shall be chosen alderman.

Section 10 - It shall be the duly of the alderman

of the said lown and of the Journ Constable to sufpen all notous, turbulent or noisy assemblages, or gatherings of persons in or at any building used for any public as = semblage in the said lown, or in the sheets, lanes or alleys thereof, at any time or season whatsoever; to prevent all gatherings whatsower which may obstuce or interfere with the free use of the sheets, lanes, alleys. n side-walks; and for this purpose it shall be the duly of the said town Constables to seize and arrest any person so offending and take them or himbefore the alderman of the said lours, whose duty it shall be to hear and determine the Case, and upon connection the alderman shall sentence any person so of = sending to pay a fine, not exceeding len dollars and the costs of the hearing, and may committee party or parties to prison for a period not exceeding Unitydays or until the said fine and costs shallbe hard. It shall be the duty of the alderman of wo said lown, whose complaint made to him of amy such turbulent or noisy assemblages, as raforesaid, to issue his warrant to the Constable reforesaid, commanding him to arrest and bring before him any person or persons

violating the provisions of this Section, for hial. It shall be the duty of the Constable aforesaid to arrest upon new any drunken or disorterly person he may find in the sheets of the said lown, and forthwith to lake such herson before the alderman, who shall hear rand determine the case, and whon conviction shall sentence the person so offending in the same manner and to the like fun: whenent as hereinbefore provided in this Section, as toother offences herein enumerated. The fees of the alderman ma of the said Constable for every such trial and arrest Shall be 50 \$ to each of them for each offender. In allother cases the alderman and Constable shall each be entitled to receive the same feer as are by the laws of this State, provided to be paid to Justices of the Peace and Constables in like cases.

Section 11- The Commissioners named in the first Section of this Act shall receive for their services live dollars ter day for every day actually employed, and such Compensation, together with the expenses of the survey, shall be paid whom their certificate by the Commissioners of the said town, out of the first moneys which shall

come into then hands from the funds of the said town. Section 12-That this art shall be deemed and laten to be a Public act Speaker of the Denate Speaker of the House of Representatives Passed at Dover April 15-1887.

An Act to Incorpo.
rate the Foun
of Claylon,

(5.13.77)

Ex S. april 19.1887
Ex # 4-20-1887

Passed at Dover april 15-1887.

### TOWN OF CLAYTON

First known as Smyrna Station, the Town of Clayton began when the railroad came to this area in the mid-1850's. In 1860, the name was changed to honor Delawarean John M. Clayton, a former United States Secretary of State and strong advocate of the railroad. Incorporated on April 15, 1887, Clayton became one of Delmarva's largest rail centers in the late nineteenth century - serving as the hub for four railroad lines including the Delaware Railroad, the Maryland and Delaware Railroad, the Spur Line to Smyrna, and the Smyrna and Delaware Bay Railroad. From 1885 to 1920, Clayton was Division Headquarters for the P. W. & B. - later succeeded by the Pennsylvania Railroad.

**Delaware Public Archives - 1997** 

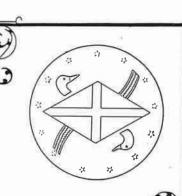
K-59



HISTORIC MARKER IN CLAYTON. Historian George Caley (left) and Clayton Mayor Robert E. Berghorn unveil the new historic marker near the railroad tracks at Main and Bassett streets August 27. At the ceremony, Caley, Berghorn, and Representative Bruce Ennis spoke about the importance of the marker. Town Council and community members were also on hand to witness the event. The signs reads: "First known as Smyrna Station, the Town of Clayton began when the railroad came to this area in the mid-1800s. In 1860, the name was changed to honor Delawarean John M. Clayton, a former United States Secretary of State and strong advocate of the railroad." The sign also states that the town was one of Delmarva's largest railroad centers in the late 19th Century, (Photo by Valerie Lemoi)



# SMYRNA DELAWARE















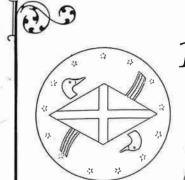








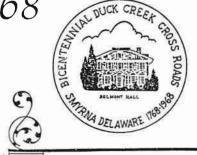
CITIZEN HOSE CO.



1768



1968



## Our Neighbor = Clayton

Clayton had its beginning with the arrival of the Delaware Railroad. When it was being constructed in 1854 the company's plan was to lay the single track road near the western entrance to Smyrna. This artery of transportation would have gone through the farmland of Mr. B. E. Cummins. He objected so strongly, and brought so much pressure against the route, that the railroad company ran the line through the farm that is now Clayton. At that time this land was owned by a Mr. Tribbett, who was engaged in the slave trade. He sold part of the land to a Mrs. Harris who later divided it into building lots. Most of the lots were sold to the men who came to operate and maintain the railroad facilities. The Delaware Railroad Company named this settlement Smyrna Station.

In 1860 a post office was established through the efforts of Alexander McConoghly, who became the postmaster. It was he who suggested that the name of the village be Clayton in honor of John M. Clayton, Delaware's statesmen.

Sometime in the 1860's the Baltimore and Delaware Bay Railroad was built. This road was planned as an east-west route across the peninsula. The railroad ran from Still Pond, Maryland, through Massy, into Clayton and out to Woodland Beach. The B.&D.B. R.R. Station was located on the site now occupied by the VFW on Smyrna Avenue. The movement of the trains on the B.&D.b. as they crossed the Delaware Railroad tracks was controlled by a large red ball mounted on a high pole. The ball's position indicated track clearance to the oncoming engineer.

As the destiny of the village was commensurate with the expansion or decline of railroad business, Clayton's early economic life was far from stable. Nevertheless, progress was achieved.

In the early 1860's a newspaper named the CLAYTON HERALD was published by Mrs. R. McConoghly. Rev. David T. Ewell, a Methodist Protestant preacher, in 1860, built a small church which his followers named in his honor. With the advent of the Civil War, Mr. Tribbett's slave trade ceased.

In 1868 Mrs. McConogly died, and Mr. J. W. Spruance purchased the CLAYTON HERALD. He renamed it THE FONT HILL NEWS.

Records are in conflict as to the date when Smyrna Station was officially renamed Clayton. These dates ranged from the one of McConoghly's 1860 to a reference made to an act of Legislature in 1868. However by 1871, the Delaware Railroad listed "Clayton" as a stop.

(An exact date has not been established for the history found in the following paragraph.)

The village was thrown into consternation when a Mr. William Wartenby of San Francisco arrived and laid claim to 170 acres of land, some on which Clayton was built. He claimed that Tribbett, the supposed pre-railroad days owner, in default of heirs, had held only a life-time lease on the land. This being the case, Tribbett had had no legal right to sell to Mrs. Harris. The townsfolk hired a lawyer, Mr. Reverdy Johnson of Maryland, to fight the claim. The case was finally settled in Wartenby's favor by a decision of the United States Supreme

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Court. The total site was divided between him and his sister, Mrs. Harris of Philadelphia. Almost immediately the property owners paid him thus assuring clear title to their properties.

From 1870 until the middle of the 80's little of progress is noted. However one or two facts are worthy of note. St. Paul's Methodist Episcopal Church was established in 1881, and in 1883 a public school building was erected.

Clayton experienced its greatest influx of population in 1885 when the Delaware Railroad chose it to house their main offices. By 1887 the village contained 60 houses, three stores, two churches, two hotels, a drug store, a blacksmith shop, a public school, hugh sprawling railroad yards, a roundhouse, two railroad stations and a lumber yard. One year later W. F. and J. R. Clements established a Hardware and Implement Store. It was not until 1889 that a volunteer fire company was organized. Even for its day it was not an organization in any sense of the word. There was not a chief, nor were there officers, but many "Indians" who gladly volunteered to fight fires. Many times their recently purchased hand-truck would not be taken to the scene because it was too heavy to pull. By 1891, the situation was corrected and Clayton Fire Co. No. 1 was thoroughly organized.

How long the Font Hill Newspaper existed is unknown. However by 1891, another paper - THE CLAYTON CALL - was being published.

Sometime before 1895 the B.&D.B. Railroad was discontinued. Its station was sold to W. T. Dayett, who moved it and made it into his private residence.

In 1907 the second railroad track was laid, and the Delaware Railroad was leased to the Pennsylvania Railroad for a period of 99 years.

Mr. Abel Sevil, a leading merchant in his day, organized the Clayton Bank and Trust Company in 1915. This financial institution was established in order to provide banking facilities for the prosperous farming area surrounding the town.

With the advent of World War I, Clayton became a shipping, sorting and staging area for war materials moving by railroad to and from Wilmington and Norfolk, Virginia. Several men and boys from the village served their country in that conflict. After the war, and during the twenties, Clayton, instead of Smyrna Landing, became the shipping center for the grain trade. (For years prior to the war, Clayton, along with Smyrna Landing, enjoyed a hugh volume of business generated by the large-scale scientific growing of peaches in this area.) The townsfolk witnessed the change of ownership in the lumberyard when it was purchased by Mr. R. W. Slaughter. Also, during these "twenties" Clayton was plagued by numerous major fires, which were efficiently fought by Clayton's fire fighters.

No sooner had these misfortunes passed than a newer, more dangerous one appeared. This one faced the entire population. It was called the Great Depression. Clayton did not escape unharmed because the decrease in industry caused the resultant decline of shipping and traveling. The Depression badly battered the town's economy. During those years, the present public school building was erected, and the fire hall was remodeled.

The advent of World War II marked the revival of the rail-

road and Clayton. At that period of history over fifty men, women and boys were joined to the armed forces of the United States, and Clayton, like many other small towns, seemed to be inhabited by women, with the very old men and the very young boys for help and protection.

After the war's ending, and the return of the service-connected people, Clayton enjoyed post-war prosperty. But the wheels of the railroad, (unlike the gods) were not grinding slowly. In fact, they were moving faster than ever. The new diesel powered locomotive did not need fuel, water, and constant attention. It could haul longer heavier train loads in shorter time. The use of the diesel sounded the death knell for Clayton's importance as a railroad town. Very few of Clayton's inhabitants, after 1950, were railroad employees.

Clayton as a community survived the loss, and since then has undergone several progressive changes. Ewell's M.P. and St. Paul's Methodist Churches, merged by denominational action, combined their two separate facilities under one roof, a modern post office building was built, R. W. Slaughter's became Slaughter, Inc., and then the Masten Lumber Company, the Churchman granary became Markley's, which later became a division of the Bunge Corporation, a new residential area was started and developed in the Reed and Rodney Streets area, W. L. Wheatley Co. expanded the scope and magnitude of its canning operation, Leeds Travelwear settled down "bag and baggage" in a new million dollar building, Clayton and Smyrna School Districts were combined, and the Clayton Fire Company No. 1 dedicated its newest most modern firehouse in the state.

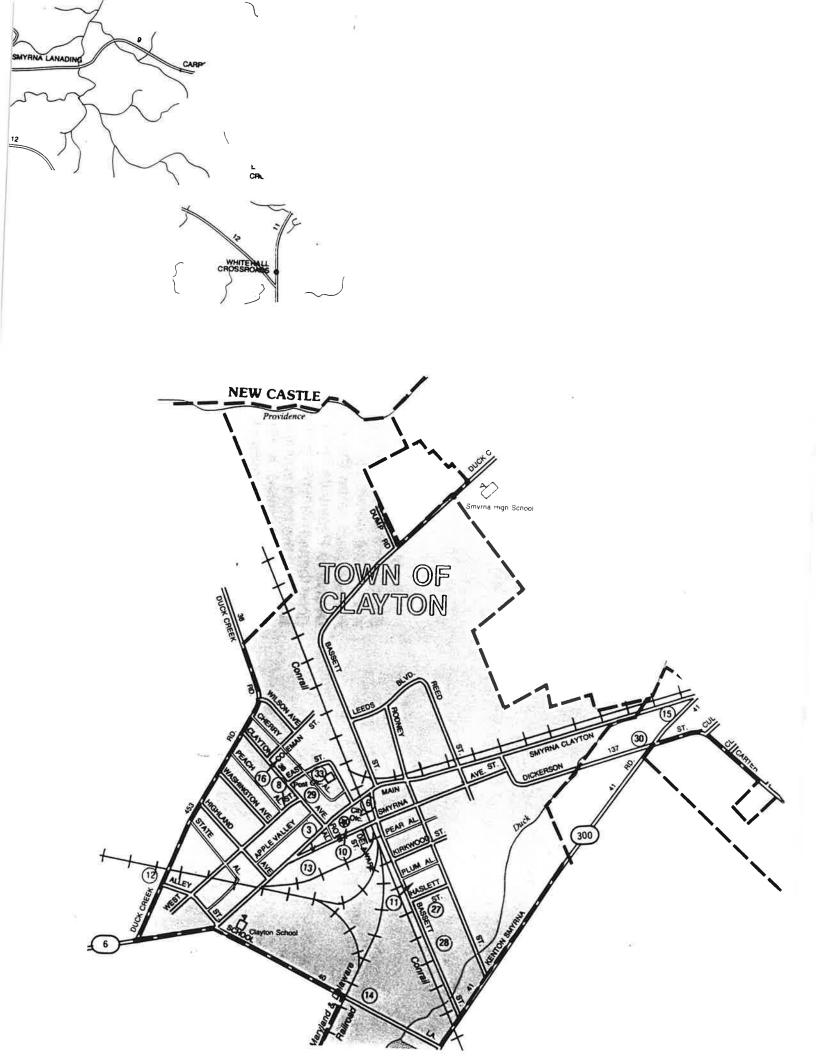
Although Clayton is not an industrial community it presently serves as the residential abode for many persons in outside industry, who wish to have their homes amid the peace, quiet, and contentment of a small town.

## Picture Credits

Smyrna's Four Corners about 1868, Hoffecker Commission, Certificate of Non-Liability, Fourth of July Parade, Smyrna Orchestra, Bank of Smyrna, Northwest Corner of the Four Corner's about 1890, South Side of South Street, Blizzard of 1888, and Federal Style Building - H.C.W.; McDowell Chest and Signature, Commoder Jacob Jones' Medal - Historical Society of Delaware; Duck Creek Cover, 1798 - Alfred S. Biggs, Dover; Bank of Smyrna \$5 Bill - Terry Bryan, Dover; Smyrna Cover, Smyrna Directory, 1878 - Raymond W.W. Dill, Dover; Smyrna House About 1898 - Lex Faries; Standpipe, Mrs. Clara Jones; U.S. Route 13, Entrances to Smyrna - Delaware State Highway Department; Bethel Church - Mrs. Florence Polk; Portraits of Allen McLane.and Commodore Jacob Jones - State Portrait Commission, Dover.

## Photo Credits

Four Corners, 1968 - Joe Huddle; North Elementary School - Randy Schuman. All churches (except Presbyterian 1884 and Interior of Asbury) - Mark Meyer; Interior of Asbury - Col. R. Bush.



KENT COUNTY.

treasurer of the County Board of Trustees of the Poor the same year and has since continued in the same responsible position. He served as school commissioner for several years. He owns a farm of two hundred acres of valuable land adjoining Leipsic.

Mr. Fenimore was married October 24, 1852, to Margaret Taylor, daughter of Henry Taylor, of Kent County, a descendant of one of the oldest families in the county. The children of this marriage were Matilda, married to William Hazel, now in business at Dover: John W. Fenimore, Jr., in business with his father at Leipsic, married to Jennie Wilson, of Kent County; Arthur married to Ida Clements in the spring of 1885, both dying of typhoid fever within four weeks in the fall of the same year. The two youngest sons, Henry and George Fenimore, live w.th their parents. Mr. and Mrs. Fenimore are members of the Methodist Protestant Church at

The post-office was established in 1836 with Robert H. More postmaster, who has been followed by Gilbert Crisfield, George Spicer and James D. Moore.

The Leipsic Canning Factory is the largest in the State. It was started in 1873 by Samuel W. Hall, of Dover, with a capital invested of fifty thousand dollars and a capacity of one million cans and employment for one hundred and twenty-five hands. In 1874, I. M. Lavin purchased the factory and since his death it has been conducted by his sons, under the firm-name of I. M. Lavin's Sons. Captain J. H. Fleming started his phosphate factory in 1877 and part of the present century.

Leipsic now has about four hundred inhabitants. It was incorporated as a town in 1852, and the first was a part of the Smyrna Circuit. The ministers of commissioners were Alexander Laws, George W. the church will be found in the list of ministers of Spicer and Westcott Campbell. David Crockett the same circuit. surveyed the town limits and Thomas P. Wall was since the latter date:

#### Aldermen.

Thomas P. Walls. ............1863-73 | H. M. How ...

H. M. How .....

James Elderdice ...

James P. Lamb.

H. M. Ilow ...

H. Raymond .

Thomas P. Walls	Henry M. How
Town	Clerks.
Edward E. Palmer1863-64	Thomas Reed18
H. M. How1865	H. M. How18
Morris Conoway 1870	Robert Collins18

G. E. Potter ...

John White...

H. Raymond.

James Story .....

..1886

Town	Com	missioners.
	1878	I
	1876	H. Raymone

...1873

...1874

.. 1875

James Snow1863			
Thos. Kirkley 1863	1	John Marley	

H. T. Hoffecker 1864
R. M. Hopkins1864
Rees Taylor1865
P. Campbell1865
W. H. Morris1865
P. Campbell1866
Jas. Boggs1866
John Parker1866
Samuel Hargadine1867
Wm. Freestone 1867
John Parker1867
Wm. Freestone 1868
Peter Campbell1868
John G. Scotten 1868
Robt. M. Hopkins1869
J. W. Wilson1869
Chas. Padlay
H. T. Hoffecker1870
John Parker1879
Wm. Fox1870
H. T. Hoffecker1871
John Parker1871
Wm. Fox1871
H. T. Hoffecker1872
John Parker1872
Samuel Marshall1872
Peter Campbell1873
Robert Rawley 1873
Jas. Kirkley1873
James Potter1874
Thos. R. Boyer1874
John Parker1874
Thos. R. Boyer1875
Farris Potter1875
D 0 17 # 1 1000

Wm. Freestone ...

Thos. R. Boyer	1876
D. C. Hoffecker	
Wm. Freestone	1877
Wm. H. Rawley	1877
Jeff, L. Campbell	1877
Farris Potter	1878
Wm, H. Rawley	1878
Thomas Parker	1878
H. W. Stout	1879
Wm. H. Rawley	1879
John J. Werser	1879
H. M. How	1880
Wm. H. Rawley	1880
W. W. Parvis	1880
Morgan Traux	1-81
Wm. H. Rawley	1881
H. L. Wilson	1381
Robt. Rawley	
Wm. H. Rawley	
Wm, C. Ford	1882
P. Lynch	1883
R. P. Collins	1883
H. L. Wilson	1883
Wm. H. Rawley	1884
Jeff. D. Campbell	1884
M. Traux	1884
H. L. Wil on	1885
Thos. P. Walls	
R. O. P. Wilson	1885
John M. Knight	
P. Campbell	18£6
Samuel Marshall	1886
John M. Knight	
James Dillen	
Chas F. Hoffman	

CHURCHES .- The Muddy Branch Methodist Episcopal Church was established about 1800, a short distance from Leipsic, and was abandoned about has been running since that time with a capacity of 1837, when the church was built in Leipsic through two hundred tons a year. The Hoffecker Mill, four the efforts of Rev. John S. Fury. The old building miles from Dover, on Little Creek, is one of the went into decay rapidly, and in 1849 the only trace oldest in the county, having been built in the early left was the grave-yard. The building of 1837 is still standing, and forms the main church of the Leipsic Circuit. Prior to 1868 the Leipsic Church

.. 1876

The Leipsic Methodist Protestant Church was orthe first alderman. The town records are missing ganized June 3, 1865, with W. M. Smith, John G. from 1852 to 1863. The following is a list of officials Scotten, W. H. Moore, John Slaughter, Matthew Hutchinson, Samuel Butler, B. F. Hamm, Isaac Slaughter, Rees Taylor, Peter Campbell, Ferris Porter, T. P. Walls, George W. Clothier and Henry Wilson as the first trustees. Two thousand dollars were immediately raised for a church, and December 31, 1865, was fixed for the dedication of the new building. There were present Rev. J. D. Valient (who preached the first sermon), Rev. Thomas Downs, Rev. D. F. Ewell (minister in charge), and Rev. J. B. Merritt. The weather was unfavorable, and the dedication was postponed until January 28, 1865. Rev. J. B. Murray preached the dedication sermon. The building is forty-six by thirty-two feet, and cost \$2300. Immediately upon opening the church a revival meeting was begun, and eighty persons were enrolled as members. The church was supplied with ministers from the Kenton

and Clayton churches until 1883, when a separate thousand eight hundred and seventeen. station was established, and the following have has been no survey since the erection of the hunpreached here: Revs. George Smith, J. D. Lucas, dred, but the area is about thirty-five thousand McM. Thomson and B. W. Kindley. There is a acres. grave-yard attached to the church.

Rev. M. Marselles attempted to form an Episcopal congregation in Leipsic May 10, 1869, and the following officials were elected for what was called Immanuel Church: Senior Warden, Andrew Spear; Junior Warden, G. W. Spicer; Vestrymen, Messrs. Clements, Eager, Wilson, Lamb, Hoffecker, Hopkins and Denney. Bishop Lee confirmed a number of persons as members; but the congregation was dissolved after a few years.

### CHAPTER LX.

#### KENTON HUNDRED.

KENTON HUNDRED is in the northwestern portion of Kent County, and was carved out of Duck Creek and Little Creek Hundreds, by an act of the Legislature, passed February 3, 1869, which recited: "The said new hundred shall be called Kenton Hundred, and shall embrace all that portion of Duck Creek and Little Creek Hundreds in Kent County, as at present constituted, lying on the west side of the west line of the Delaware Railroad."

This made the bounds of the new hundred as follows: on the north by Blackbird Hundred of New Castle County and Duck Creek; on the east by the Delaware Railroad; on the south by Dover Hundred and the Fork Branch of St. Jones' Creek, and on the west by the State of Maryland.

Some of the best farming lands of the State are in the hundred, they having been highly cultivated for years. Large quantities of peaches, wheat, corn and vegetables are raised.

About 1840, Simon Spearman, who lived on the Middle Alley road, on the farm now owned by in 1710. They were called "the remains of my Edward Streets, shipped the first peaches for Lordship's Gracious Grant," "Mitchell's Park," market, and the return was so profitable that a "Mitchell's Risque," "Jones' Adventure," "Ellinumber of the farmers planted trees, until to-day nor's Delight," and "Beaver Dam." three-fourths of the land is planted with peach trees. The shipments from the various railroad stations have approximated in one year as high as three hundred thousand baskets. The year 1887 was one of the poorest ever known, and fifty thousand will cover the shipment.

The Little Duck Creek runs through the centre of the hundred, and the railroad facilities are Smyrna and Delaware Bay Railroad in the northwestern section. In 1880 the population was two hundred acres of it is now owned by Miss Ann

There

EARLY SETTLEMENTS.—The hundred early attracted the attention of the English settlers, and in the earliest records mention is made of grants of land, both from the crown and the original proprietors, to English settlers. The descendants of these old families still comprise a majority of the inhabitants. Particularly is this true of the occupiers of the land comprised in what was known as the manor of "Freith."

The manor of "Freith" was one of the many manors in Pennsylvania and outlying territories laid off for William Penn, the warrant for this tract having been issued to the Surveyor-general May 3, 1683, and the land surveyed November 10th of the same year, and was returned as containing over ten thousand acres.

The Bristol Naval Store Co-partnership Company formed in Bristol, England, in 1714, and composed of William Down, Absalom Lloyd, Charles Horford, Edward Lloyd, Caleb Lloyd, George Whitehead and Richard Cool, merchants of that town. The object of the company was to plant and cultivate hemp in the colonies, and Benjamin Shurmer, of Kent County, formerly of Bristol, was commissioned to purchase a tract of land for that purpose. He took up of this tract three thousand one hundred and twenty-five acres on a branch of Duck Creek, on a warrant granted September 22, 1714. In 1706 Walter Dulany took up a large part of this land, which was conveyed to him, and embraced old surveys lying largely in the northwest corner of Kent County and in parts of New Castle County and Maryland. "Caudley's Adventure," on a branch of the Chester River, on the New Castle and Maryland line, was a portion, and was taken up in 1727. Several tracts of this same land were warranted to Captain Richard Smith, January 18, 1696, and patented

The present holders of the Dulany land are Samuel and George Beck, Patrick Hanifee, J. L. Holt, Henry Holt, Jacob Hartman, Frank Bowers and Bernard Donnelly.

South of the Dulany land is the Blackiston tract, called the "Deer Park" tract, and containing two thousand two hundred and fifty-five acres. which was granted to Benjamin Blackiston, June excellent,-the Delaware Railroad running down 14, 1733, upon payment of forty-five pounds and the east side, the Delaware and Maryland through two shillings to Lord Baltimore. The greater the centre and about one mile of the Kent County, part of this land remained in the possession of the Blackiston family as late as 1850, and over four

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Supreme Court of the United States,-Secretary L. Temple, a brother of Governor Temple, took it of State Bayard appearing for Wartenby, and and ran it for a number of years; it is now in Reverdy Johnson, of Maryland, for the holders of the land. The case was decided in favor of Wartenby, and the tract of one hundred and seventy acres, embracing the entire town, was decreed as his property and that of his sister, Mrs. W. Harris, of Philadelphia. The holders had to make settlements with the new owners, and Wartenby and the Legislature, on April 23, 1887, passed an disposed of his interest to Mrs. Harris, and gave act incorporating it into a town. Mr. Bayard one-fourth of the tract as a fee; they still own nearly all of Clayton. In 1867 Mrs. R. it until her death, January, 1868, when it was sold to J. W. Spruance, and moved to Spruance City tion of three hundred and its name changed to Font Hill News.

number of other officials and employees. April Hon. James R. Williams, ex-Senator C. S. Penne- population in 1880 of fifty. will, D. J. Cummins, George W. Whitaker and ex-State Treasurer Robert J. Reynolds to lay out building having been a store erected there by Wilthe town, define its limits, and to hold an election liam Downs, in 1838. The chapel was built in for town commissioners This duty they have per- 1842, the school-house having already been there. formed and commissioners were elected. In 1887 there were sixty houses in the town, three general and a population in 1880 of forty-five persons. stores, kept by Abel Sevil, George Brockson and The post-office was established in January, 1877, W. S. Reynolds, two millinery stores by E. O'Con- with James B. Messer, postmaster. There are two stores by John Casperson, Sarah A. Tims and W. H. Boggs, a wheelwright and blacksmith shop by Thomas Holliday, a lumber-yard by Hudson & Moore, J. Leinberger butcher, two hotels-the Bingham House, kept by William Whitlock, and store by Dr. Charles G. Harmonson. The population is about four hundred.

Kenton, the oldest town in the hundred, and situated near the centre, on the Delaware and Maryland Railroad, was first known as Lewis' Cross-Roads, afterwards as Grogtown, and by act of Legislature, in 1806, it was changed to Kenton. completed, in 1856, John S. Moore, who owned

The oldest house in the town is one now occupied by Mrs. Mary Green It was built by Philip Bayels, who run it for a number of years. Charles facturers and grain dealers. Hamm had it in 1843, and in the same year Thomas

charge of Terance Carvin.

The post-office was started in 1860, and since that time the postmasters have been W. H. Taylor, John Wilds, William C. Jump, Joseph Roop, William H. Moore and W. Denny Wilds.

The town's main growth has been since the war,

At present there are three general stores, kept by J. M. Arthurs, W. H. Moore and W. Taylor; S. McConaghy started the Clayton Herald and ran a millinery store, two blacksmith shops and one drug store. There are sixty houses and a popula-

Blackiston's Cross-Roads was so named from The town received a boom in 1885, when the the fact that when roads were laid out in 1764, Delaware Railroad's main office was moved there running into Maryland, the land was owned by and with it I. N. Mills, the superintendent and a Benjamin Blackiston, and had been in the possession of the Blackiston family since 1684. At present 15, 1887, the Legislature passed an act appointing there are twelve houses, a blacksmith shop, and a

Downs' Chapel is also a cross-roads, the first At present there are nine houses, two general stores general stores, kept by Enoch S. Short and James T. Jacobs.

Brenford existed only as a railroad station until 1866, and was named after the Brenford farm, near there. On the 26th day of May, 1866, it was created a post-office, with J. P Dickson as postthe Hotel Stockle, by Michael Riley-and a drug master He was succeeded, November 13, 1886, by L. H. Spruance. At present there are twelve houses and a population of sixty, one general store kept by L. H. Spruance, Boyer & Wallen, fruit and grain dealers, and J. G. & H. M. Farson, dealers in fruit packages.

Chesswold. - Shortly after the railroad was It was called Lewis' Cross-Roads, after Philip all the land upon which this town is located, opened Lewis, who, in 1791, owned all the surrounding a store in the building now occupied by James Brown, and was appointed postmaster, in which place he has been succeeded successively by J. Dawson, J. P. Jefferson, Thomas F. Moore and C. C. Lewis, and is of frame, and was moved to its Boyer. From Mr. Moore the new town was called present location about seventy years since. On the Moorton, and continued under this name until corner is an old brick house standing on the road, 1888. The town has improved rapidly the last which was built shortly afterwards and used as the few years, and now has thirty-five dwelling-houses, first general store in the town. The old hotel, a population of two hundred, and the following still standing and known as the Kenton Hotel, was places of business: general stores, W. L Collins, also built by him in 1809. It was occupied by James Brown and T. F Moore; wheelwright, M. William Arthur in 1811, and in 1812 by James H. Palmatry; and Cooper Brothers, brick manu-

MANUFACTURES. - Kenton has been devoted

within the past few years has there been any porated, with John D. Burton, Thomas T. Lacey manufacturing interest outside of old grist-mills.

on Duck Creek, about one mile and a half from 1748. The mill was erected in 1760 by Samuel Griffen, and a dispute arose over the line and it capacity three thousand tons of phosphate a year. was surveyed to John Griffen in 1797. In 1789 described as "a grist-mill in very good repair for has an output of one thousand tons. W. P. Wright, grinding merchant work, and having to it a good dwelling-house suitable for merchant work." The mill remained in the Griffen family until 1820, and was afterwards owned by John Shellton, John Wright, Sarah A. Brown, John R. Rees, Robert thousand bricks a year, and has been engaged in Burchop, and in 1859, David S. Casperson purit for seven years, chased it. In that year a dispute over the line, which had been standing since John Griffen's time, James Williams, near Kenton, about thirty-five arose between Casperson and a neighbor, George Buchannon, and Buchannon killed Casperson. His Poor formerly had a yard in Kenton, but it has sons, David and James Casperson, owned it until been out of use for several years. Another old 1882, when the present proprietor, Ezekiel Shaw, yard was operated by Nathaniel Wilds, on what is took charge. Shaw is a son-in-law of David S. now the Underwood farm, two miles from Kenton.

saw, and woolen mill, but shortly before his death David J. Murphey and Harry Murphey, sons of turning out three hundred baskets a day. Samuel, and is still owned by David J. Murphey, has a capacity of about forty bushels a day.

sold it to Ebenezer M. Cloak in 1824. Cloak died four hundred baskets a day; and Smith & Brown, in 1867, and his son. Dr. E. M. Cloak, afterward at Moorton, built in 1881, and capable of using ran the mill until his death, in 1886; since then it two hundred baskets a day. has been run by John Jewell.

miles below Cloak's mill on Little Duck Creek, the quality of the fruit, and is one of the oldest in the neighborhood, the site having been condemned by Thomas Alexander to 1872. in 1806. It was a grist-mill for a long while, but was allowed to run down and was not used for some time. Samuel Keefner rebuilt it as a card-failing, it ceased to exist, but was re-organized ing-mill in 1847, and connected with it a grist and May 13, 1887, with forty-one members and the saw-mill. He sold it to Samuel Daniels and it has following officers: P. C., Thomas Downing; N. C., been since that time owned by John Green, John Wm. L Gooding; V. C., Daniel Jones; Sir Her-Bell, John Logan and John Malcolm, the present ald, George Herne; Keeper of Exchequer, Charles owner, who conducts it as a grist-mill with a Brown; M. of R., W. Colpitts; H. P., John capacity of one hundred and sixty bushels a day.

The largest manufacturing enterprise in the hundred is the Delmarvia Fertilizer Company at Clayton. It was started in 1877 by A. Lee Cum- ted March 10, 1886, with the following officers:

almost exclusively to farming, and only up to in 1883. In that year the establishment was incorand Herman P. Hazel as incorporators. John D. What is known as the Casperson Mill is situated Burton was elected president; Herman P. Hazel, general manager; and Thomas T. Lacey, secretary Smyrna. The mill-site was condemned July 19, and treasurer and general superintendent. The capital stock is fifteen thousand dollars, and the

J. B. Messick has a small phosphate factory at the mill, in an advertisement offering it for sale, is Kenton, which has been in operation since 1884, and since 1879, has conducted a brick-kiln at Clayton, and manufactured between three hundred thousand to four hundred thousand bricks a year. John W. Graham, at Kenton, manufactures one hundred

> Old brick-yards have existed on the farm of years ago, but were abandoned in 1875. John T.

Being a fruit-growing country, the evaporation The Murphey mill, about a mile above the Cas- and canning of fruit is naturally one of the main person mill on the same stream, was owned in industries. At Kenton, J. M. Arthur has a large 1832 by Samuel Murphey, who ran it as a grist, canning establishment, built in 1882; capable of turning out two hundred and fifty thousand cans changed it to a grist-mill. Samuel Murphey died of fruit in a season. In the same town John W. in 1860, and up to 1880 the mill was run by Graham built, in 1882, an evaporator capable of

Smith & Carson have a cannery with an output and operated by Nathan Moore as a grist-mill. It of thirteen hundred cans a day at Clayton, opened this year. Other evaporators are Hardcastle & The Cloak mill, situated on Little Duck Creek, Jones, opened in 1881, at Clayton, with an output about a mile and one-half from the Seven Hick- of three hundred baskets a day; J. G. & H. M. ories, was erected by Simon Kollock in 1790. He Farson, built in 1882, at Brenford, an output of

N. T. Underwood has an evaporator which is Malcolm's mill is situated one and a quarter used at several of these factories, and has increased

William B. Bowman ran a distillery from 1862

Societies .- Pillman Castle, No. 7, K. G. E., was organized at Clayton April 8, 1885, but interest Clifton; S. H., Hugh Fleming; C., Horace Wright; I. G., John P. Clifton.

Clayton Lodge, No. 10, I. O. G. T., was institumins, and was purchased from him by the company W. C. T., Rev. C. M. Thomson; V. T., Miss Annie

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and is valued at four thousand dollars. The contwenty-nine years

ary 21, 1790. Among the others are Jacob Anderson, August 30, 1792; Armah Wilds, October 25, 1802: the family lot of the Spruances, among whom is Presley Spruance, November 28, 1837, father of United States Senator Preslev Spruance.

Blackiston Chapel was erected in 1787, the land being given by Benjamin Blackiston, and is trustees were Benjamin Blackiston, Abraham Parsons, Luke Howard, Richard Lockwood, William Kirkley, James Hall, Thomas Wilds, James in the region, which was then a forest, held meet- Smyrna. ings on the farm of Benjamin Hazel before the church was erected. The old church was moved away in 1847, and the present building erected in its place. It is much smaller than the original church, being twenty-five by thirty feet, and valued at fifteen hundred dollars. In the old graveyard there is buried Rev. John Asay, an elder in the church, who died September 11, 1855; the early Hurlocks and a number of the Stevens family, all old settlers. Some of the ministers of the church have been, John Humphrey, Daniel Lambert, Thomas Leadman, W. C. Leibrandt, William Sumption, Thomas Hersey, J. B. Merritt, John P. Du Hamel, - Johns, Enoch Stubbs, Edward Newman, J. H. Adams, -- Warner. R. J. Stevenson, T. L. Tompkinson, J. L. Houston, Samuel Thomson, Andrew Manship, T. J. between Blackiston's Cross-Roads and the M. E. Quigley and David Price.

oldest Methodist Protestant church in this section, erected about 1800, and stood until 1854. The and was built upon land conveyed by James M. building then erected remained until 1886, when Downs to Lodiam E. Downs, Arwell Durborough it was abandoned and a new building erected and James E. B. Clark, trustees, December 4, north of Blackiston's Cross-Roads, about two 1842. The building was erected the spring of the miles from the site of the old building. In 1886 following year. Previous to the erection of the there were fifty-five scholars.

its going to decay the Baptists rebuilt it of brick, church, Rev. William Heritage came in the neighthirty by twenty-five feet, in 1771, when the lot borhood and preached to large numbers in the was conveyed by John and Philemon Dickinson. woods, all that country being at that time a forest. This house still stands, and was rebuilt in 1871 After the church was built, Mr. Heritage was the first minister: he afterwards abandoned the minisgregation and church were incorporated July 22, try and became a manufacturer of patent medi-1794. The late ministers have been: Rev. Peter cines. During the pastorate of Rev. J. M. Ying-Meredith, for seventeen years, and died at the ling, the church was rebuilt. At present there are ripe old age of ninety-five; Rev. Thomas Barton, seventy-five members, with a building worth eight for ten years, and Rev. Ephriam Rittenhouse, of hundred dollars. The following ministers have Hare's Corner, who has been at the church for since preached in the church: Rev. David J. Ewell, Rev. Dr. J. E. J. Ewell, Rev. Dr. A T. In the graveyard attached to the church are Eversole, Rev. A. D. Dick, Rev. Wm. A. Crouse, buried a number of old families whose descend- Rev. Jas. M. Ellderdice, Rev. J. M. Yingling, ants still reside in the hundred, the oldest stone Rev. W. J. D. Lucas, Rev. Charles M. Thomson, being that of Thomas Ringgold, who died Febru- Rev. Benj. F. Brown, Rev. John Jackson, Rev. William Hamilton.

The Kenton M. E. Church is in the Smyrna Circuit, and was built in 1818 at the end of the town of Kenton, on the road leading to Downs Chapel. It was a frame building, twenty-four by sixty feet. The ground was donated and the building erected by Isaac Buckingham, Rev. John Durborough and located about two and one-half miles from the James Scotten. Rev. John Durborough was a grand cross-roads of the same name. The old church father of Bishop Cummins, of Kentucky, and the was forty by sixty feet, and was erected from de- first minister of the church. Previous to the signs furnished by Bishop Asbury. It was for a erection of the building, services were held at number of years the largest in size on the Penin- James Scotten's house. The old building was sula, exceeding Barratt's Chapel. The original abandoned in 1877, and the present substantial building was erected in that year and was dedicated September 15, 1878, by Bishop Scott. The list of preachers will be found in the article upon Stephenson and Richard Shaw. The Methodists the Asbury Methodist Episcopal Church of

Ewell's Methodist Protestant Church at Clayton was erected through the efforts of Rev. David J Ewell, its present minister, and was dedicated December 30, 1860, by Rev. T. D. Valient of Harford County, Md., assisted by Rev. John Roberts, of Centreville, Md. This is at present the only church in the growing town of Clayton and has a membership of fifty persons. The ministers who have supplied Downs Chapel have also been here.

Schools. - At the time of the passage of the school law, in 1829, Kenton Hundred had within its limits Schools Nos. 1, 2, 8, 9 and 10. Since that time there has been created Schools and Districts Nos. 49, 97, 212, 42 and 114.

District No. 1 is located between Districts No. 14 and No. 2, and in 1829 contained one school, Church, with twenty scholars between the ages of Downs Chapel, three miles from Kenton, is the five and twenty years. The old log building was

trict No. 2, which is next to No. 1, was built in 1797, at the Alley Cross-Road. The school in 1829 contained twelve scholars and the district eighty-five children between the ages of five and twenty. In 1848 the old log building was replaced by a frame. Upon this being torn down in 1876 a neat structure valued at eight hundred dollars was erected. In 1886 there were forty-two scholars. One of the first teachers was John Palmetry, a staid old Friend.

District No. 8 was south of No. 1, on the Maryland line and the western part of what was formerly Little Creek Hundred. In 1829 there were seventy-five children between the ages of five and twenty years, but no school. In 1835, Jonathan Gordon and Captain Edward Attix (father of Thomas and Samuel Attix) interested themselves in having a school. Mr. Gordon donated the ground and Mr. Attix the greater part of the material and was one of its main patrons From this fact it received the name of Attix's schoolhouse. The building stood opposite Downs Chapel. About twenty years ago a new building was put up, which still stands one hundred yards from the old building. In 1886 there were eighty-two scholars.

Wilds' School-House was the name given to the school in District No. 9, for the reason the land upon which it was erected was given by Nathaniel Wilds, which has in its limits the town of Kenton, the building being located there. In 1829 there was a school-house a short distance below Kenton, with twenty scholars and eighty-five children between the ages of five and twenty. The old building was log and had been erected about 1800. It stood until 1839, when it was torn down and a frame building erected in its place. In 1885 the Legislature authorized the erection of a new building, the old one was abandoned and a fine brick building erected in the town of Kenton valued at three thousand dollars. In 1886 there was in it a graded school and primary with one hundred and twelve scholars.

District No. 10 is in the southeastern corner, and at the time of the passage of the school law, in 1829, was without a school building, but had seventy-five children. The land for a school building, was given by Israel Peterson, in 1835, and a building erected between Moorton and Moore's Corner. In 1860 this building was destroyed by fire, and a new one erected south of Moore's Corner, at a cost of one thousand dollars. It is still standing five scholars.

erected in 1847, and a new building, costing six in fee was in him. The case was carried to the

The old log building used as a school for Dis- hundred dollars, erected in 1886. In this year there were forty-five scholars.

In the extreme southern part of the hundred is District 97, erected within the last twenty years. The school built at first still stands, and had fifty scholars in 1886.

District No. 114 was erected by the Legislature, in 1885, out of District No. 1. A new building was built, out of money raised by taxation, costing eight hundred dollars, at Hazel's Corner. At the time of the annual reports there were fifty-one scholars in attendance.

The Clayton District is known as 119, and was cut out of Districts Nos. 2, 84 and 49, in 1873. The building was erected the same year at a cost of nine hundred dollars, out of funds advanced by A. L. Hudson. In 1887 an addition was built, and the school grade advanced, and another teacher employed. In 1886 there were sixty-four scholars. The new building, when completed, will make accommodations for about eighty pupils, and room for additional desks has been made to meet the increasing population of Clayton.

Towns .- Clayton is the largest town in the hundred, and is situated in the extreme north eastern part, and is next in importance to Wilmington as a railroad centre. It is thirty-six miles from Wilmington on the main line of the Delaware Railroad. In 1854, the time of the surveying of the railroad, there was not a house in the town : all the land being owned by Richard Tibbitt. Previous to that time a little village existed about a quarter of a mile away, called Jimtown. It was a great stopping-place for years for teams on their way to Smyrna Landing to unload grain. There was a large grove, and an old character, "Aunt Hetty Johnson" by name, sold beer and cakes to the drivers. Tibbitt gave ground for a depot and sold land for building-lots, and, in 1859, a hotel and store were built; the store being kept by Thomas B. Lockwood in a building now occupied by Abel Sevil. Up to this time it was known as Smyrna Station, and in 1867 was named by the Legislature Smyrna Station, but the inhabitants wanted it to be called Clayton, and in 1860, Alexander McConaghy sent an application to the Post-Office Department for the establishment of a post-office. This was granted, and upon his recommendation it was called Clayton, and he was appointed postmaster, a position he held until February, 1866, when John S. Casperson was appointed. The State recognized the name of Clayton at the last Legislature.

It was generally supposed that Tibbitt held a and in good condition. In 1886 there were thirty- fee-simple in the land, but after his death the land was claimed by a William Wartenby, of San District No. 49 is one of the new districts, and Francisco, on the ground that Tibbitt, in default was laid out in 1846. The school building was of heirs, had but a life interest, and the reversion

## Rails Along The Chesapeake

A History of Railroading on the Delmarva Peninsula



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the limits of the State of Delaware." A survey was made, but efforts to realize the necessary stock subscriptions fell short and the charter lapsed. This first failure occurred despite the best efforts of the railroad's most ardent supporter, John M. Clayton, who was one of Delaware's most prominent citizens and later gained fame as U.S. Secretary of State. The economic conditions of the times destroyed all hopes of accomplishing any of the three projects for some time.

In 1849, the charter of the Delaware Railroad was revived in a modified form, largely through the efforts of Samuel M. Harrington, Delaware's chief justice, who eloquently advocated its merits. Nothing was done, however, until 1852 when the State of Delaware

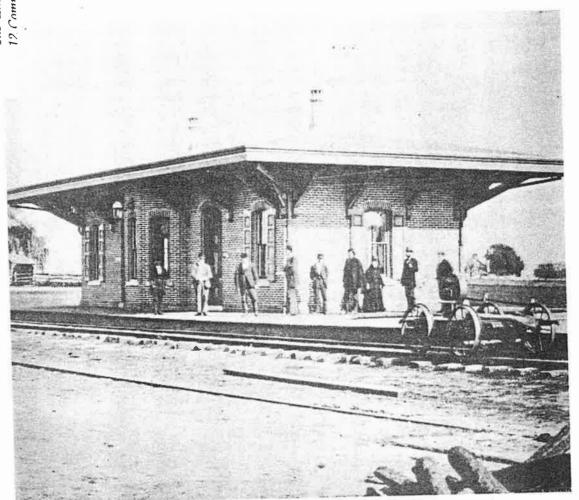


The station at Bear was quite an architectural gem and may well have been a private dwelling converted to railroad use. (Post Card from Caley Historical Post Card Collection - Smyrna, Delaware)

subscribed conditionally to 5,000 shares of the company's stock to be paid out of revenue derived from the New Castle & Frenchtown Rail Road as it accrued. Accordingly, the company was organized in May, 1852 with directors and officers appointed by the state, Samuel M. Harrington serving as president. In 1853 the Philadelphia, Wilmington and Baltimore Railroad became interested in the new railroad and a reorganization was effected wherein Samuel M. Felton, president of the P. W. & B., Charles I. DuPont, and others became directors of the Delaware road to represent that company.

Construction, which had begun rather tentatively the year before, was immediately pushed south from a junction with the New Castle & Frenchtown Rail Road between Bear and Glasgow. In 1854, when it became necessary to mortgage the property for \$200,000 in order to continue work, it was the P. W. & B. which guaranteed the bonds. When they still could not be sold, the P. W. & B. company advanced the money itself. The state came to the rescue in 1855 with a loan of \$170,000, secured by bonds endorsed by the P. W. & B. and stock owned by that company.

On May 4, 1855 the Delaware Railroad was leased to the P. W. & B. for 21 years with a renewal option, later exercised for a corresponding period, at six percent on the capital stock and bonds and one-half of the company's profits over that amount. Construction was delayed in

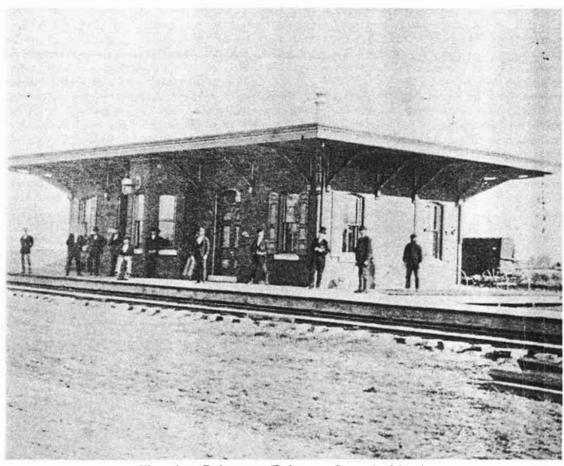


Kirkwood, Delaware. (Delaware State Archives, Dover, Delaware)

New Castle County by excessive demands for damages for the right-of-way, but was completed as far south as Middletown in August, 1855. In January, 1856 the line reached the state capital of Dover. On December 11, 1856, the Delaware Railroad was opened to Seaford, a total of 70.6 miles. At this time Seaford was considered the railroad's goal and completion to that point was the culmination of the greatest internal improvement project ever undertaken in the state. It generated excitement on the level of the first Moon landing more than a century later. Consequently, this event was accompanied by imposing ceremonies, special excursion trains were greeted by volleys of cannon fire, and many of the state's most prominent citizens, including Governor Causey, made congratulatory speeches.

The Delaware Railroad did have charter authority to build to the southern border of the state and there had been discussion of extending the line to Tangier Sound in Maryland, the original terminal of the proposed Eastern Shore Rail Road. No definite plans were made to accomplish this until after the railroad had been "completed" to Seaford, however. In the "Engineer's Report of Preliminary Survey of the Unfinished Portion of the Direct Route between Philadelphia and Norfolk; comprising the Eastern Shore Railroad and Extension of the Delaware Railroad," which was written in December of 1858, the survey's engineer, E. Q. Sewall, Jr., superintendent of the Delaware Railroad, made this note at the outset:

It is due to all concerned to state, that it was by a subscription among individuals (chiefly in Wilmington and Laurel, Delaware, Salisbury and Princess Anne, Maryland,



Wyoming, Delaware. (Delaware State Archives)

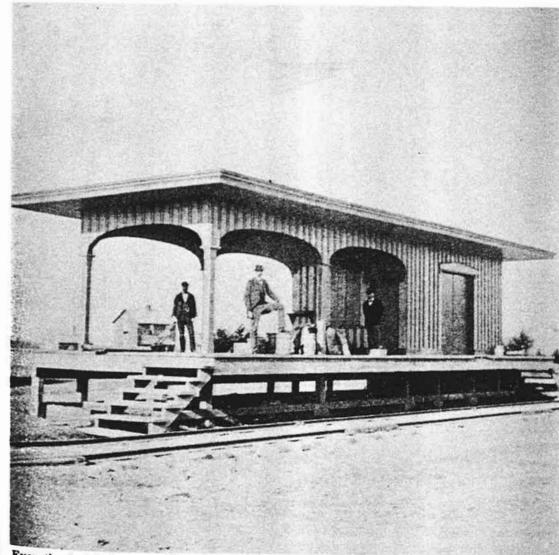
the P. W. & B. who succeeded President Harrington of the Delaware Railroad upon his death in 1865. Milford Jct. was originally known as "Clarke's Corner," but was renamed in 1856 when it was designated as the point from which a branch road to Milford would diverge. The name was changed in 1859 to "Harrington" in honor of the first president of the Delaware Railroad. The station of Prettyman's Corner was discontinued at a very early date. The name of the station at present-day Greenwood was originally selected by the railroad as "St. Johnstown," an old post town in the vicinity. However, when a townsite was laid out around it, the place was called "Greenwood" due to the abundance of holly trees in the area.

When, in 1859, the Delaware Railroad was extended to Delaware's southern border, the end of the line was called "Delmar," taking the first three letters of the names of the two states which met there. Intermediate points were Laurel and Broad Creek, just north of Laurel: By 1861 stations had been established at Blackbird, south of Townsend, and at Bridgeville, south of Greenwood. By 1868 there were stations at Sassafrass Road, south of Blackbird; Brenford, south of Clayton (earlier Smyrna Station); Dupont, south of Mooreton; Willow Grove, south of Wyoming; Plymouth, at Canterbury Station; and Bacon, south of Laurel. The town of Sassafrass was, and is, way over in Maryland and the station of Sassafrass Road became Green Spring in 1871. The town of Willow Grove was about five miles west of the station. There was a town and post office of Fredonia at the site of Willow Grove Station. In 1869 the name was changed to "Woodside," the present name of the town. In the 1860's a group of New Englanders, the American Baptist Home Mission Society, attempted to found a model community, named "Plymouth," about two miles south of Canterbury Station. It never

amounted to anything, but for a short time there was a station of Plymouth listed in the railroad's timetables. It apparently was not a separate stop, though, as the times shown are the same as for Canterbury.

The junction of the Delaware Railroad with the Pennsylvania & Delaware Railway, which was laid across the Delaware road north of Kirkwood in 1873, became known as "Porter." By the 1880's there was a station established at Armstrong, between Mt. Pleasant and Middletown, and by the turn of the century there was a station at Ross, between Cannon and Seaford.

When the Delaware Railroad was being built, the line was surveyed so as to pass about one mile west of Smyrna, along the most practical engineering route. In order to divert the railroad directly through their town, the residents of Smyrna were called upon to invest a huge sum, about \$40,000, to make up for the added cost. This the town could not manage at that early date. Thus, the railroad went through as planned and the station for Smyrna was erected one mile west of town, near a place called "Jimtown." Within ten years of the completion of the railroad, the need was felt for more direct and convenient transportation for the town. Accordingly, in 1866 a subsidiary of the Delaware Railroad, the Smyrna Station and Smyrna Railroad



Even the freight house at Wyoming, Delaware was a little fancy. (Delaware State Archives)

Opened in September of 1873, the new railroad was 18 miles long.<sup>2</sup> The small resort of Woodland Beach developed at the end of the line.

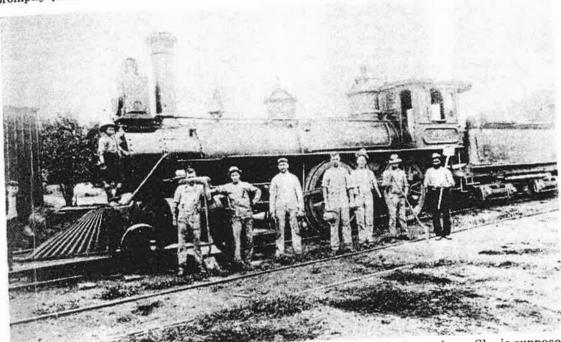
The railroad was evidently in poor financial condition, the company's resources drained by its ambitious construction efforts. Problems seemed to abound from the beginning. It's recorded in the *Kent News* that on March 3, 1872, shortly after the line was opened to Chestertown, the train was stuck in a snowdrift and the crew was finally forced to proceed to Chestertown with just the engine. The next day it brought back the passenger cars, but upon arriving at Chestertown the locomotive inexplicably switched onto the turntable, demolished a handcar, and did some damage to the enginehouse. The passenger cars rolled off the end of the track. The Queen Anne's & Kent Railroad's engine had to be sent for to pull the Kent County Railroad back on the track. Less amusing was a strike which occurred in 1874, shutting down the line. Throughout, however, one service was maintained; the mail was carried as far as Worton by handcar.

As the Kent County Railroad was located in the most northerly region of the Peninsula, snow seemed to plague the line much more severely than others. The many stories and photographs recounting efforts to combat snow along the line attest to this fact. A deep cut about 100 yards east of the Chestertown depot was the scene of fierce snow fighting on a number of occasions. More often than not, the snow won, as it did on December 26, 1876. On that day the regular train was snowbound in this cut. A locomotive dispatched to rescue the stranded train became stuck in the same drift. With the road's entire roster tied up in one snowdrift, it might have been easier to wait for the spring thaw before resuming operations.

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An article appeared in the Kent News on February 12, 1876 under the heading of "A Little Railroad Squabble." It seems that the Queen Anne's & Kent Railroad's officials were upset because the Kent County Railroad was running its trains into Clayton to connect with the Delaware Railroad, instead of into Townsend as before. Prior to construction of the Smyrna & Delaware Bay Railroad, the Kent County Railroad had operated its trains over the Queen Anne's & Kent's leased line, the Townsend Branch Railroad, to reach the Delaware Railroad at Townsend. The Kent County company had, of course, paid a fee for use of this trackage which was missed by the Queen Anne's company. To get back at the Kent County Railroad, the Q. A. & K. tried to extort a \$400 annual payment from the company for using about 400 feet of its track at Massey, which was needed to reach the Bombay Hook extension. However, Kent County line officials found that there were regulations governing the charges which could be made in such situations and that the maximum allowable in this case was \$70, which was promptly paid.



Locomotive No. 235 of the Baltimore & Delaware Bay Railroad is shown here. She is supposed to have been a former Lehigh & Susquehanna Railroad engine built by the Baldwin Locomotive Works. Photograph was taken in the 1890's. (Smithsonian Institution)

One of the locomotives on the Kent County Railroad seems to have been easily diverted from the right-of-way. She was the *Delaware* and we find that on August 25, 1875, the engine derailed at Black's due to a misplaced switch. Efforts to re-rail her failed until three o'clock the next morning when a Cape May excursion train returning from Bombay Hook arrived to help. Less than a week later, on August 30, the *Delaware* was again off the track, this time at Worton. Another mention of motive power on the Kent County road is found in a short article in the *Smyrna Times* of November 20, 1875:

The old locomotive "Thomas Clayton," so long anchored on the Bombay Hook Railroad, off this town, has been purchased by the Junction & Breakwater road. She has been nicely fixed up and will be re-christened and called No. 4. She was bought for \$1,500.

These locomotives were old P. W. & B. engines, probably used by that company in operating the line and then sold to the Kent County Railroad when it began independent operation. *Poor's* 

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# The Smyrna Times.

JOS. H. HOFFECKER, EDITOR.

Smyrna, Del., Wednesday Afternoon, Oct. 27th.

THE "TIMES" is published every Wednesday afternoon by JOSEPH H. HOFFECKER, Ediror and Proprietor, at Smyrna, Delaware.

TERMS—SUBSCRIPTION—One year \$2.00 in advance, or \$2.50 if not paid till the end of the year. No paper discontinued until all arrears are paid—only at the option of the Publisher.

ADVERTISEMENTS will be inserted at the rate of Seven Chata a line for the first insertion; subsequent insertions Three-anda-half cents. A liberal discount made to quarterly, semi-anhual and yearly advertisers.

It was generally supposed, a week ago, that Andy Johnson would be elected to the U. S. Senate by the Tennessee Legislature. But he has been defeated, thanks to the better judgment of the Tennesseeans, and men of all parties express gratification thereat. Very few believed that he would be of any service to the country, and many of those who wanted him sent to the Senate merely desired it as a matter of spite to Congress. They thought he would make a plague spot to annoy the Radicals. A man named Cooper was elected over him by the extreme Republicans and extreme Democrats. Cooper was a Union man during the war, and is a conservative, it is said.

We see it stated by the Gazette, upon the authority of a member of the Legislature, that there is a probability of the Governor convening the General Assembly in extra session this winter to take the State tax law into consideration. It is to be convened at the request of the Philadelphia, Wilmington & Baltimore Railroad Company, it is said, who desire that some more definite understanding may be arrived at by said Co. with regard to their tax.

There must be "some other axe to grind" besides this if such a thing is in contemplation. The Railroad Company can get any information it may desire through the expounders of the law, and the party in power is hardly well enough disposed towards that Company to run the State to the expense of an extra session of the Legislature just because they ask for it. The heads of the party have been rather chary of their favors to this Company here-tofore.

We think that Wilmington's case is one of the matters that the Legislature will have an eye to if it be convened. The "Nine Wards' Bill," passed by the Legislature last winter, did not prove as effectual in winning that city over to the Democrats in the recent municipal election as was expected, and this, added to the action of the Republican Councilmen in declaring a seat in the Council vacant that had been filled by a Democrat, has convinced the Democrats that something more must be done to get the city out of the control of the "Rad-

to basket makers, wagon makers, shipping agents, &c. The capital and labor thus employed is immense. We have a basket making establishment in our midst (Mr. Mahood, Clayton) which, for several months, employed about \$2000 per week and sometimes as many as seventy or eighty hands. He manufactured about 130,000 baskets. From 4000 to 5000 baskets were also made by band by the Messrs. Archer of this town. Several thousand dollars were also realized here by shipping agents and others, besides hundreds of dollars paid to parties employed in various ways, not to speak of the pickers, canning employees, &c. Hundreds of dollars were made by women and children in this State this summer that would not have come to them at all had it not been for the peach crop.

# STATE AND LOCALS.

SHORT ITEMS.—Col. Lem. Roberts, a very prominent citizen of Queen Anne's co., Md., was killed last week, an account of which is given in the Maryland items.

The negro woman who died by having her legs crushed by the cars at Dover, last week, was the wife of Alex. Laws, of that town. Some one told her the train would not stop and she tried to jump off whilst it was in motion.

The October term of the Superior Court and Court of General sessions of the Peace and Jail Delivery commenced at Dover on Monday.

Asst. Surgeon Geo. S. Culbreth, U. S. N., of this town, has been assigned to duty at the Naval Hospital, New York City.

L. C. McMahon, of Felton, was knocked down and robbed of \$218 in Phila., last Friday, by three men who made themselves particularly agreeable to him on the train from New York city.

The Junction and Breakwater Railroad is completed to Lewes.

Judge Hall has appointed Chas. G. Rumford, Esq., of Wilmington. (!lerk of the U. S. Courts for the District of Delaware and U. S. Commissioner, vice Hanson Harman, Esq., resigned.

By a notice in another column it will be seen that there are to be three national camp meetings held next summer.

A schooner belonging to Capt. Daniel Outten, of Concord, Sussex county, struck a rock near the mouth of the Susquehanna River, on Monday, the 13th instant, knocking a hole in her side, and filling her with water.

A Band of Hope has been organized in Middletown. The members, mostly children, are pledged not to drink intoxicating liquors, chew tobacco or swear. Adults are also joining it.

Milford now has a telegraph office.

It is rumored that the projected railroad hetween Harrington and Qecenstown has been abandoned, notwithstanding work had already commenced on the road.

In the case of Geo. Lockwood, (col.) vs. Elizabeth A. Gumm, in the Sussex court, last week, the negro was acquitted as soon as the evidence was heard. This was an alledged case of rape, for which there was no foundation at all.

Hon. Charles Sumner will lecture in Institute Hall, Wilmington, Del., November 24th on "The Question of Caste." Gough is to lec-

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ture. The minister of the charge has of the it appears, been preaching, both in and out of the pulpit, a gospel of rather severe cast, bordering on the old style of "Oh ye hypocrites and generation of vipers how will ye escape the damnation of hell." At this some of the members and friends, doubtless not finding things in their hearts and lives so bad as represented and for other reasons, have retaliated by preaching to the minister a similar gospel, doubtless thinking it a poor rule that won't work both ways-"Long m y they wave." \* The colored people will lay the corner-stone

ed with the usual excitement of a religious na-

a dincient character

of a new church at Carrolton, in the "Neck," near this town, next Sunday afternoon. Bishop Wayman is expected.

THE OWNERSHIP OF CLAYTON.—Again the land upon which Clayton is situated is placed in doubtful ownership, as it was several years ago. The land formerly belonged to Richard Tibbett, by right of entailment. He died intes-

tate and insolvent, and the farm was sold by Sheriff to Dr. Daniel, of this town and M. Bailey of Kenton, the entailment having been previously broken by Mr. Tibbett, he having deeded the land to Mr. Isaac Hazel, who in turn deeded it back to Mr. Tibbett. Hop. N. B. Smithers drew the deed, it is said. After the aforesaid entailment was thus broken the Railroad Company purchased the present depot site through the late Chancellor Harrington, the President who was fully satisfied with We believe the entailment was the title. was broken to effect this sale. About three years ago a reputed brother of Mr. Tibbett tried to claim the land by right of entailment, but failed in his effort. Now a gentleman named John Whortenby, claiming to be a nephew of Mr. T. is seeking ownership of the land b the same right. He has employed Messrs. T. F. Bayard and W. G. Whiteley as counsel, and issued writs of ejectment to several tenants. Mr. W.'s family formerly lived near

CRANDERRIES. - D. B. Kinder, near Horsey's Cross-Roads, Sussex co., planted, about nine years ago, a little less than an eighth of an acre of marsh land in cranberries, and not expecting them to do any good, he paid no attention to their culture. A few days ago he picked from the vines 13 gallons of fruit. The fruit can be raised on ground fit for nothing else, and with much less trouble, and more profit than anything else. — Commercial.

this town. He now halls from California.

Banking House of John McLear & Son, 607 Market street. We receive money on deposit subject to check at sight (in the same manner as with National Banks) and interest allowed. We negotiate promissory notes, bonds, &c., at current rates. Collections made everywhere in the United State and Europe, Dividends and Coupons promptly collected. We buy, sell and exchange all issues of Government Loans at market prices. Orders promptly executed for the purchases or sale of Delaware State Bonds. Wilmington City Loan, Delaware R. R. Stock and all other first class securities. Applications for insurance in the Delaware Mutual Life Insurance Company, received at this office. . The " Wilmington City Soap" is the most effective clothes washer of the day; one pound of it is worth

three times its cont to any family. It is a beautiful Solid Soap, in one pound hars, and neatly wrapped and stamped. Made by Moore & Bro., Wilmington, John McLear & Son, Bankers, are author-

ized agents for the Lake Superior and Mississip pi R. R. Co., offer their first mortgage bonds at 96 and interest, also the Wilmington & Reading R. R. Co., and offer their First Mort-A. Y. Euston. | gage Bonds at 85 and interest.

vicinity who are expended in such marrow. But instead of making any attempt to get the boat off, the crow and a few things at greatly reduced rates, and setting fife to the craft consumed the whole in one grand conflagration. continued on their journey to Nortolk .- Newtown Gazette Henry A. Clough, who left Centreville five years ago too seek his fortune in the west, has been recently elected Judge of the Probate

Colorado. He is a printer.

INTERNAL REVENUE OFFICER IN A QUAN-DARY.—A short time since a man appeared at Cristield in a small boat about the tonage of a double-end canoe, peddling bibles and sacred pictures. He had coasted all the way down the Bay, and on his arrival at Crisfield repaired to a religious meeting going on in the neighborhood. A person who was with him in the canoe was found peddling pictures which led to the arrest of both. They were taken before Justice Harvey Johnson who fined them \$25. Whilst the owner of the canoe, like Midship-men Easy, was "arguing a point" with the Justice, his comrade disappeared and has not since turned up. The prisoner said he was not paying \$25 to every Justice of the Peace he met; that the man he had with him was a passenger who had no authority to meddle with his pictures. That he was not bound to take out license anyhow, and that he would go to jail sooner than pay the \$25. He was accordingly conducted to Princess Anne with his hands tied behind him. But lo! a difficulty here arose as to whether he could be imprison. ed for debt; whether the fine was a debt and a host of other very notty "pints" which would have put Mr. Easy in a very extatic state of

Receipt of Customs has been woefully at a loss how to rate and assess the prisoner. He is not a "pedlar travelling with one horse" not a pedler travelling with two horses" nor a pedler traveling with more than two horses or mules' neither is he a "pedler travelling on foot or by public conveyance," he travelled in his own boat, wherein he appears to be a law unto himself; but what it is the Assessor can't find out. A man who is smart enough to checkmate the modern Publicans ought to receive a free license for lite, from the Government to transact all kinds of business.

In the meantime the man who sits at the

THE NATIONAL CAMP-MEETING COMMITTEE. A meeting of this committee was held in Philadelphia on Wednesday to select the place in which to hold the annual camp-meeting next year. So many applications were received for the holding of the meeting in various sections of the country that finally it was determined that three meetings should be held—the first in the vicinity of Boston, on June 4; the second at Oakington, Md., on the Philadelphia railroad. on July 12, and the third near Chicago, on August 9th-each meeting to continue ten days. In the evening a public meeting for religious exercises was held in the Green Street Methodist Episcopal Church, on Green street, above Tenth, when addresses were delivered by Rev. J. S. Inskip, of Baltimore, president of the committee; Rev. Wm. McDonald, of Boston; Rev. Wm. Gray, of Philadelphia, and others. - Philadelphia Ledger.

THE SUPREME COURT AND THE YERGER CASE.—Some months ago Colonel Yerger, of Jackson, Miss., shot the military Mayor of that city, because of his seizing for taxes a piano in the residence of Yerger, but which, it seems, was not his property. The killing was a deliberste, cold-blooded affair, and the only attempt made to palliate it by the friends of the murderer was in the assertion that Yerger was insane and had been for many years. He was arrested, tried by a military tribunal, found records of

said, will be Court of Denver city and Arapahoe county, day. The F the late prop country, is l Prince. In the meantim ants to the t be presumed teens, and a clared full g is not difficu

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Smyras Sun Times Oct. 27, 1869

Copied for reference only from the original in the authory of the Division of Historical and Cultural Affairs, Department of State, Hall of Records, Dover, Delaware.

Permission for reproduction must be obtained.

Volume

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Or. B. Brown Williams, well-known throughthe country as a lecturer on Psychology and dred subjects, has located permanently in

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ph saloon in Newark. A Key Check for 25 cents or a stencil plate uplete 60 cents, sent post paid. Address J. E. Wonden, Smyrna, Del. A young friend has sent us a well-written

port of the proceedings of the Kappa Gamma

ciety, a literary association connected with

of. Reynold's school, in Wilmington, but it's long for publication. All the farmers want now, since the recent n, is warm weather to make the corn "jump."

At the late commencement of Dickinson llege, held on the 9th inst., two Delawareans eived the degree of Master of Arts; viz: v. Wm. P. Davis, of Milton, and Isaach C. est, esq, of Dover.

A woman named Pellum, of this town was

t in the lockup on Monday night for disturb-

the peace of Methodist and Delaware sts.,

filst having a little family jar in the street

We learn that the body of a dead man was

The body was buried on the

th her husband, both being intoxicated.

shed ashore at Bombay Hook a few days He was young looking, neatly dressed, d had on two life-preservers. A name was a ring on his finger, but our informant don't member it.

ore near the Light-house.

y season is expected.

pal, Presbyterian and Baptist churches, will ike an excursion to Lewes next Wednesday, e 28th inst. Collins' Beach, Smyrna's favorite summer sort, opens next. Wednesday, when there are be two excursions—a Band from New Casand a Sunday School from Wilmington. A

The Sunday School of the M. E. church of

over, together with the schools of the Epis-

ıblished. A dog, believed to have been mad, was killl in Dover on Wednesday evening. Win. Scribner, of Milford, has been com-

issioned as an aid to Gov. Ponder.

Dover now makes its strawberry shipments

ot up 90,000 qts., instead of 69,000, as first

The young people at Frederica will hold a aspherry Festival this Wednesday and Thursty evenings.

A fund is being created for the purpose of ceping the Old Swede's Church, Wilmington, good repair, and to continue forever its pious A resolution was adopted at the recent

piscopal convention authorizing Bishop Lee appoint a missionary to visit every portion f the State, and report the condition of affairs.

fund is about being raised to meet the exense required.

would have put an end to the improvements on the Church and most likely have led to litigation in the courts, as the Trustees of the Church would have tried to procure an injunction. Some of the largest subscribers to the Church fund insisted on withdrawing their being absent.

subscriptions. On Wednesday evening a motion was made to repeal the ordinance, which was defeated by a tie vote, Voshell, Van Gas-ken and Cooper in the affirmative, Mr. Sharp The improvements on the Church will take up about ten feet of the twenty between the Church and the parsonage and the design on the part of the negative Commissioners seems to have been to provide for the opening of the street before the plans for the Church were definitely formed, on Tuesday. The proposed street would be but an alley at best, and to ping points and Phila., it now being 15 cents have stopped the Church improvement and per basket, from Dover. On motion the Asthus discommode five hundred persons, for the sociation adjourned. sake of an alley that could benefit but few, Dover, Del. June 20, 1871. would have been against the wishes of perhaps seven-eights of the citizens of the town. Evidently the Commissioners who wanted the street overlooked the fact that they are meretruction on the south side of the Christiana ly representatives of the town when acting in river, on Zadoc Townsend's farm, near Wilan official capacity; and it is also evident that

vs. Dr. Wm. Daniel, Mason Bailey and James Gilmore.—The U. S. Circuit Court, Judge Strong on the Bench, convened in Wilmington yesterday (Tuesday) when the two cases named above were brought to trial. In the case of Richard Mitchell vs. Worden & Evans, for an alleged infringement of a combination patent on an improved peach basket, the counsel for plaintiff, Mr. Massey, asked the court to postpone the hearing of the case. The counsel for defendants, Richard Harrington. objected, and insisted on a hearing at once.

they were aware that they were not represent-

ing the town, else they would hardly have act-

ed so stealthily to accomplish their personal de-

U. S. CIRCUIT COURT.—Richard Mitchell vs. Worden & Ecans, and James Whartonby

The court named Tuesday, peremptorily, for a hearing. Subsequently, the plaintiff's counsel discharged the rule to show cause. In the case of Whartonby vs. Daniel, Bailey and Gilmore, the trial is still in progress, and the argument of counsel is being heard to-day. The evidence in the case yesterday was mainly to prove that there is such a person as Whartonby. It appears that he has never been seen by his counsel and is not now upon the "stage of action." The case is generally known to

our citizens, it being a suit to eject the defendants from the treet of land near this town, formerly known as the Tibbett farm, upon which the village of Clayton, the railroad tracks, depot, &c., are situated. It may be well to refresh the minds of our readers in regard to the case, so we will quote from the Commercial's report of the proceeding of yesterday: The facts in the case, briefly stated, are that the property in question belonged to one James

Tibbett, who died, leaving it by will to his son,

without issue it was to go to Thomas Wharton-

Tibbett and his sisters are all dead, without

issue. But while the land was in the posses-

sion of Richard, he made an attempt to break

the entail, which the defendants claim was a

legal and successful effort, and at any rate he,

becoming involved in debt, the property was

son of this Thomas Whartonby.

The claimant, James Whartonby, is the

sold from him at Sheriff's sale and passed into the hands of Dr. William Daniel and Mason Bailey, who yet own a portion of the tract. We will add that the entailment was broken by Richard Tibbett deeding the land to Mr. Isaac Hazel, who deeded it back to Tibbett, Hon. N. B. Smithers acting as counsel in the premises. Tibbett then sold a number of lots and the village of Clayton was started. Finally the sheriff sold the balance. There are now about fifty persons interested in the ownership.

The plaintiff is represented by Hon. James

Hon, Reverdy Johnson and Charles G. Kerr, Esq., of Baltimore. STRAWBERRIES.—Last week we tried to get the shipments of the largest strawberry growers in this vicinity, but were unable to procure many of them in time for publication then, so we deferred the matter till this week. We do

not know that we have all now, but we publish a list of all we could get, as follows: 4,889 qts., John Heitschu # acre J. R. Allee 15,000 14,135 \*\*\* \* Sainl. L. Bilderback 36.000 " .. I. G. Lapham J. W. Emerson ] } 11,700 " ..

C H. Register

6.100 \*\*

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proceed to Phila.. New York and other places, For a few little thi if necessary, for the purpose of chartering, or He has spared no e When your order is in some reliable way, arranging for a sufficient With the cream of number of steamers and tugs, large and small, And trans which a to supply all our shipping points along the wa-He has oranges, le ter front, for the transportation of our fruit to Phila., New York and other markets the pres-Figs, raising and no Whilst cakes of all

ent year." Are piled in profus Of candies the cho Messrs. J. L. Heverin, John Emerson and And toys for the ch William Townsend were appointed said com-Whilst musical ma In handsome show A motion was carried to instruct the com-Also, many more ti mission men not to pay more than 3 cents per On shelves or in co His bread is as goo basket for cartage at Jersey City. The charge, And the reason for for a few years past has been 4 cents. Why, his scings of The Executive Committee was instructed to And in pies or in c try to make arrangements to have the freight His saloon is well on peaches reduced between the different ship-And in all its appo

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The Johnson

meet;

DESTRUCTIVE WHIRLWIND .- A whirlwind of remarkable force created considerable des-

patch, wrenching and twisting the vines, passed thence into Henry L. Townsend's wheat field, and then struck a large brick barn, and passed around it to a large hay barn, a building 104 feet long. Here it commenced the work of destruction in earnest. It tore the

mington, last Sunday morning, about 8 o'clock.

The Commercial says: It crossed a tomato

fruits and vegetabl building to pieces, and leveled the very founmanufacturers or t dation walls on which it was built. It next name similar to th struck a wheat burn about sixty feet long by their purchasers as twenty wide, and completely demolished it. Thence it passed to a wheat barrack, no pormanner with us. tion of which, except the uprooted posts, has since been seen. It next struck a granary

solidly built of heavy white oak. The building

was too stout to be torn to pieces, but it lifted

it off of its foundations, moving it several feet,

and then upset a corn crib adjoining it smash-

ing beneath it a grain drill and a sleigh. also destroyed one or two other small buildings, and tore up severel large trees by the roots, and any speriors artic split in two a large locust tree standing near the only result in their house. One of the most singular and fortunate circumstances is that it passed completely around the house, without doing it the slightest damage. But the most remarkable feature of the whole affair was that, though twenty cattle were buried beneath the ruins of the

large-barn first demolished, they, all escaped

without any serious injury. In many cases

they were pinned closely to the ground by

the debris, but as fast as the wreck was lifted

from them they got out of the wilderness of

confusion around them with whole skins and

sound limbs. Mr. Z. Townsend's loss is about

\$1000. His son's loss is trifling. a quantity of co over his field. THE BOMBAY HOOK RAILROAD, as it is this plan, as he copularly called, or the Smyrna and Delaware dred blackbirds Bay Railroad, as it is technically named, has on his corn fielbeen contracted for by Chas K. Landis, of Richard Tibbett, or the heirs of his body. In priately designat Vineland fame, and President of the "Vine-land railroad." He came to this town on case he died without issue, it was to go to James Two swarms o Tibbett's daughters, and in case they died

Wednesday evening last, and on Thursday the

contract was signed, which requires the con-

struction of the road within six months from

date and thorough equipment. In the equip-

ments are to be two locomotives, to cost not

less than \$12,000 each; two passenger cars, to

cost \$5,000 each, and a smoking car to cost

rather a large number of the latter for nine

Spruance, President of the Company. Mr.

\$4,000; two turn tables and five denots:-

Landis, we believe, promises to have the road Arringdale made in running order in about ninety days. This on the Md. & D announcement was altogether unlooked for, as it was supposed the enterprise was taking a Rip Van Winkle sleep. received the ar agent on the rail ATTEMPTED SUICIDE. - On Sunday afternoon Crisfield, at a sa last Mr. James Hoffecker, living about four miles from this town, on the road leading to F. Aldridge, de

A. Bayard, Hon. Thomas F. Bayard and Hon. William G. Whiteley, and the defendants by by shooting himself with a shot gun, which he has offered a rev discharged by placing his toe against the trigfor the arrest ger whilst he held the barrel to his right side. Newton, an ac Robert Hackett The load lodged in his lungs, it is thought. He committed the act in the back yard. He was able to walk in the house. Mental de-Masseys, on the in Morgan's Cre

Carrolton Church, attempted self-destruction

rangement, from which he has been suffer-ing seriously for nearly two years, led to the act. Drs. Hirons and Meloney were called in and pronounce his case a very critical one. He for \$6,500. A was a thrifty farmer up the time of his derangement. He is now rational and regrets dle, for \$3,125. the deed.

now to be genera DEAD WEIGHTS.—The rich men of Milford, of the Bishop of as we learn from articles in Our Mutual Friend. remain permane are not only opposed to good schools but also and it is said the good churches. The Eniscopal church stands appointed to pu

# The Smyrna Times.

# Smyrna, Del.,

Wednesday Afternoon, June 21st.

THE "TIMES" is published every Wednesday afternoon by JOSEPH H. HOFFECKER, Editor and Proprietor, at Smyrna

TERMS-Sunscription-One year \$2.00 in advance, or \$2.50 is not paid till the end of the year. No paper discontinued until all arrears are paid-only at the option of the Publisher.

ADVERTISEMENTS will be inserted at the rate of Seven Cents a line for the first insertion; subsequent insertions Three-anda-half cents. A liberal discount made to quarterly, semi-an nual and yearly advertisers.

A meeting of "Union Republicans" was held in Baltimore on Thursday, and the following "recommendations" made for candidates for State officers: For Governor, the Hon. Jacob Tome, of Cecil; for Attorney General, the Hon. George A. Pearce of Alleghany; for Controller, J. Henry Sellman of Anne Arundel. The meeting also authorized the appointment of a State Central Committee. The Baltimore American opposed the movement, as antagonistic to the regular Republican organization.

RAILROAD ON DIT.-There is a current rumor hereabouts that the P. W. &. B. R. R. Company are completing negotiations for the purchase of the Maryland & Delaware Railroad. We do not know what grounds there are for the rumor except that President Hinckley and other officers of the P. W. & B. went over the M. & D. road yesterday. There seems to be an impression abroad that the M. & D. road expects to sell and that the P. W. & B. Co. expect to buy, but they cannot make the negotiation each at its own price.

MR. GREELEY AND THE DEL. GAZETTE .-The Delaware Gazette, always ready to make a point against a "Radical," particularly such a shining light a Horace Greeley, made the following statement last week:

"A good many years ago, Greeley came to Wilmington to lecture, and was paid what was then thought a high figure-we think about \$75. Mr. Greeley took the money and carefully counted it over, pointing out several notes that were one or two cents below par."

This has made Horace mad, and he comes down on the Gazette, or its editor, in his proverbially strong, homely, Anglo-Saxon style. As it is well enough to hear both sides of a question, we give the reply of Mr. Greeley:

Whoever is responsible for this story is a liar, whose baseness affords at least an excuse for the retention of the whipping-post of Delaware. We do not believe there was ever a lecture committee in Wilmington mean enoug to pay its lecturers in depreciated paper; if there ever was, Mr. G. is so fortunate as to have escaped any dealing with it.

THE DEMOCRACY OF DELAWARE -As we supposed, and as we stated last week, the Democratic press of this State as yet stands by the "dead issues." The Delawarean, in its last issue, thus gingerly refers to the subject:

"The arrivals and departures in the political world are not giving the Delaware Democracy much trouble. They are content to let each State paddle its own canoe in the fashion it deems best. Delaware still stands by the record it made in 1870 and goes in for a white man's government by white men.

For the present it doesn't matter much where it stands, or whether it stands at all or not. But wait until next year, when the National Democratic party shall erect its platform. Then the "Delaware Democracy" will have to stand up and answer to its name and we feel pretty sure that it will stand on the "New Departure" platform now being built and answer "present" in as clear a voice as any other De-

#### STATE AND LOCALS.

SHORT ITEMS, -- Wilmington rejoices because the census shows that during the past ten years it has overtaken and passed the cities of Portland. Me., Savannah, Ga., and New Bedford, Mass.

As the train was returning from Milford on Wednesday evening the engine ran over and killed four head of cattle near Georgetown

On the 15th of July the term of Col. M. W. Allen, Register of Wills, in and for Sussex co.. expires, and there are hosts of applicants for the office—Loxley R. Jacobs, Wm. Hitch, Shepard P. Houston, Nath. W. Hickman, and others.

The steamer Pilot Boy will not make any more Sunday excursions to Port Penn.

Samuel J. Wood, John Hare, Solomon Hersev, R. B. McDonnell, and Wilson Scrafton of Wilmington, are a committee appointed by the Sons of Temperance to act with a Good Templar committee, to make arrangements for the holding of a State Temperance Convention.

There were 5,984,000 lbs. of small fruit shipped over the Delaware, Phila., Wil. and Balt. R. R. during the month of May, 1871, against 2,112,000 lbs. in May, 1870. Increase 3,872,000 lbs.

Mr. A. P. Crockett, residing near Middletown, sold last week, a calf fifty two days old weighing 268 pounds.

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A Key Check for 25 cents or a stencil plate complete 60 cents, sent post paid.

Address J. E. WORDEN, Smyrna, Del.

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A woman named Pellum, of this town was put in the lockup on Monday night for disturbing the peace of Methodist and Delaware sts., whilst having a little family jar in the street with her husband, both being intoxicated.

AN EXCITEMENT ON THE STREET QUESTION. On Monday evening of last week a special meeting of the Town Commissioners was held for the purpose of opening a public street through from Methodist to North st., through the grounds of the M. E. Church, twenty feet wide. An ordinance to open such a street was passed about two years ago, and the nominal sum of about \$380 was awarded as damages to the Church, but the appropriation was rejected by the Board then in office. The matter lay darment until recently, when a few individuals, anxious for the street, and fearing the proposed improvements on the Church would prevent its being opened, donated from their private purses a sum sufficient to reimburse the town. This special meeting was called to accept the appropriation rejected by the former Board and thus secure the opening of the street. The action being of a hasty character, two of the Board, Messrs. Van Gasken and Cooper, insisted upon postponement, that the citizens might be apprised of it and a full Board act in the matter-two being absent. motion finally prevailed and a postponement was effected till Wednesday night. The Methodists, on learning of the action, next morning, & I were greatly incensed. Had the three Com- that missioners, Messrs. Jefferson, Wilds and Flick, succeeded in getting the appropriation carried and authorized the opening of the street, it would have put an end to the improvements on the Church and most likely have led to litigation in the courts, as the Trustees of the Church would have tried to procure an injunction. Some of the largest subscribers to the Church fund insisted on withdrawing their subscriptions. On Wednesday evening a motion was made to repeal the ordinance, which was defeated by a tie vote, Voshell, Van Gasken and Cooper in the affirmative, Mr. Sharp

The improvements on the Church will take up about ten feet of the twenty between the Church and the parsonage and the design on the part of the negative Commissioners seems to have been to provide for the opening of the street before the plans for the Church were definitely formed, on Tuesday. The proposed street would be but an alley at best, and to have stopped the Church improvement and thus discommode five hundred persons, for the sake of an alley that could benefit but few, would have been against the wishes of perhaps seven-eights of the citizens of the town. Evidently the Commissioners who wanted the street overlooked the fact that they are merely representatives of the town when acting in an official capacity; and it is also evident that they were aware that they were not representing the town, else they would hardly have acted so stealthily to accomplish their personal de-

U. S. CIRCUIT COURT.—Richard Mitchell vs. Worden & Evans, and James Whartonby vs. Dr. Wm. Daniel, Mason Bailey and James Gilmore.-The U. S. Circuit Court, Judge Strong on the Bench, convened in Wilmington yesterday (Tuesday) when the two cases named above were brought to trial.

In the case of Richard Mitchell vs. Worden & Evans, for an alleged infringement of a combination patent on an improved peach basket, the counsel for plaintiff, Mr. Massey, asked the court to postpone the hearing of the case. The counsel for defendants, Richard Harrington. objected, and insisted on a hearing at once. The court named Tuesday, peremptorily, for a hearing. Subsequently, the plaintiff's counsel

lischarged the rule to show cause. In the case of Whartonby vs. Daniel, Bailey, and Gilmore, the trial is still in progress, and the argument of counsel is being heard to-day. The evidence in the case yesterday was mainly to prove that there is such a person as Whartonby. It appears that he has never been seen by his counsel and is not now upon the "stage of action." The case is generally known to our citizens, it being a suit to eject the defendants from the treet of land near this town, formerly known as the Tibbett farm, upon which the village of Clayton, the railroad tracks, depot, &c., are situated. It may be well to refresh the minds of our readers in regard to the case, so we will quote from the Commercial's report of the proceeding of yesterday:

The facts in the case, briefly stated, are that the property in question belonged to one James Tibbett, who died, leaving it by will to his son, Richard Tibbett, or the heirs of his body. In We learn that the body of a dead man was Tibbett's daughters, and in case they died land

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Snyma June 11,1811

fuses to speak of it itself and trues to beg us [ Pady, vies . 11. Difficulti of Lieu I of L. not to. When it shall have been "whipped in" it will doubtless keep its readers posted on to it about the whipping post, unless we are propagate it. kept busy in exposing the jail job, about which it is a's) mum.

THE BAILEY-DANIELS-WHARTONBY LAND SUIT .-- Elsewhere we give a synopsis of the opinion of Judge Strong in the Clayton land suit, in which he instructed the jury to return a verdict that Mason Bailey, Dr. Wm. Daniel and Mr. Gilmore. (the tenant on the farm) are tresspassers; in other words, that Jas. Whartonby is the lawful owner of the land. This result was unlooked for; indeed, two years ago or more, when the suit was first talked of, it was looked upon as a huge joke by most of our citizens, or the merest vagary on the part of a man or a myth. Notwithstanding the title was not as clear as it might have been, it was not bad enough to frighten persons much who wanted to buy. No one knew that the heir or heirs were still surviving. Mr. Tibbett, an old man of not very strong mind, gave the right of way to the railroad company in 1851-2 through his farm, and also donated additional lands to the company for a depot. This (the railroad) made his otherwise poor land valuable, and covetous purchasers became numerous. Some bought regardless of the title, but many held off until the entailment was broken, or supposed to be, in 1853. Mr. Tibbett, elated at his prospective fortune, commenced living fast, and the faster he sold lots the faster he lived, until he became involved and died insolvent in 1862. The property, about 150 acres remaining. then fell under the Sheriff's hammer and was sold shortly after his death by Sheriff Emerson, to the defendants in the soit, Messrs. Bailey and Daniels, for about 85000. Having secured a certified deed for the farm the purchasers felt secure in their ownership, as did also those who purchased of "Dickey" in person. Lots were sold without questioning the title in many instances, and Clayton, or Smyrna Depot, as it was at that time known, thrived apace. Years passed on and no one coming forward to molest or make the Claytonians afraid, what little quibble had prevailed about the title was lost sight of. In 1869, when it was announced that a man was claiming Clayton as his inheritance men smiled and the holders of deeds looked upon them reliantly. But deeds, whether from sheriff or individual, are now of no avail, and Mr. Whartonby takes the lands of twenty or thirty would-be possessors, together with all the improvements put the same by their industry and resources They have increased the value of the estate to \$100,000 it is estimated, many having all they are worth in the property. The names of the owners, as far as we can get them, are as follows: John P. Reese, Patrick Maguire, Tilghman Foxwell, John W. Thomas, Adams Mahood, Sam'l Catts, Daniel Thompson, Geo. Whitlock, Tuos. Lamb, Del. R. R. Co., Mrs. Clifton's heirs, Thos. Buckmaster, Mrs. Chiffins, R. B. Garman, J. P. Lattomus, M. & D. R. R. Co., S. J. Garmon, E. Spruance, M. P. Church, &c.

The possessions of some of these parties are worth from \$10,000 to \$15,000, and from that to \$500. We have given the names in the order of their possessions, as nearly as possible. There are about 200 acres that come into Mr. Whartonby's possession, which includes all the the town of Clayton and the farm of the decourse all the mortgages and other liens on the property are now worthless, and the result of the suit may bring about some strange compli-

There are several rumors concerning Mr. Whartonby, which we give for what they are worth. One is that he is worth \$3,000,000, and does not attach much value to the estate himself, and only desires that his two sisters shall come into possession of its revenue. He is said to be the president of a mining company. Another is that he is comparatively poor and is anxious to get possession of his estate.

The Democrats of Maine and California have

A gentleman near Easton has grown a peach this year that ripened on the 234 inst.-three weeks earlier and one-third larger than the and two pieces of comb. On one of the shirts party movements. Then we can find time to talk Hales. It is a seedling tree and he is going to

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Mr. Jas. Hoffecker, who shot himself Sun-day week, died on Wednesday evening last. His rash act to take his life made him rational for the three days he lived, and he died regretting the deed.

The steamer Pilot Boy will commence running between Philadelphia and Spruance's new Landing, on Bombay Hook Island, on July 5th, and thereafter make round trips on Wednesdays and Saturdays. See advertisement.

We have received the "State Normal School Advocate," issued by Prof. J. C. Harkness, of Wilmington, and publish from its pages the fith annual report of the State Normal School. See first page.

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Mrs. Ann Windall, aged 84, died near Serverson's Charch, four miles from this town, last week. She had been a woman of more than ordinary force and energy during the active years of her life, and enjoyed the esteem of hosts of friends. Thrice married, her children, grandchildren and great grandchildren numbered one hundred and thirty-five.

THE PENINSULAR ACADEMY FOR BOYS. The Commission authorized by the M. E. Conference to select a site for the proposed Methodist Church Academy for Boys, met in Wilmington on Wednesday afternoon last and voted to locate at Dover. The whole number of the Commission was 26, of which 21 were Six ballots were had, a two-third vote (14) being necessary to a choice. ballots were as follows:

5th I6th. Dover, 18 Smyrna, Port Deposit, Elkton. The vote was then made unanimous.

At the last ballot the friends of Smyrna voted for Dover. Mr. Mallalieu, of Millington, who voted steady for Smyrna, before retiring from the meeting, give a subscription of \$250, with a promise to do more when requird. The inducements offered by Dover were fifteen acres of land and \$500 by Mr. Thos. II. Denney, and \$11,420 in subscriptions, making its donations equal in value to about \$20,000. About \$80,000 is wanted in addition to put the institution on a firm foundation. The Commission adjourned inspirited and hopeful of success, leaving to the Confendants adjoining. There seems to be no dis- ference Executive Committee the further work dants adjoining. There seems to be no dis-sition to take the case to a higher court. Of ganization has been ordered to be printed for circulation.

THE RAILROAD EXCURSIONISTS have made their trip over the various roads of the l'eninsula and gone home. During their tour they visited Chestertown, Centreville, Easton, Milford, Lewes, Cambridge, Berlin, &c. The cating, sleeping and cooking arrangements on their train were on the most liberal scale, and wine and wit flowed in profusion. Their train ran from Milford to Lewes, 16 miles in just filteen minutes. The following gentlemen were on the train to Lewes: Issue Hinckly, President on the train to Lewes: Isaac Hinckly, President of the P. W. & B. R. R; Bayard Taylor, of Kennet Square; Robert Morris Copeland of Boston; Dr. Wistar, of Philadelphia; Lemuel and Wni. Showel, Gen. Tilghman, M. J. Henry, Dr. Pitts, and J. S. Sudler, of Md.; J. P. Comegys and Manlove Hays, of Dover; the "New Departure" grounds of the Ohio Democracy.

J. F. Comegys and Manlove Hays, of Dover; II. B. Fiddeman, and C. S. Watson, of Millor Complete 60 cents, sent post paid.

Thursday evening.

WANTED immediately Elmand Popular timber; complete 60 cents, sent post paid.

Address J. E. Worden, Smyrna, Del.

Commander John Waiters, Lawrence In the envelope was the likeness of a young lady was the name Abraham -ylor supposed to be Taylor, part of the last name being torn out. These articles are in possession of Mr Benson, the light-keeper.

BURNT TO DEATH-Another Victim to the Careless use of Kerosene, -Mrs. Shannon, wife f Mr. Shannon, and doughter of Capt. Grace, living at Barker's Landing in this county, on Sunday afternoon week attempted to light a are for the purpose of getting supper, but the wood being damp and not burning off as quicky as required, she attempted to hasten combustion by pouring on some kerosene. result was a fearful explosion and Mrs. Shannon found herself instantly enveloped in a sheet of flame. She ran out of doors, when a neighbor, who was at some distance, ran to her and by throwing bed covers over her, managed, with other assistance that was soon at hand, in extinguishing the fire, both on the person of Mrs. Shannon and in the house. Mrs. S. was frightfully burned. Death put an end to her sufferings on Monday evening. The stove in which the fire was being built was broken up by the explosion .- Delawarean.

THE LIGHTNING .- During the thunderstorm which passed over this town about noon on Saturday, the lightning struck the ground in front of Worden & Evans' mill, scattering the dirt in all directions, and making a small hole in the street near the railroad track. bark was also torn from a tree in tront of Rev. Mr. Kennedy's residence, near by. A vessel at the Landing, the Barer, belonging to Mr. J. II. Bewley, was also struck and the mast completely splinted from top to bottom, but no other injury was done save the parting of a small rope. The splinters from the mast of a small rope. were thrown a considerable distance, and though in a riddled condition it is still standing. The smoke came from the hold of the vessel in a great volume and it was supposed to be on fire, but no damage was done below the deck. It will require about \$125 to replace the mast.

SMYRNA SEMINARY.—The annual examinations at the Seminary are taking place this week. The patrons and friends of the institution are earnestly invited to be present at any time during the week that may suit their con-The visiting committee of the Wilmington conference, Revs. 11. S. Thompson and h L. Tomkinson are expected to be present to-day and to-morrow. The closing exercises, consisting of declamations, essays, read ings, &c., intersperced with vocal music, will take place in the Town Hall on Friday evening next 30th inst. Rev. Geo. A. Phoebus, A. M. of Easton, Md., will also make an address in the interests of Education. Altogether the occasion promises to be one of unusual interest. The public are cordially invited. Doors open at 71 o'clock.

DELAWARE COLLEGE. -The examination at Delaware College will take place next Thurs-day, Friday and Monday. The annual meeting of the Trustees will be held on the fourta proximo. In the evening the Athenceum Literary Society will celebrate its anniversary, when an oration will be delivered by Rev. J. Halsted Carroll, D. D. On the 5th the conmencement exercises will take place, and addresses will be delivered by Hon. Thomas Bayard, Rev. Thomas L. Poulson, Rev. Leighton McKim, and others. There will be a meeting of the Alumni Association at three o'clock, P. M. At eight, P. M., the anniversary of the Delta Phi Literary Association will be celebrated, and addresses will be made by Elias S. Reed, Esq., and Rev. Robert II. Williams. There will be music by the Citizen's Cornet Band and the College Band.

A HOAX, DOUBTLESS, -An article copied from the San Franci-co Call is going the rounds, stating that a man by the name of Fisher, a Delawarean, had been discovered confined in the prison of that city, upon a charge of drunkenness, who was heir to a fortune in this State amounting to \$150,000 that had for years gone begging for want of said heir. hereabouts that would know if there was any truth in the story of a fortune awaiting the lost heir, consider it a mere invention of a Califor-nia reporter.—Delawareun.

THE INJUSTICE OF THE STATE TAX ON PASSENGERS.—"A young lady of Wilmington, who teaches school at Ellerslie station, just above this city, goes thither and returns daily, by the railroad. For her convenience the railroad company charges her ten cents each way, but the State of Delaware adds tencents more, each way, as the upon her. Her State tax, therefore, for the privilege of traveling from Wilmington to Ellerslie, and returning, is twenty cents per day, or at the rate, (counting 310 working days) of sixty-too dollars per annum." - Wil. Commercial.

at the time Richard Tibbettl to. the remainder in tee to his child o When Richard died, there was n

be sold, and the purchasers, the Whartonby had an estate to take t of Richard Tibbett to have lawle without lawful children. The till lames Wharlonby and therefore for the plaintiff.

The jury without retiring rene William Daniels, Mason Badey are trespassers—a verdict in favor Hon. Reverdy Johnson asked exception, which was agreed to.

WESLEYAN COLLEGE eighth annual alumnae meeti emale College, Wilmingto Wednesday evening, when to old graduates of the Co.lege exercises. The following prothrough with, after singing b and prayer by Rev. Mr. Lig instrumental)-" Battle Cr Miss F. P. A. Melntire, Wi tary's Report, Mrs. Annie M delphia; Solo (vocal)—" I a ra, 'Miss Sallie R. William Essay, "Lakes of Cumberla A. Jackson, Evanston, Ill.; Roam Throu' Forest Shades; and Rights," Miss Sue R. G Solo [instrumental] Miserere McIntire, Wilmington; Ess and Then to Do," Miss Man and Then to Do," Miss Mar mington; Duett, "Singing I ma Lore Lodge and Mrs. S. Del.; Memoirs of Sadie A and Emma Best Griffith, by Chubb, of Philadelphia; S Nacht, Miss Emily D. B Pa.; Benediction by the B Duties If the essay on Commercial says: The ess against Woman's lights, males claiming the right they are not fitted for it is question was ably discussed porting her statements wit soning as could be brought to of such a position." The of such a position. officers of the Alumna for Mattie Shenk Horr, South Vice President—Lilly T. ( Mass.; Cor. Secretary—Ai Philadelphia; Rec. Secret: Chubb, Philadelphia; Treas Smyrna, Del.

THE GRADUATES OF WI COLLEGE. -The "commen of Wos'eyan Female College held last Thursday, when t graduated. The names of the titles of their essays wer Annie W. Hill, daughter of of Wilmington, delivered the gie Boddy, of Wilmington, Rest;" Miss Mary Pecky, Three Grand Masters of Lidia K. McVeigh, of Phi Bunyan;" Miss Mary E. B "The Culture of Phi da Covington, of North Burr, of Wilmington, "Travel;" Miss Annie Elli Pa., "The Poet's Influence Norcuss, of Boston Mass. Miss Carrie Perkins,
Miss Clara C "Cowper;" Miss Clara (ristown Pa., "The Beauty Miss Almeda E. Day, dar Day, of Dover, "Our Light a touching and almost elo The twelve gr Address. in line on the platto Wilson presented them addressed the class in a words, urging them to mal tages they enjoyed, to be and then bade them good

M. E. CHURCH IMPROV and specifications for the the M. E. Church in this hands of the building con this week. The specific published in the Times of ers who desire to make pr to take note of this, so as said proposals as soon a publication of the specific mittee are anxious to hav ed and finished in the f passing. Builders who d sale for the work can office of J. H. Bewley, o the 30th inst.

There will be a meetin mittee Friday evening, 3 the Parsonage.

# The Smyrna Times.

Smyrna, Del.,

Wednesday Afternoon, June 28th.

THE "T MES" is published every Wednesday afternoon by Joseph H. Hoffscker, Elitor and Proprietor, at Sugara

TERMS - Supscription-One year \$5.00 in advance, or \$2.50 if not paid till the end of the year. No paper discontinued until all arrears are paid souly at the option of the Publisher.

A DVERTISEMENTS will be inserted at the rate of Second ent-aline for the first insertion; subsequent insertions Three-anda-half cents. A liberal discount made to quarterly, semi-an nual and yearly advertisers.

Thus far two Democratic papers on the Eastern Shore have come out infavor of the " New Departure," the Cambridge Chronicle and the Bachelor, published at Salisbury. The most of them, however, are mum, like their cotemporaries of this State. But the Easton Star is fighting it strong, and sees as much danger in it as there was in 1860 when Douglass promulgated his "squatter sovereignty" doctrine and bursted up the Charleston Convention.

THE TOUR OF THE RAILROAD MEN.-The excursion over the various railroads of the Peninsula last week was for the purpose of giving Bayard Taylor such information as he desired to "write it up" for Harper's Magazine for August. Such was the information given to a gentleman of this town by Supt. Kenney. An artist accompanied the excursionists, so that both the pencil and the pen will be brought into service to show up this fertile region, which is now attracting so much attention from the country at large.

NEW DEPARTURE.-The Wilmington Commercial and Smyrna Times are giving themselves unnecessary trouble about the future position of the Delaware Democracy. We advise them to keep calm, their attachment to Sambo will not be disturbed. But really have they not taken a new departure? Have they abandoned the whipping post? We have heard but little from them on that grave question for some time. Talk to us, gentlemen, about the whipping-post, that is your happiest theme. - Delawarean.

The New Departure is evidently troubling the Saulsbury organ very seriously when it refuses to speak of it itself and tries to beg us pany, vice Mr. Sinclair of New York. not to. When it shall have been "whipped in" it will doubtless keep its readers posted on party movements. Then we can find time to talk to it about the whipping post, unless we are kept busy in exposing the jail job. about which it is a's) mum.

THE BAILEY-DANIELS-WHARTONBY LAND SUIT .-- Elsewhere we give a synopsis of the opinion of Judge Strong in the Clayton land suit, in which he instructed the jury to return a verdict that Mason Bailey, Dr. Wm. Daniel and Mr. Gilmore, (the tenant on the farm) are tresspassers; in other words, that Jas. Whartonby is the lawful owner of the land. This result was unlooked for; indeed, two years ago or more, when the suit was first talked of, it cars off the track. was looked upon as a huge joke by most of our citizens, or the merest vagary on the part of a man or a myth. Notwithstanding the title was for the three days he lived, and he died regretnot as clear as it might have been, it was not ting the deed. bad enough to frighten persons much who wanted to buy. No one knew that the heir or ning between Philadelphia and Spruance's new heirs were still surviving. Mr. Tibbett, an old Landing, on Bombay Hook Island, on July man of not very strong mind, gave the right of 5th, and thereafter make round trips on Wedway to the railroad company in 1851-2 through his farm, and also donated additional lands to the company for a depot. This (the railroad) made his otherwise poor land valuable, and covetous purchasers became numerous. Some bought regardless of the title, but many held off until the entailment was broken, or supposed to be, in 1853. Mr. Tibbett, elated at his prospective fortune, commenced living fast, and the faster he sold lots the faster he lived. until he became involved and died insolvent in 1862. The property, about 150 acres remaining. then fell under the Sheriff's hammer and was sold shortly after his death by Sheriff Emerson, to the defendants in the suit, Messrs. Bailey and Daniels, for about \$5000. Having secured a certified deed for the farm the purchasers felt secure in their ownership, as did also those who purchased of "Dickey" in person. Lots were sold without questioning the title in many instances, and Clayton, or Smyrna Depot, as it are at least three-quarters of an inch in thick-

### STATE AND LOCALS.

The civil engineers commenced the survey of the Bombay Hook railroad yesterday.

Harrington makes an excursion to Lewes on the 4th, for benefit of its M. E. Parsonage.

Red Lion Camp Meeting commences in Moore's Woods, August 19th.

Miss May Chapman is lecturing on phrenology in Wilmington. The Milford Matual Friend suggests that a

State Educational Convention be held in Wilmington next Fall. A party of gentlemen of this town are about

hartering a vessel for a sail down to the Cape May regatta. The E. Zion M. E. Sabbath School of

Bombay Hook to-morrow. The Second Baptist Sabbath School of Wilnington will make an excursion to Spruance

Wilmington (colored) make an excursion to

Beach on the 3d -- Monday. The Milford Fruit Preserving Company rejuires 2,500 bushels of fruit or vegetables per

week to keep them busy. The Delawareau calls the proposed construction of the Bombay Hook railroad a "good

The splendid horse Admiral Patchen, be-onging to James V. Jefferis of Brandywine Hundred died a few days ago.

Robert Betty, who occupies the farm of Mrs. Cleland in Christiana Hundred, has two cows at this time which have twin calves,

J. B. Deakyne, confectioner, Middletown, is selling off at cost, preparatory to moving to his farm in Appoquimmink.

Rev. Mr. Clymer, of this town, expects to go to Round Lake camp meeting on the 5th prox.

Baltimore hundred has the monster snake; some say 75 feet lone, others, 45, but all agree

that it is huge. A brass band has been organized in Middletown out of part of the old Diamond State

band of that town and parts of the Odessa and Townsend bands, which have disbanded. On Sunday week, Joshua Perrickson of Baltimore hundred lost a fine young mare. was driving her and she fell in the road and

broke her neck. Last week Pratt's System was tried on a baulking horse in Georgetown. The horse was put to harness but went only a mile or so and

fell dead in the road. At the meeting of the J. & B. R. R. Co., held at Milford on Wednesday, Mr. Voss of that place was elected Treasurer of the Com-

A gentleman near Easton has grown a peach this year that ripened on the 23d inst .- three weeks earlier and one-third larger than the Hales. It is a seedling tree and he is going to

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AMUSEMENTS .- The Bell Ringers' enterta'nment, Monday evening, was one of the best ever given in this town. As fine a quartet is seldom heard any where-eity or country.

St. Pauls M. E. Sunday School, accompanied by the Amphion Band of New Castle, are enjoying themselves at Collin's Beach to-day. To-merrow the Episcopal Sunday School of this town hold a, pie-nic in Dr. Mahon's ("Cloaks's") woods, and the Hillsborough M. E. Sunday School make an excursion to Oxford, from Clayton.

The M. E. Sunday School of this town have decided to hold a pic-nic in Hill's wood's, four miles from town on the 4th of July-next Tuesday.

There is also to be an excursion from Clayton to Oxford on the 4th, to witness the re-

The closing exercises of Smyrna Seminary are to be held in the Town Hall Friday even ing next. Rev. G. A. Phoebus of Easton is to deliver an address.

There will be no especial observance of the 4th in this town, save a suspension of business. The Sunday Schools of Dover make an excursion to Lewes to day.

THE JUNCTION & BREAKWATER R. R.-There seems to be considerable dissatisfaction among the people in Sussex in regard to the management or contemplated management of the J. & B. R. R. "Ways that are dark" are on the tapis, a seems. The Millord Mataul

Friend Says: "We have reason to believe that there are influences at work, which, if not carefully watched, will hand the road over to a corporation whose interest it will be to divert it entirely from its original design, and make it subservient to those whose interests are inimical to a New York water connection. The spirit of petry jealousy and the policy of certain parties to whom the stockholders unwisely committed their interests is very provoking. is very certain, the pleayone policy was tried and failed, and the only hope, for success was to stock the road and put it in a condition for business. Is this to be thwarted? It so, at whose instigation?

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THE LIGHTNING .- During the thunderstorm which passed over this town about noon on Saturday, the lightning struck the ground in front of Worden & Evans' mill, scattering the dirt in all directions, and making a small hole in the street near the railroad track. The bark was also torn from a tree in front of Rev. Mr. Kennedy's residence, near by. A vessel at the Landing, the Barer, belonging to Mr. J. H. Bewley, was also struck and the mast completely splinted from top to bottom, but no other injury was done save the parting of a small rope. The splinters from the mast were thrown a considerable distance, and though in a riddled condition it is still standing. The smoke came from the hold of the vessel in a great volume and it was supposed to be on fire, but no damage was done below the deck. It will require about \$125 to replace the mast.

SMYRNA SEMINARY, -The annual examinations at the Seminary are taking place this week. The patrons and friends of the institution are earnestly invited to be present at any time during the week that may suit their con-venience. The visiting committee of the Wilwas at that time known, thrived apace. Years passed on and no one coming forward to molest or make the Claytonians afraid, what little last week. She had been a woman of more cises, consisting of declamations, essays, readon or liency faces and energy during the new ings, &c., intersperced with vocal music, will take

THE CLAYFON LAND CAS the trial before the U. S. Wilmington, last week, in the by rs. Bailey, Daniels and C was the lawful owner of the Clayton is situated, terminat the plaintiff, Whartonby. Th Strong, as we find it in the W

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of this will. What was the inte After having bequeathed certain made the following disposition rest and residue of my estate, be of what wer kind and nature so Richard Tibbett during his nat death to his issue-to children his body-und such issue, their ever. In case my son Richard Issue, then to my wife Elizabe Sarah and sister Rebecca dur each, and after the r leaths to J of Thomas Whar only, of the Richard died before the comme that he was never married and It is agreed that Eliza Sarah and Repecca died below of this suit; also that James V identical person hamed to this villeburd. Tibbett take under t An executory devise must take of the life of the being when within twenty one years there required for justation. He is Tibbett the residue of his esta but, he give the remainder to folly begotten of his body. The will is ordinarily a word of him of "purchase," that they shall body, which includes all living

It is a rule of law, that who deed, an estate or treahold is hi the same deed or will contain on -the heirs of his body -the wo limitation and not purchase, the word " issue " means child chase;" and that the testator ! words of the will must be plain be taken in their legal meaning must stand. The will contains conflict with the legal meaning will we have two express deliintention that the issue shall They overcome the legal use of the body " or " issue of the bod defined individuals, and those i begotten by Richard Tibbett body. Therefore the testator hi he means. He has defined " in children. He devised a life est at the time Richard Tibbetti

the remainder in fee to his chi When Richard died, there w be sold, and the quirchasers, ease, took nothing under the Whartonby had an estate to to of Richard Trobbett to have by without lawful children. To James Whartonby and thereis for the plaintiff.

The jury without retiring William Daniels, Mason Bar are trespassers—a verdict in f Hon. Reverly Johnson as

WESLEYAN COLLEG eighth annual alumnae n Female College, Wilmin Wednesday evening, who old graduates of the Co.l exercises. The following through with, after singi and prayer by Rev. Mr. (instrumental) -" Battle Miss F. P. A. MeIntire delphia; Solo (vocal) — ra, 'Miss Sallie R. Wil Essay, 'Lakes of Can A. Jackson, Evanston, Roam Throu' Forest Sh and Rights," Miss Sue Solo [instrumental] Mi McIntire, Wilmington; and Then to Do," Mis mington; Duett, "Sim ma Lore Lodge and Mr Del.; Memoirs of Sa pel.; Memors of Sa and Emma Best Griffit Chubb, of Philadelph Nacht, Miss Emily Pa.; Benediction by Of the essay on "I Commercial says; T against Woman's Ri males claiming the they are not fitted fo question was ably disporting her statemen soning as could be bre of such a position, officers of the Alum Mattie Shenk Herr, ice President -- Lilly Mass.; Cor. Secreta Philadelphia; Rec. Chubb, Philadelphia;

THE GRADUATES

Smyrna, Del.

Will Tenal
June 78,187

# The Smyrna Times.

# Smyrna, Del.,

Wednesday Afternoon, June 28th.

THE "TIMES" is published every Wednesday afternoon by JOSEPH H. HOFFECKER, Editor and Proprietor, at Smyrua

TERMS-SUBSCRIPTION-One year \$2.00 in advance, or \$2.50 if not pair till the end of the year. No paper discontinued until all arrears are paid -only at the option of the Publisher.

ADVERTISEMENTS will be inserted at the rate of Seven Cents aline forthe first insertion; subsequent insertions Three-anda-half cents. A liberal discount made to quarterly, semi-an nual and yearly advertisers.

Thus far two Democratic papers on the Eastern Shore have come out in favor of the "New Departure," the Cambridge Chronicle and the Buchelor, published at Salisbury. The most of them, however, are mum, like their cotemporaries of this State. But the Easton Star is fighting it strong, and sees as much danger in it as there was in 1860 when Douglass promulgated his "squatter sovereignty" doctrine and bursted up the Charleston Convention.

THE TOUR OF THE RAILROAD MEN. - The excursion over the various railroads of the Peninsula last week was for the purpose of giving Bayard Taylor such information as he desired to "write it up" for Harper's Magazine for August. Such was the information given to a gentleman of this town by Supt. Kenney. An artist accompanied the excursionists, so that both the pencil and the pen will be brought into service to show up this fertile region, which is now attracting so much attention from the country at large.

NEW DEPARTURE. - The Wilmington Commercial and Smyrna Times are giving themselves unnecessary trouble about the future position of the Delaware Democracy. We advise them to keep calm, their attachment to Sambo will not be disturbed. But really have they not taken a new departure? Have they abandoned the whipping-post? We have heard but little from them on that grave question for some time. Talk to us, gentlemen, about the whipping-post, that is your happiest theme.—Delawarean.

The New Departure is evidently troubling the Saulsbury organ very seriously when it refuses to speak of it itself and tries to beg us not to. When it shall have been "whipped in" it will doubtless keep its readers posted on party movements. Then we can find time to talk to it about the whipping post, unless we are kept busy in exposing the jail job, about which it is a so mum.

THE BAILEY-DANIELS-WHARTONBY LAND Suit Elsewhere we give a synopsis of the opinion of Judge Strong in the Clayton land suit, in which he instructed the jury to return a verdict that Mason Bailey, Dr. Wm. Daniel

### STATE AND LOCALS.

The civil engineers commenced the survey of the Bombay Hook railroad yesterday.

Harrington makes an excursion to Lewes on the 4th, for benefit of its M. E. Parsonage.

Red Lion Camp Meeting commences in Moore's Woods, August 10th.

Miss May Chapman is lecturing on phrenology in Wilmington.

The Milford Mutual Friend suggests that a State Educational Convention be held in Wilmington next Fall.

A party of gentlemen of this town are about chartering a vessel for a sail down to the Cape May regatta.

The E. Zion M. E. Sabbath School of Wilmington (colored) make an excursion to Bombay Hook to-morrow.

The Second Baptist Sabbath School of Wilmington will make an excursion to Spruance's Beach on the 3d-Monday.

The Milford Fruit Preserving Company requires 2,500 bushels of fruit or vegetables per week to keep them busy.

The Delawarran calls the proposed construction of the Bombay Hook railroad a "good

The splendid horse Admiral Patchen, belonging to James V. Jefferis of Brandywine Hundred died a few days ago.

Robert Betty, who occupies the farm of Mrs. Cleland in Christiana Hundred, has two cows at this time which have twin calves.

J. B. Deakyne, confectioner, Middletown, is selling off at cost, preparatory to moving to his farm in Appoquinimink.

Rev. Mr. Clymer, of this town, expects to go to Round Lake camp meeting on the 5th prox.

Baltimore hundred has the monster snake; some say 75 feet long, others, 45, but all agree that it is huge.

A brass band has been organized in Middletown out of part of the old Diamond State band of that town and parts of the Odessa and Townsend bands, which have disbanded.

On Sunday week, Joshua Derrickson of Baltimore hundred lost a fine young mare. was driving her and she fell in the road and broke her neck.

Last week Pratt's System was tried on a baulking horse in Georgetown. The horse was put to harness but went only a mile or so and fell dead in the road.

At the meeting of the J. & B. R. R. Co., held at Milford on Wednesday, Mr. Voss of that place was elected Treasurer of the Company, vice Mr. Sinclair of New York.

A gentleman near Easton has grown a peach this year that ripened on the 23d inst.—three weeks earlier and one-third larger than the Hales. It is a seedling tree and he is going to propagate it.

Last week, whilst a Mrs. McDaniel, of California, was on a visit to New Castle county, among the friends of her youth, she received intelligence that her daughter had been murdered in her California home.

A Mrs. Holland, of Phila., was taken from the cars at Wilmington depot, one day last week, and carried to a house near by, where are for t Ishe immediately became the mother of the

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> Burn Careless of Mr. S living at Sunday

the light

AMUSEMENTS.—The Bell Ringers' entertainment, Monday evening, was one of the best ever given in this town. As fine a quartet is seldom heard any where—city or country.

St. Pauls M. E. Sunday School, accompanied by the Amphion Band of New Castle, are enjoying themselves at Collin's Beach to-day.

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To-morrow the Episcopal Sunday School of this town hold a pic-nic in Dr. Mahon's ("Cloaks's") woods, and the Hillsborough M. E. Sunday School make an excursion to Oxford, from Clayton.

The M. E. Sunday School of this town have decided to hold a pic-nic in Hill's wood's, four miles from town on the 4th of July—next Tuesday.

There is also to be an excursion from Clayton to Oxford on the 4th, to witness the regatta.

The closing exercises of Smyrna Seminary are to be held in the Town Hall Friday evening next. Rev. G. A. Phoebus of Easton is to deliver an address.

There will be no especial observance of the 4th in this town, save a suspension of business.

The Sunday Schools of Dover make an excursion to Lewes to day.

THE JUNCTION & BREAKWATER R. R.-There seems to be considerable dissatisfaction among the people in Sussex in regard to the management or contemplated management of the J. & B. R. R. "Ways that are dark' are on the tapis, it seems. The Milford Mutual Friend says:

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THE CLAYTON LAND CASE.—The result of the trial before the U.S. Circuit Court, in Wilmington, last week, in the case of Whartonby vs. Bailey, Daniels and Gilmore, as to who was the lawful owner of the lands upon which Clayton is situated, terminated in a verdict for the plaintiff, Whartonby. The charge of Judge Strong, as we find it in the Wilmington papers, was as follows:

"It is only a question of law involved. The responsibility of the decision rests upon me. If I be in error, there is a mode of correcting my mistake. This is an action of injunction. It is a ruit brought by Jas. Whartonby against Mason Bailey and the tenant James Gilmore, to obtain possession of land in Duck Creek Hundred, Kent County, State of Delawareabout 50 or 60 acres. Both of these parties claim title to the land under the same person-James Tibbett. It is not necessary to trace the title to the land any further back than to James Tibbitt. Shortly before his death he made his will disposing of his property. A few legacies were made This will was duly proven 25th of March, 1826, and letters granted Richard Tibbett, son of the testator, who was executor. Out of this will, the controversy in this case

It is necessary to carefully examine the provisions of this will. What was the intention of the testator? After having bequeathed cortain legacies, the testator made the following disposition of the estate- The rest and residue of my estate, both real and personal, of whatever kind and nature soever, I give to my son Richard Tibbett during his natural life, and after his death to his issue-to children lawfully begotten of his body—and such issue, their heirs and assigns forever. In case my son Richard die without Inwful issue, then to my wife Elizabeth Tibbett, my sister Sarah and sister Rebecca during he natural life of each, and after their deaths to James Whartonby, son of Thomas Wharlonby, of the city of Philadelphia, his heirs and assigns forever.' It is proven that Richard died before the commencement of this suit; that he was never married and never had any lawful issue It is agreed that Elizabeth and his sisters Sarah and Rebecca died before the commencement of this suit; also, that James Whartonby is the lawful son of Thomas Waartonby of Philadelphia,-the identical person named in this will. What estate did Richard Tibbett take under the will of his father? An executory devise must take effect in the enjoyment of the life of the being when the devise is made or within twenty one years thereafter, and a short time required for justation. He not only gave Richard Tibbett the residue of his estate during natural life; but, he gave the remainder to the issue of his lawfully begotten of his body. The word "issue" in a will is ordinarily a word of limitation and not a word of "purchase," that they shall take as heirs of the body, which includes all living descendants.

It is a rule of law, that where, either by will or deed, an estate or freehold is limited to a person, and the same deed or will contains a limitation to his heirs. -the heirs of his body-the word heirs is a word of limitation and not purchase. It is argued here that the word " issue " means children; that it is " purchase;" and that the testator has so defined it. The words of the will must be plainly shown, or they will be taken in their legal meaning. The legal inference must stand. The will contains only one expression in conflict with the legal meaning of the words. In the will we have two express definitions of the testators intention that the issue shall take as purchasers. They overcome the legal use of the words " heirs of the body" or " issue of the body." The testator has defined individuals, and those individuals are persons begotten by Richard Tibbett himself, of his own body. Therefore the testator has given a clue to what he means. He has defined "issue" to mean child or children. He devised a life estate to persons in being at the time Richard Tibbettl took a life estate with the remainder in fee to his child or children

When Richard died, there was no interest that could be sold, and the purchasers, the defendants in this case, took nothing under that purchase. James Whartonby had an estate to take effect on the failure of Richard Tibbett to have lawful issue—that means without lawful children. The title to this land is in James Whartonby and therefore your verdict will be for the plaintiff.

The jury without retiring rendered a vordict that William Daniels, Mason Bailey and James Gilmore are trespossers-a verdict in favor of plaintiff.

Hon. Reverdy Johnson asked leave to tender an exception, which was agreed to.

COLLEGE ALUMNAE. -The WESLEYAN

## School Va

The ci Mr. Editor: public schools of our tow in the year, seems to be a teacher has faithfully duty for ten consecutive ciently jaded, and fagger two months recreation as such a teacher he should tion. The nature of the similar to that of any ot acter-his services are va for the time and quality manner of the service 1 important work should school room and of school might be said on this tor As to the keeping of sma the school room five or s hottest season in the y often without backs, wit between the seats and flo el. I had almost said parent visit any of our pr amine the accommodat these helpless little ones, he could endura such to simply answer he would our school commissione schools promptly closed k not allow them to be open within the knowledge of schools kept open more t year, and why should our

# Periodica

SCHIRER'S MONTHLY for July "Wilh I i Cumberbede," the latest donald; "Sampson's Riddle Solv Lion Cub," and other interesting ingly attractive paper on "Phila With numerous illustrations of buildings in different parts of the

HARPER'S MAGAZINE for July. T upon our table. The contents are lence. The articles for illustrations and will prove interesting to all Mont Cenis describes and illustr most useful achievements of mode of information imparted is suffici readers, and could not well be in magazine to become rather too to ceptable.

PRTERSON'S MAGAZINE for Jul filled, as usual, with choice literary illustrated with colored fashion-p Price \$2,00 a year. | Charles S. Pete.

GODRY'S LADY'S BOOK, for July a by furnishing a design for masculikeys are crawling and velocipeding hold. Marian Harland furnishes at known assist her. Books, bathing ture, poetry-all of the established and fresh as when they were tirat in

THE LADY'S FRIEND, for July, Miss Douglass, translates one by Miss Prescott's Beautoys. The varie the work is continued, and illustra mer numbers are

OUR YOUNG FOLK. Mr. Parton. es the career of that Henry, Princ King Alphonso, who, in the fifteent rediscovered the Madeiras and Azo captured Alkazar from the Moors. Indian life and modical education a other stories, sketches, puzzles, the dramatic arrangement of Villikens

HARRER'S BAZAR.-The number Braddon's story of the Lovels, and (relations with England. It announ Goneral Sickles with a young and their travels on the Continent. T are excellent.

> OFFICE OF WALT Wilmington,

Mr Editor:-We have mad benefit to those who give us t chasing the PHOSPHATE ma feel an honorable pride in the has gained among you: farmers fruits and vegetables. But we manufacturers or their agents name similar to that of our a

their purchasors un mette ! !

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**Volume** 

June 28, 1871 Page 2 Column 4

THE "TIMES" is published every Wednesday afternoon by PORKER H. HOFFECKER, Editor and Proprietor at Smit

TRIEMS-SCHAORIPT OX-One year \$1.50 in advance or \$1.5 antasid till the end of the rear. No paper discontinued unti-all arrears are paid—only at the option of the Publisher.

ADYERTISEMENTS will be inserted at the rath of Seven Cent aline forthe first invertion; subsequent facetions There and a half cents. A liberal discount made it quarterly, reinfactual and yearly advertisers.

Pits Legislature at its last session passed a New License Love, which is one of the most stringent and restrictive laws of the kind over cuseted in this State. It passed after much long, carnest, and thoughtful consideration and discussion, and by a very fair majority in both houses. It passed, too, after strong opposition from the liquor men, who were reprecented by the agent of the league, and counsel. Is was a fair and square contest; for, although It did not go as far as some of the temperance men wished, yet they supported it as a body; as carnestly as the liquor men opposed it. The latter offered a string of amendments almost as numerous as sections of the bill, and were given long opportunity to discuss them, and persuade the law makers to adopt them and with some of them they were successful But the leading features of the bill remained intact, and became the law of the land, What the effect of the new law may be, and how far It may go towards restraining the acknowledged evils of intemperance no one can say. Time will give an answer. We do not now propose to speculate. But the duty of all good citizen Is plain The law is to be respected and obeyed until it has been tried. If it prove a good and wholesome law, it should be continued; if otherwise, the same authority that enacted it should repeal it. This we owe to the temperance sentiment of the people who asked for, and to the bonest law-makers who granted the ensetment. This we owe to the good order of society, generally and to our own character as law abiding citizens in particular.

RESIGNATION OF CHANCLEON BATES .- OF Tuesday of last week, Hon. Daniel M. Bates, Chancellof of the State, sent in his resignation to the Governor, to the surprise of nearly every one and to the regret of all parties. The Governor, being absent, in Pennsylvania, at the time, did not receive the information (and then unofficially) until he arrived in Wilmingtun, on Fiday. It is understood that he waited upon the Chancellor there to induce him to withdraw his resignation, but the Chancellor assured him that his health would not permit him to perform the duties of the position. Unqualified regret is expressed throughout the State, by every journal, every edizen and every partisan. His talent, his proachable Christian character seemed to peculiarly fit him for the position he has so honorably filled for nearly eight years. He was appointed by Gov. Saulsbury in 1866. The next important question is, who is to be

his successor. It is stated that the Governor is as much perplexed as the people on this point, and keenly feels his responsibility. Among the names suggested for appointment are those of Messra U. B. Rodney, Dupont, and Lore of New Custle county; Senator Saulsbury, Edw. Ridgley, and Mr. Comegys. of Kent; and Hon. Edw. Wootton and John H. Paynter, of Sussex.

It is thought that in New Castle county Mr. Dupont holds the strongest position, but many, who know little or nothing of Mr. D's attain ments, are disposed to think that his name is his strong point. In this county it is quite evident that Mr. Ridgley stands foremost, outaide of accitain clique of anti Pollies, flis legal abilities are well known and admitted even by his opponents. But he is a Polly, and whother the Governor could, or would be permitted, to honor one of this class in his party is a anestion. Mr. Comegys has some advocates, but he is a man without a party, and it would be against Democratic orthodoxy to put him in the position. Senator Saulsbury, it is said, does not Want it. There is no salary grab connected with it, and nothing in the way of political wire pulling. It would, or ought to, take the recipient out of partisan politics, and Mr. S. could hardly stand that. As for Judge Wootten, of Sussex, he is understood to be in terribly bad order with the Governor' faction. Mr. Paynter enjoys the Governor's favor, but whether he would suit simply on that recommendation, is a question with the

## Peach Growers' Meeting,

Posch Growers' Meeting.

Deven October Het, 1971.

The Pentanna Frant Growers Association met in a full insetting at the Farmiers Utab Brown at Ty Color. Preddent John P. Cochran in thair. Moutes read and approved. Mr. Samuel Townson Journal than of the lack of libercett and apport given to the Victorian and the Street of the Samuel Townson Journal than of the Association to release of the bounds of the work done by the Association the occurs of the Samuel Townson Journal of the work done by the Association in opening new routes, securing faster those lower freights, and better facilities for instantion from the Samuel Samue

ornel.
The present afficers were elected to serve another France The present afficers were elected to serve another Ferri-fam I Townsond Chairman of Committee on New House-ind New Haltest stated that such arrangements had been reveally made as would secure the prompt alignment and anima account New Yerk on the served of trains in Jersey lits, that 190 care per day were as many as New York could necesse, that the care of day were as many as New York could necesse, that the care of dayanght to go into Northers Pean I ranks and garden of dayanght to go into Northers Pean I ranks and garden of the New York Mr. T. inrand this seath trains of a care North of New York with the granger and hour neger to pick and Walter the frest in market at the same time another of the day of the first in market at the same time another of the first of the first in market at the same time another of the days at Confirm Werk that Pench transports arolding delays at Qrafe Fefry, that Peach train sh

STATE AND LOCALS.

Mr. Wm, B. Collins, hardware dealer of this town, desires to sell out his stock at cost. The money paid the Clerk of the Posce ussex co. by liquor license applicants is Sussex co. I

All the Catholic churches in this State on the Enstern Shore are to be consecrated to the Sacred Heart of Jeaus.

It is said that Judge Bates gave up a practice that was paying him twice as much as hi salary as Chancellor amounts to.

Mr. J. W. Denney succeeds Mr. J. E. Wor-den as proprietor of the Diamond State Sten-cil Dopot, of this town—at his drug store. The trustees of the M. E. Church at New

Castle have purchased a lot nearly opposite the church, on which they intend to erect a par-

The Conference Academy at Dover, is have ing its fourth story put on, and will be under roof in the course of three weeks, weather per-

A protracted meeting has just closed at Kenton, (Rov. Mr. Gregg, pastor) with five conversions, and meetings are now being held at Contral.

A lot of household goods, &c., will be sold next Saturday afternoon in front of the American Sewing Machine office, opposite the

All the industrial establishments of Wilming ton are reducing the wages of their workmer at least ten per cent—those that have not sus pended work altogether:

A important change in the running time of the afternoon frain north has been made. The train now leaves this town an hour later—half past two instead of half past one.

past two instead of half-past one.

Col. G. W. Cummins, of this town, has just dug two hundred and fifty (250) bushels of Poschblow potatoes from lifteen sixteenths of an acre, at his residence, "Woodlawn."

Sheriff Armstrong sold on Tuesday last, the farm of B. F. Pennington, sutusted in New Castle Hundred, and containing 142 acres to Wm. Bright, of Wilmington, for \$6,100.

The cotton mills of James Riddle, Son & Co., and the mills of: Walker & Co., on the Brandywine, have partially suspended opera-tions on account of the duliness of the season.

The farmers hereabouts had become appre hensive that the warm, dry weather would breed the fly in the wheat; hence the rain of Sunday night was gladly received-by the

wheat growers, at least.

We have some nicely-flavored raspberries from a second crop grown upon the bushes of Mr. Robt. Smith, of this town. He has just picked about six pints from his few bushes of Antwerps in his garden.

It is not known that anything like the crop of late potatoes was ever grown in this section or State that will be raised this year. The yield per acro is immense, and the farmers say they "will be no price at all."

An effort will be made to establish a marine hospital at Lowes this winter. It is estimated that Delaware has five hundred mariners, who pay the government, as hospital tax \$1800 ner annum. And still there is not a marine hos pital in the State.

Mr. Chas. Stayton, on Mr. D. J. Cummins "Cedar Lane" farm, near this town, last week took up some of his "Peerless" potatoes (round) and three of them, from one hill, weighed 71 pounds, the largest weighing 31 pounds. Who can beat it?

List Sunday Mr. Joseph M. Carrow, of Phila., fell dead in Green st. M. E. Church of that city. We have not learned further particulars. Mr. C. formerly resided in Thoroughfare Neck, near here, and was a brother of Rev. Dr. G. D. Carrow, a prominent Phila, minister.

The liquor men employed Messrs. Moore and Cullen to act as counsel for them in Sussex and the temperance men employed Judge Lay-ton and A. R. Robinson. Attorney General Lore argued the cause of the temperance pen-ple with much expressions and fervor and made out an excellent case.

Mr. Westcott, proprietor of the Eagle Hotel. at Georgetown, whose application for a liquor license was refused by the Court last week, and who immediately closed his house to the public, has reopened it again and will continue business in hopes of better lack in the licens application business in the Spring.

The Sussex Journal understands that the liquor dealers of that county, since the decision of the court on Tuesday week, have em ality of the present liquor law and also that Mr. Bayard and Mr. Comegys have been em-ployed by parties in New Castle and Kent

Newark has a sensation. It is in shape of a bride of eighty-four years and a groom of only twenty-two. Money, we are told, is the key to this odd alliance—the bride holding the key. Or she owns it, but the groom may carry it. They are sojourners at the hotel; fare sumptiously every day and ride and in such a sumptionally every day and ride and in such as the sense of tuously every day, and ride out in style every

The M. E. Church at Frankford, Susser county, Rev. T. O. Ayres pastor, has been re built and was rededicated on the 12th, Rev J. B. Mann officiating. It is of a new style of architecture, remarkable for its beauty. \$200 over the debt against the church was subscrib-ed, with which an organ and coal have been purchased.

A disgusting scene transpired before the Mayor of Wilmington last Thursday. A man and wife sued each other for assault and bat and wife such each other for assault and bat tery. Each had thrown hot potatoes in the others face, at the dinner table, and then went before the Mayor to end the quarrel. The woman's display of temper was disgusting in

The office of Recorder of Deeds for Ne The office of Recorder of Deeds for New Castle county becomes vacant about the mid-die of November. The following gentlemen, it is said, would like very much to have the office: Dr. Edward Worrell, Joseph Roberta, Thomas M. Ogle, Isaac Grubb, W. N. Wilson, James M. Johns, S. C. Biggs, Benj, N. Ogle, and S. C. Sharpley.

Mrs. Sarah C. Pusey, of Cecil county, lady nearly ninety years of age, while on a visit to a relative in Wilmington, last week, full out of bed and broke, her thigh, 'It is thought she is fatally injured. She is a sister of Hopper, the anti-slavery signator of former years. She and two sisters (now living) married gontlemen named Clements—two brothers and a course.

and a cousin.

Mr. S. E. Heigher of Galena, Md., writes
to Dover stating that het little grand daugh-ter, while visiting a Gypey camp near that 

On Wednesday week Capt, Maxwell's horse

A government mule fell from the pier at Lewes, on Thursday, and was drowned. In its inlitt dragged several others into the water, one of which has since died from injuries, and another, it is feared, cannot recover.

another, it is feared, cannot recover.

Last Sunday morning, a man mamed Frank Foulkner, of Edesville, Kent county, Md. was, painfully, perhaps fatally, margied about the head by a train from Philadelphia. Roukmer had been employed at Chester. The accident occurred on the P. W. & B. road, just above Wilmington. [He has since died.]

Dell Noblitt, of Wilmington, was ninety six years old last Sunday and celebrated the event by baving his relations and several others spend the day with him. He is a hale, jovial, wealthy old widower, and would marry again if his relatives would let him. He ran away with a

tny old widower, and would marry again if his relatives would let him. He ran away with a young girl (or she ran away with him, we don't know which) about a year, ago, but they were intorcepted at Chester before the knot, was tied.

ied. It is understood that there is to be a course Te is understood that there is to be a course lectures delivered at Dover, under the auspices of the Wilmington Conference Academy in aid of a library fund for the academy. The lectures are to be delivered mouthly. Some of the lecturers have already been sooured, and consist of such gentlemen as the Rev. Thomas Guard, the Irish orator, of Mt. Vornon Church, Baltimore; Rev. Wm. Claveland, of Washington, and so on.

The Chapel Sunday School, of Milford, held was commenced as a mission work six Years ago, by P. F. Cadsey, Esq., in an old school-house, with a few children who had never enjoyed Sanday School privileges; it now numbers over 360 reholars; has one of the finest chapel in the State, and is one of the most progres religious enterprises on the Peninsula Mr. Causey devotes much of his time and am-ple means to this most successful undertaking, and is ably supported by others of means and ability.

The old doneing teacher with a great long Russian name, who gave a lew lessons here and then left, also left Middletown without saying "good bye" or settling his board bill \$37. He located at Chestertown, where lost some money, and put an advertisement in the papers offering a reward for it. Mr. Lober, the Middletown sandlord, wrote to him that if he'd come to 'Townsend he could hear of the money. The "Prof." mer Mr. L. sud an offi-cer there at the day appointed; all three re-turned to Middletown, where the "Prof." paid his board bill and left again—still refusing to say "good bye."

Wito Owns CLAYTON?—The Question not yet Settled.—In the United States Supreme Court, in session in Washington last week, the ase of Daniel et. al., rs. Whartenby, was one that was argued before the Supreme Bench. This is the memorable Clayton land claim contest, so familiar to our citizens. contest, so taminar to our children. Over two years ago this case was tried before the United States Circuit Court, in Wilmington, and Judge Strong decided in tayor of Whartooby Judge Strong, in that decision held that the will of Mr. Tibbett, the original owner of the land upon which Clayton stands, only gave ni-son Richard a life estate in case he died with-out issue, and that as he did die without issue,

the alternative devisees took effect, and conveyance under them was valid.

Dr. Daniel, of this town, the plaintiff in the suit, (the other plaintiff, Mason Bailey, being dead) has appealed from this decision; to the Supreme Court, and the case was argued on Wednesday last. Hon. Reverdy Johnson appearing for the Doctor and Hons. Jas. A. and Thos. F. Bavard for Whartenby: The point raised by Mr. Johnson was (we use court phraseology) that the alternative devisees were

too remote, and were void as executory devi-sees, the son having taken an estate tail. A decision has not yet been rendered. Judge Strong was on the bench, with his associates: As the decision is to be rendered by the full hench of eight associate Justices (the Chief Justice being dead) it may not be

Chief Justice being dead) it may not be reached for some time. Should there be a difference of opinion among the Judges, then the majority will decide the matter.

After the decision of Judge Strong nearly all the real estate holders of Clayton made terms with Dr. Harris, Whartenby's agent, the state holder has been a busine the hold out the by giving bond or buying the land outright a second time, but if Dr. Daniel establishes his right to his share of the disputed property (the farm adjoining Clayton) then the matter will be even more complicated than ever. If Whartenby don't own Dr. D.'s farm, of course he don't own Clayton, yet he, or his agent, holds the bonds that secures the property to him, right or wrong. Mr. Thos. Buckmaster refused to bond to Harris because, he said, he had already bought the land once and said, he had arready bought the land once and if he had to purchase it again he might have to buy it over and over until there was no telling where the sale would stop. It is understood that Whartenby has bequathed the property to his sister. Dr. Harris's wife.

CRIMINAL CASES were pefore Sussex county court, which closed last week. One of these was the case of Foskey, for assault with intent to commit rape upon the person of Julia E. Short, a girl aged 11 years. The case occurred last April, at Lewes Cross Roads. Fosky seized the child on the highway, but was made to desist by her crus. Foskey was a farmer of the neighborhood, is a man of family, and was considered, up to this time, a decent, respectable citizen. The trial was a short one and the testimeny conclusive. Fosky heard the verdict with but little concernand when saked to attail up to receive his and when asked to stand up to receive his sentence, did so in the most matter of fact way. The court then proceeded to sentence him to stand in the pillory one hour, be whipped with thirty lashes, and to be imprisoned ten years.

thirty lashes, and to be imprisened ten years. Foskey seemed rather pleased with the verdict and sentence, probably was rejoiced that they were not so severe as he expected.

The other was the case of Menillie, an irate Frenchman, who, hat Summer, in a drunken fit, beat an old man named John Burton to death with a chair, in his own house. It was found to be impossible to convict the man of murder in the first degree, and by agreement with counsel and the consent of the Court, he entered a plea of guilty of murder in the second degree, and was sentenced to imprisonment for life.

Riot in Leipsic,

On Saturday night last, 18th inst.; about 10 o'clock, a disgraceful fiot occurred in this town in tront of Padley's hotel, where a number of exotted men were assembled. Several persons were suddenly and violently knocked down in the street, and Rev. J. A. B. Wilson, the M. E. minister, required a heavy blow on this forehead, rendering him unconscious for some length of time. The would is not considered dangerous, however, and it is thought he will soon, entirely recover from the effects of the violent assault. In the excitement and contusion, it is difficult to ascertain all the facts in line cash. The account given by Mir. Wilson's friends is as follows.—Having business down town, he passed the hotel, where quite a crowd was collected on, the parenient, and one man, who was under the influence of liquor, was believed by he was hailed in a disrespectful manner. He then called upon the town constable to arrest the disorderly man, for disturbing the peace, at the same time telling him, if he needed assistance, to call on him, and he would help. The constable surfered the crowd to arrest the man, who resisted, and he called upon Mr. Wilson, who came to his assistance and caught hold of the prisoner. As he did so, several struck at him, but he paid not at tention to them until some person struck him three or four times, and then run into him when Mr. Wilson kicked him in the side knocking him down; also knocking down two other men, who were trying to rescue the prisoner. He then tunned, and while speaking do a man, some one ran up behind him, and struck him a violent blow on the forchead, with some On Saturday night last, 18th Inst.; about 10 and caught hold of the prisoner. As he did so, several struck at him, but he paid no at-tention to them until some person struck him three or four times, and then ron into him, when Mr. Wilson, kicked him in the side, knocking him down; also knocking down two other men, who were trying to rescue the pris-oner. He then turned, and while speaking to a man, some one ran up behind him, and struck him a violent blow on the forehead, with some weapon (some say a 'black-jack.') knocking him senseless to the ground. He recollects nothing more of the event, until he found himhome, with the doctor dressing his The account as given by the rioters is wound. The account as given by the rioters is as follows:—The person arrested was not behaving in a disorderly manner. When the man was arrested, some one came up behind him, and tried to pull him from those who arrested him, when Mr. Wilson knocked him (the prisoner) down. Two more then ran into Mr. Wilson, when they were served in the same way. Some one then ran up behind Mr. Wilson, hitting him with his fist, and knocking him on the payement, where the back of his him on the pavement, where the back of his head came in contact with the bricks, produ-

cing his unconsciousness.

Accounts are greatly exagerated, and many exciting rumprs are affect. The Sheriff at Dover was told to come with a large force to artest the paties, as a determined resistance would be made. Two deputy sheriffs and a town policemsit came about 12 o'clock Sunday night to arrest the parties, armed to the teeth, expecting resistance, but the constable of large-sic arrested the rooters himself, without any trouble. The arrested parties, including the rioters were taken to Dover, and at a hearing they were each held to bail in \$500. Equire Walls, of this town, through collusion with, or fear of the rioters, (the latter it is thought) refused to issue writs for the arrest of the of-fenders, and no action was taken in the matter until Deputy Sheriff Irons and posse put in an appearance. Rev. Mr. Wilson has also been presented by one of the rioters for assault-

ing him during the melee.

Another letter says:—The assault is now apposed to have been premeditated by the rioters, as Mr. Wilson has been very active in the temperance cause, and has used language in the pulpit which Padley and his crew have considered as-insulting to them. He has also, several times, at a very late hour on Saturday night gone to the hotel, and looked in the win dows, to see if Mr. Padley kept a disorderly house. He has also been circulating a remon-atrance against Padley's obtaining license. It is known that some of the parties had a "spite, nearinst Wilson. Nearly all say that it was altogether unnecessary for Mr. Wilson to have been in the crowd at all.

A HAPPY EXCURSION. - Last Friday after noon, through the kindness of Col. Bingham, a large and distinguished party of our citizens enjoyed a most delightful excursion to Massey's via Bombay Hook R. R. and connections. We say distinguished;—there were five Doctors (both D. Da. and M. Da.) two Colonels, (by brevet) a number of prominent matrons, and brevet) a number of prominent matrons, and the most brilliant array of dimples and dimity the most brilliant array of dimples and the most brilliant array of dimples and that this town (or any town) could turn out, to say nothing of the bees and old fromes that always cluster around the sweetest flowers. The ride over the new road, on so pleasant a day, was highly appreciated by all; so much so that on reaching Massay's an informal meeting was assembled in the parlor of Ford's hotel, over which Dr. Wm. Daniel was elected to preside, when Rev. Dr. Morsell read the

following:
In the midst of a most delightful excursion, we are happy to present to President J. F. Bingham, our thanks for so fortunately combining social enjoyment, with interest in the completion of an important enterprise—proving that not only his business energy, but his social qualities move with locomotive speed to

John C. Stockly, E-q., moved, its adoption, and every one in the room second the motion and indor-ed the sentiment in the same breath The call of "all aboard" provented the Col. from responding and the party were thus deprived of a "feast of reason" commensurate with the "flow of soul." On reaching home the excursionists were so filled with the pleasures of the ride that the trip was prologed to Bombay Hook and back.

KENT COUNTY COURT meets next Monday 27th. The Levy Court have provided for holding the court in the Levy Court room. It is understood that but for the fact that prison ers are entitled to be tried or discharged, there would be no tall session of the Court at all. As it is, only the criminal cases will be tried.
The trial of West, on the charge of areon, will
be immediately called. Ex-Senator Salisbury,
of Georgebown, will again act as his counsel.
He will be aided in the defense by Jacob Moore, E.q., of Georgetown, formerly attor-ney-general.

THE PRESS ON THE LICENSE LAW DECK cons.—The Georgetown Journal says: The Chief Justice gave, on Monday, the Judicial construction of the liceuse law, and under the second degree, and was sentenced to imprison ment for life.

THE GEORGETOWN AND PRANKFORD RAIL-ROAD.—With reference to this road, for the construction of which the lass Legislature appropriated \$200,000, a correspondent writers us. The lest street of the road past Frankford short one and a half miles to the west. It is hard to tall whether or all. the road will be built. At present it reminds since of a bay of wind with the wind squeezed out. About \$25,000 of the \$50,000 required to be webserbled is taken. The people won't take the other twenty five thousand, but wanties to bourd out to foreign capitalists. The socia-bolders, how save, object to this because they want the road to the constitutionally of the acc, we required to be under home control, and so the matter thands will have some months of sober reflection to will have some months of sober reflection to will have some months of sober reflection to the people want take the other twenty five thousand, but wanties to but on the twenty five thousand, but wanties to do for this country. The refusal of the constitution and the people will not be under home control, and so the matter twenty five thousand, but wanties food fines of the provisions of the law talted of coupled with saturances of readiness of the wanties of coupled with saturances of readiness of the wanties of coupled with saturances of readiness of the wanties of the provisions of the law talted of coupled with saturances of readiness of the wanties of the provisions of the law talted of coupled with saturances of readiness of the wanties of the provisions of the law talted of coupled with saturances of readiness of the wanties of the provisions of the law talted of coupled with saturances of readiness of the law talted of the provision of the provisions of the law talted of the provision of the law talted of the provision

Templars in the county

Court in hent county, which takes place next

Jay Gould's Railroad. The New York Tribune of Friday last published the following item:

published the following item.

Perhaps the most important feature of the day in Wall at was the official announcement of the bhundation of the affairs of Jay Gouldpreparatory to his retirement from Wall street.

The first steps in this matter have already been taken. Mr. Gould has resigned the Presidency of the New Jersey. Southern Railroad, and been succeeded by Mr. Seratt, the late General Manager. The associates of Mr. Gould will remain in office it is understood. until the road is taken possession of by the Baltimere and Ohio Railroad Company, which has secured control of it. It is also officially announced by those in close business and personal relations with Mr. Gould that measures are to be taken for the settlement of

his partnership arrangements with Osborn & Chapin, Garland, Martin & Co., and other firms, so that he will be enabled to carry our his intention of retiring altogether from Wall at, at least for the present. Mrs. Gould's health has become impaired, and it was deemed advisable to order a change of scene and climate. Mr. Gould has thus far been making preparations for an early departure from the gity, to be absent a number of months. not yet known whether he will go South or to

Europe those being his objective points.
The Beltimere Sea of Monday published the following:.
In connection with the statement which w copied from the New York Tribune on Saturday relative to Jay Gould's "retirement" and his resignation of the presidency of the New Jersey Southern railroad, was the further statement that Mr. Gould's associates would remain in office "until the road is taken possession of by the Baltimore and Ohio railroad company, which has secured control of it." We ventured which has secured control of it. We ventured then the assertion that this at least was not wholly correct. Information which we have since received as to the position of the Baltimore and Ohio to the New Jersey Southern road enables a more excitatement. Mr. Jay Gould claims to own the majority of the stock and bonds of the New Jersey Southern road and to have built with his own means the links between the Delaware, and Chesapeske, bays, (in the States of Delaware and Maryland,) which are about completed; and that he is building maided the remainder. This being the case, he sometime ago had an understandthe case, he sometime ago had an understand-ing with the Baltimore and Ohio company that upon the completion of these works that company would put on a line of boats and barges to make convection between Rockhall (Kent county, Maryland), and Lecust Point at Baltimore. They have no reaponability what-

The following telegram appeared in last night's papers: New York, Oct. 21. It is reported that Jay Gould's broker in London has disappeared with seven hundred thousand dollars, profits on the Eric afock which Gould was relying on to meet his losses here since the panic commenced.

Baltimore. They have no responsibility who ever with the enterprise beyond that stated.

Bishop Cummius.

om defence of the Dean of Canterbury and himself the for joining with other Evangelical ministers in celebrating the communion in a Presbyterian to bitterest strictures of the High Church party.

A warm correspondence were and

communications have come under our notice. To show the animus of the Ritualists, and give the historical fact it contains, we select the following for publication:

To the Editor of The Tribme.

Six: Your correspondent "Theologicus" in forms your readers that "the phenomenal ignorance" of Bishop Cummins is explained by the fact that "formany years a canon has been in force by which ministers and other religious bodies may be admitted into the priesthood of the Church after a republic of only air months, and with

be admitted into the presthood of the Church after a probation of only six months, and, with what has proved, at times, insufficient guaratees of intellectual fitness. While the plan has worked well in many cases, it has given an Bishop Cummins, formerly a Methodist prescher in Kentucky, with, as I am informed no proper theological education."

In reply to these allegations, I, would state that the father of Bishop Cummins was as

In reply to these allegations. I would state that the father of Bishop Cummins was an Episcopalian, as were his ancessors from time immemorial. His mother, a relative of the Methodist Bishop Asbury, sent him after his father's death to Dicklinson Callege, where his graduated and received the degree of A. B. in 1841, and that of A. M. in 1844. He was never ordeliped a Methodist minister, though licensed by that denomination to greate for brief period. He was ordained describe the P. E. Church by Bishop Lee of Delawaria 1845. The degree of D. D. was conferred upon him by Pricoston College, unsolvined in 1886. In 1866, while in Europe, he was translational colored Amistan Bishop of Keszerke since 2000 on was highlin cettral of 22 years.

New York, Oct. 20, 1873

Country law reserves only from the eriginal IN THE CHARGE OF THE CHARGON OF HELEPHONE San Critical Waters Dobastrout of San Hell of Rozords, Dover, Ledgewood, Smyna 121873 Jayer Oct 121873 Columbus Was P. M. Whi Diwns Poorington for reportunition and

Dud, Richard Tillett To The Del a and Co This Indenture, Made this Oight day of March in the year of Our Lord One thousand eight hundred and fifty eight, Octover Richard Sibilt of Duck Greek bearded Kont One Company of the other hart, Wilness Mit the said Aichard Tiblith me even ideration that and Empany has located in Station of said Wail red in his farm near Ingree in and hundred and in inselle Combany, the receipt where of is hereby acknowledged, Hath granted buy wined, odd and conveyed, and by these presents Dothe granter burgion will and convey to The Delaware Rail Road Company This Successors and assigns, for the use of said wad in additionalell might of way through the land and premises of said distribution lefore Hained by deed of geft to said Company, The following him or hado of land numbers in all four; for Depot so four pieces to Il. Deymung at a stake in the West line of said rights. of way 33 feet West of until line of said Rail wand at a unien for a lot vold by the said Tibbett to a certain George W. Develor and one ning from thence with line of said Dexter O. 32 1/2 " W forty feet to tale; thence A 21 30 Who thousand and ninety one (2911) feelite Stake; thence of 47° 45'W. Ainely feet (401: thence dr, 31' 30 Wine hundred and sixty (1601 feet to stake; theree dy? 45 6 to a stake is feel West of centre localed line of and Kail Road and Western line of said right of every or endemnation for road hed; thence I 21" so 6 low thousand low hundred and twenty six (3226) fet to place of Deginning. OF 2. Deginning at a Stake at the corner or junction of vaid Rail mad condemnation and a new road 60 feet wide recently laid out from and Rail road to the alley road and news ming from thence of 47 . 45 W" Kinely (90) feet to stake; thence dis! Jo W. oux hundred and thirty 16301 feel to stake in hime of lands of Presley Spenance Gog: there with said Spenances line St. 80 Beigh by oix (86) feet to Western line of and Riel wad undermation & feet West of until located line; there with said line \$ 21. 30 6 Twe him uly (5701 feet to the place of Begin At 3. Deginning at a stake at the S. E. corner or Junation found Rail road undemention and a new Public road & ofel inde recently laid out and ofened from the town of Imyma to and Guil wand, and running from thence a the said road of the 3,6 Forty our and me half (461/2) feet to stake; thence & 21. 30 6 mes hundred and sealy (160) feet to stake; thence \$ 100 2010 July Sin and one half (46%) feet to Gastern line of and condemnationed feel Gast funtre, located line of said Rail Road : thenes with and line de 31. 30 W One lundred and dirty (16 W feet to place of Beginning. N. 4 Ceginning at a stake at the A. & come of free line facil Rail Road undemnality and see

To Stave and To Hold the anid lots or fices of land and pures to them the said Delaware Rail Road lemhavy and their successors und ussigns to their own uses and freehoses forever; and the waid Richard Tiblitt for himself and his heirs, the bounds and premises hereby granted unto the said leave. harry and their successors and assigns shall and will larrant and defend.

In Witness Where of the said Richard Tiblitt hulh harunto set his hand and efficied his veal the day and year first herein witten.

Signed Scaled and Delivered in the presence of us. Ono C. Stockly. 6. 8. Gill-

Richard Tibbilt. [ 100]

The State of Delaware Ge it Remembered, that on this lighth Kent County SS. day of March A.D. 1854. Peromally came



before me a Notary Public for the State of Delawre resident in Kent County Richard Tiblitt harty to this Indentine, known to me personally to be such, and acknowled ged this Indentine to be his deed.

Tiven under my hand and real of office

the day and year aforomed.

6. 8. Goll. N.P.

S. D. Wright.

by of Original altert A. D. Wright, Re-

Dee Redond Jubbett & 81 858

Dee Redond March 81 858

As 355 + 356

As 355 + 356

respectively: I that the said Annie E. Lord being at the same time privately examined by us, apart from her husband acknowledged that she executed the said Instention willingly, without Compulsion outhreats or fear of her husbands displeasure. Mitness my hand and seal

John O. Allen M.P.

Received for record this 11th day of January A. D. 1887
P. Spruance Recorder
A true copy of the original

Attest P. Spruance Recorder

Deed Emma b. Harris to the Delaware Railroad Company

Mis Malentine, Made the Eighth day of January theyear of our Ford (widow) of the City of Philadelphia, in the State of Ponnsylvania, party of the first hart, and the Delaware Harbroad Company a Corporation of the State of Delaware harty of the second part, Mitnesseth: that the said Emma betaries for and in Consideration of the sum of One Thousand and Thre Hundred Dollars, Laufue money of the United States of America, to her in hand paid by the said party of the second part at and before the scaling and delivery of these presents, the receipt whereof is hereby acknowledged. Hath granted, bargained and sold. aliened, enfeoffed, released, conveyed and confirmed, and by these presents Doth grant, bargain and sell, alien, enfeoff, release, convey and confirm unto the said the Delaware Rachoad bompany its successors and assigns, all that certain tract or piece of land situate in henton hundred in the bounty of hent and State of Delaware, bounded and described as follows , ory Beginning at a point in the Southwesern line of the Delaware Hailroad distant sixty-nine feet and four tenths of a foot Southwestward from the centre line of the railroad of the said bompany measured atright angles therewith; and in the Southeastern line of land of the Baltimore and belaware Bay Railway Company, distant one hundred and eighty-eight feet South eastward from the centre line of the railroad of the said bompany measured at right angles therewith, and extending thence by said lands of the Delaware railroad bompany South eighteen degrees twenty minutes East twelve feet and two tenths of a foot to a stake in the Mesternline of land of the beloware and the sapeake Pailway Company, thence by said land South ten degrees thirty minutes West Nine hundred and Eighty-two feet and three tenths of a foot to a stake; thence still by said land farallel with the centre line of the Delaware and Chesapeake Railroad and thirty-three feet distant-Northevestevard therefrom South thirty-one degrees thirty-two minutes West Minety-three feet and five tenths of a foot to a stake in the line of land of the Baltimore and Delaware Bay Railway Company; thence Northward by said land parallel with the centre line of railroad of the said The Baltimore and Delaware Bay Raelway Company Known as the connecting road, and sexteen feet and few tenths of a foot distant Eastward therefrom,

as follows touz: Fust by a line curring towards the West with padicis of seven hundred and thirty-three feet and five tenths of a foot the distances of three hundred and forty-sex feet and two tenths of a foot to a stake secund thirteen degrees one minute Mest one hundred and seventy two feet and four tenths of a foot to a stake; and therd by a line curring towards the lost with radius of seven hundred feet and five tenths of a foot the distances Three hundred and sixty-six feet and thirty-three hundredths of a foot to state and thence Northeastward by a line curring toward the North with radius of one shousand and six hundred and twenty-one feet parallel with the centre line of the main track of the Baltimore and Delaware Bas Rail road and one hundred and eighty feet distant Southeasward therefrom the distance of three hundred and thirty-sex feet and five tenths of a fort to the place of beginning bontaining Three and Four hundred an sisty-three them sandths ( 3 1000) acres more or less, It being understood an agreed that the lands empraced within the foregoing boundaries include all the lands of theigranted which are located within the area bounded by the lands of the Delaware hall road bompany; lands of the Delaware and Chesapeake Railway and land of Baltimore and Delaware Bay Railroad Company; and theing the purpose and intention of the grantor, by these presents, to grant and convey unto the Grantee all the lands which she owns within the said last mentiones a and being a part of the same lands and premises whereof three excel undwided fourth parts were conveyed unto the faid Emma le Harris in fee by the deed of James Martenly bearing date the Eleventhiday of Deleter A, Wil881, and of record in the proper office at bover, in Book to Wolf page 1539 and the other undireded fourth part thereofly the deed of Himmalle Thomas & Bayard and wife dated the Eighth day of December in the year of our Lord one thousand eight hundred and eight four (1004) and of record in the office aforesaid in Book R. Nola page 1714 as lig reference thereunto had well fully and at large appear and all and singular the buildings, improvements, feetures, warms was waters water courses, easements, rights, liberties, privileges, hereditiments and appurtenances, to the said lot, piece and parcel of land and premises be longing or in anywise appertaining; and thereversion and remainer rents, issues and profits thereof, and all the estate right titles int claim, demand and possibility whatsvever of the said Emma bitaries at law or in equity, of in to ovorit of the same, and every hart and harcel Thereof, to have and To Hold the land and promises hereby bargamed and told or intended to be with the appurtenences, unto the said "the belaware Nachroad Company" its successors and assigns To and Forthernly people with benefit and behoof of the said the beloware Railroad Company is successions and assigns forever, on Witness Whereof, The said Emmor billaris halk hereunto bet her hand and seal the day and year first herein writtens in the presence of J. H Wilson Theo, D. Rand I do hereby acknowledge to have received of the beloware lather

bompany the Grantee, full satisfaction for the consideration money in said Indenture mentioned and expressed

attest

J. He. Malson Theo G. Rand

State of Connsylvania City and bounty of Philadelphia? Be it Romembered, that on this bighth day of January in the year of our Lord one thousand eight hundred and Theodore D. Rand a Commissioner for the State of Delaware eighty-seven (1887) personally came before me the substiler a bommissioner Philadelphia Pronna, appointed of Deeds for the State of Delaware April 13th 1881 term seven years resident at Philadelphia aforeraid Comma b. Harris party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed Given under my hand and seal of office the day and year aforesaid Theo, Di Canol a Commissioner for Delaware in Philadelphia Ponnsylvania,

Received for record this 12th day of January A.D. 1887
D. Spruance Recorder
A true copy of the original
Attest O. Spruance Recorder

Deed John Manselin Ruth twefe to Milliams port Planing Mitt bo. this Indenture, Made the dwelfth day of January in the year four Lord one thousand eight hundred and eighty-seven (1987) Between John Franklen Ruth and Ida M. Buth his wife of the City of Wilmington, New leastle bounty belaware parties of the first part, and the Williamsport Planing Will bompany, Timited of the State of Gennsylvania party of the second part; (Mitnesselh: that the said parties of the first part for and in consideration of the sum of Five Dollars (\$ 5,00) Lawful money of the United States of America, well and truly hard by the said party of the second parts at and before the ensealing and delivery of these presents, the receipt whereof is hereby admowledged, have granted, bargained, sold, aliened, enfeoffed, released, Conveyed and Confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, convey and confirm. unto the said party of the second part, its successors and assigns, all the following described tract of land situated in the Jour of Amyona, Delaware, bounded as follows, to wit; all those certain lots, pieces and parcels of land situatoin Duch breek Hundred, Kent bounty and State of Delaware, in the new addition to the Town of

January 8, 1847

tiff proved that the subscribing witness resided in Massachusetts, and had not been in the district since the last term.

But THE COURT said they would hear a motion for a new trial, if the verdict should be against the plaintiff.

Verdict for the plaintiff.

WHARFIELD (TAYLOE v.). See Case No. 13,772.

Case No. 17,479.
WHARTENBY v. DANIEL et al.
[6 Am. Law Rev. 164.]

Circuit Court, D. Delaware. June Term, 1871.1 CONSTRUCTION OF WILLS—DEVISES—RULE IN SHELLEY'S CASE.

[1. "Issue," prima facie and generally, means "heirs of the body," and refers to lineal descendants. To take a case out of the rule in Shelley's Case, the intent of the testator to change the primary meaning of the word, and employ it in an unusual sense, must manifestly appear in the will itself. There must be enough to overcome the legal presumption to the contrary.]

[2. A devise to a person for life, with remainder to his issue and the heirs of the issue, does not give a mere life estate to the first taker, unless there are also in the devise of the remainder words of distributive modification; and the fact that the laws of a state make a distribution when a fee descends or is given to issue or heirs is not of equal effect with an express direction in the will that there shall be a distribution.

This was an action of ejectment. The plaintiff claimed under the will of James Tibbitt, made March 25th, 1829. The clause in the will aforesaid whence the controversy in the above suit arose was as follows: "All the rest, residue, and remainder of my estate. both real and personal, of what kind and nature soever, I give, devise, and bequeath to my son, Richard Tibbitt, during his natural life, and after his death to his issue by him lawfully begotten of his body, to such issue, their heirs and assigns forever. In case my son Richard Tibbitt shall die without lawful issue, then in that case to my wife, Elizabeth Tibbitt, my sister, Sarah Heath, and my sister, Rebecca Mull, during the natural life of each of them, and to the survivor or survivors of them, and after the death of all of them to James Whartenby, son of Thomas Whartenby, of the city of Philadelphia, to him the said James Whartenby, his heirs and assigns forever." The facts in the case were admitted. Estates-tail are recognized in Delaware, and by the statute law of the state may be barred by deed as well as by fine and common recovery. Richard Tibbitt, supposing he had an estate-tail, on May 14th, 1853, executed a deed to bar the entail.

On the part of the plaintiff it was contended that Richard Tibbitt took but a life estate in the premises, with a contingent remainder in fee to his "issue," i. e., children, which vested immediately on the coming into esse of any child, and subject to open up and let in the interest of future born children. Issue meant the children of the first taker. That an estate-tail would place the power in the hands of the first taker of defeating the fee given to his issue. The intention of confining "issue" to a definite class of individuals was strengthened by superadded words of limitation, the words of distribution being supplied by the laws of the state, and by limiting an estate over to lives then in being and to the survivor or survivors of them. That the plaintiff took a substitutionary devise over upon the death of the first taker without leaving children.

For the defendants it was argued that this was an estate-tail, and therefore barred by the deed according to the laws of the state. If not an estate-tail, still the plaintiff could not recover, not claiming as heir of James or Richard Tibbitt, nor if Richard Tibbitt had had issue could he have been heir to such issue. The plaintiff claimed title under an executory devise limited upon a contingency too remote to support it, i. e., the death of Richard Tibbitt without issue, meaning an indefinite failure of issue.

STRONG, Circuit Justice, instructed the jury that in this case it was not necessary to inquire whether what was given to James Whartenby, the plaintiff, was an executory devise limited to him after an indefinite failure of issue of Richard Tibbitt, and therefore too remote, or whether it was a substitutionary estate, or a devise directed to take effect after a definite failure of issue of a person in being when the will was made. "prima facie and generally means heirs of the body,' and it has reference to all lineal descendants." The rule in Shelley's Case is "an unbending rule." To take it out of the rule, "the intent of the testator to change its primary meaning and employ it in an unusual sense must manifestly appear in the will itself. There must be enough to overcome the legal presumption to the contrary." Superadded words of limitation alone are "insufficient to overcome the other legal presumption arising from the gift to issue that he intended them to take as issue, that is, by descent through their ancestor Richard Tibbitt. It raises no more than a presumption against a presumption, in which case the legal inference arising from the use of a word of limitation must prevail." "In the present case there are no words of distributive modification." "I do not think the fact that the laws of the state make a distribution when a fee descends, or is given to issue, or heirs, is of equal effect with an express direction in the will that there shall be a distribution." "Where there are no words of distribution, there is an absence of this double expression of the testator's intent to employ the words 'heirs of the body' or 'issue' as equivalent to children, or as a mere description of persons." In no one of the cases cited "has a devise to a per-

<sup>&</sup>lt;sup>1</sup> [Affirmed in 17 Wall. (84 U. S.) 639.]

son for life with remainder to his issue, and the heirs of the issue been held to give a mere life estate to the first taker, unless there were also in the devise of the remainder words of distributive modification." In addition to the limitation to the heirs generally of the issue, and the express gift to Richard Tibbitt during his natural life, the devise to his issue is not to his issue unqualifiedly, or generally. It is not to all his issue. The words are: "After his death to his issue by him lawfully begotten of his body, to such issue, their heirs and essigns forever." "The testator in these words seems to have defined what he meant by issue, not heirs of the body, but issue begotten by the tenant for life, and begotten of his own body, necessarily children." This intention was further strengthened by the substitutionary devise, in case of the death of the first taker without lawful issue, to persons then in being for life only, and by the fact that in such contingency they were to take the whole property for life, and that words of limitation were added to the devise to the issue. That the first taker took an estate for life, and the devise over to James Whartenby was not void for perpetuity. Verdict for plaintiff.

To this charge the defendants then and there excepted before the verdict, and filed their bill of exceptions.

[On appeal to the supreme court the judgment of this court was affirmed. 17 Wall. (84 U. S.) 639.]

# Case No. 17,480. WHARTON'S HEIRS.

[Cited in Kurtz v. Hollingshead, Case No. 7,953. Nowhere reported; opinion not now accessible.]

WHARTON (JAMES v.). See Case No. 7,-187.

Case No. 17,481. WHARTON v. LOWREY.

[2 Dall. 364.] 1

Circuit Court, D. Pennsylvania. 1796.

Equity Pleading—Amendments—Bill to Open an Account.

[To a bill which sought to open a settled account on the ground of fraud, an answer was filed denying the fraud and pleading the statute of limitations. Complainants then asked leave to amend by alleging that the fraud was discovered within six years. Held, that the amendment would be allowed, as complainants could not foresee that the statute would be pleaded.]

Bill in equity. The bill was filed in October, 1793, to open an account which had been settled and signed by the complainants in April, 1781, touching the transactions between the testator and the defendant, while commissaries in the American army, during the Revolutionary war. The bill charged the defendant (among other fraudulent practices) with making erasures in the complainant's

books, and also set forth a number of specific errors and overcharges in the account. The defendant filed an answer to the bill, in which he denied all fraud, canvassed and refuted the specification of errors and overcharges, and pleaded the statute of limitations.

Rawle & Lewis, having obtained a rule to shew cause why the bill should not be amended by inserting that the frauds charged had come to the complainant's knowledge within six years before the commencement of the suit, now moved to make the rule absolute, and cited 1 Har. Ch. Prac. 106, 3 P. Wms. 143.

Mr. Dallas, for the defendant, admitted that the allowance of amendments was discretionary with the court, but contended that after a general answer to the allegations, and a denial of the frauds stated in the bill, the complainant ought not to be indulged, without some other proof to support the charge of fraud, than his bare assertion. In the cases cited in 3 P. Wms. 143, there was no answer to the bill, but merely a plea of the statute of limitations; and in the principal case the chancellor only ordered the defendant to answer, which the present defendant has already done. Twelve years have elapsed since the account was settled; and the fraud being denied on oath, and unsupported by any species of evidence, the complainant ought not to be permitted to harass the defendant, and prograstinate a deci-

BY THE COURT. Considerations respecting the merits of the cause ought not to weigh in the determination of the present question. The complainant could not foresee that the statute of limitations would be pleaded, and it is in order to bring before the court an essential fact arising from that plea, that the amendment is proposed. The rule made absolute.

WHARTON (MONTGOMERY v.). See Case No. 9,737.

Case No. 17,482.

The W. H. CLARK.

[5 Biss. 295.] 1

District Court, W. D. Wisconsin. May, 1873.

Collision — Overtaking Steamer — Towing Steamer—Raft—Damages—Repairs—
Possible Earnings.

- Where two steamers are going in the same direction, it is the duty of the pursuing boat to avoid the other.
- 2. This rule, however, does not justify the leading vessel in suddenly changing her course so as to embarrass, or throw herself across the track of, the other.

<sup>1 [</sup>Reported by A. J. Dallas, Esq.]

<sup>&</sup>lt;sup>1</sup> [Reported by Josiah H. Bissell, Esq., and here reprinted by permission.]

and Clayton churches until 1883, when a separate station was established, and the following have preached here: Revs. George Smith, J. D. Lucas, McM. Thomson and B. W. Kindley. There is a grave-yard attached to the church.

Rev. M. Marselles attempted to form an Episcopal congregation in Leipsic May 10, 1869, and the following officials were elected for what was called Immanuel Church: Senior Warden, Andrew Spear; Junior Warden, G. W. Spicer; Vestrymen, Messrs. Clements, Eager, Wilson, Lamb, Hoffecker, Hopkins and Denney. Bishop Lee confirmed a number of persons as members; but the congregation was dissolved after a few years.

#### CHAPTER LX.

#### KENTON HUNDRED.

Kenton Hundred is in the northwestern portion of Kent County, and was carved out of Duck Creek and Little Creek Hundreds, by an act of the Legislature, passed February 3, 1869, which recited: "The said new hundred shall be called Kenton Hundred, and shall embrace all that portion of Duck Creek and Little Creek Hundreds in Kent County, as at present constituted, lying on the west side of the west line of the Delaware Railroad."

This made the bounds of the new hundred as follows: on the north by Blackbird Hundred of New Castle County and Duck Creek; on the east by the Delaware Railroad; on the south by Dover Hundred and the Fork Branch of St. Jones' Creek, and on the west by the State of Maryland.

Some of the best farming lands of the State are in the hundred, they having been highly cultivated for years. Large quantities of peaches, wheat, corn and vegetables are raised.

About 1840, Simon Spearman, who lived on the Middle Alley road, on the farm now owned by Edward Streets, shipped the first peaches for market, and the return was so profitable that a number of the farmers planted trees, until to-day three-fourths of the land is planted with peach trees. The shipments from the various railroad stations have approximated in one year as high as three hundred thousand baskets. The year 1887 was one of the poorest ever known, and fifty thousand will cover the shipment.

The Little Duck Creek runs through the centre of the hundred, and the railroad facilities are excellent,—the Delaware Railroad running down the east side, the Delaware and Maryland through the centre and about one mile of the Kent County, Smyrna and Delaware Bay Railroad in the northwestern section. In 1880 the population was two

thousand eight hundred and seventeen. There has been no survey since the erection of the hundred, but the area is about thirty-five thousand acres.

EARLY SETTLEMENTS.—The hundred early attracted the attention of the English settlers, and in the earliest records mention is made of grants of land, both from the crown and the original proprietors, to English settlers. The descendants of these old families still comprise a majority of the inhabitants. Particularly is this true of the occupiers of the land comprised in what was known as the manor of "Freith."

The manor of "Freith" was one of the many manors in Pennsylvania and outlying territories laid off for William Penn, the warrant for this tract having been issued to the Surveyor-general May 3, 1683, and the laud surveyed November 10th of the same year, and was returned as containing over ten thousand acres.

The Bristol Naval Store Co-partnership Company formed in Bristol, England, in 1714, and composed of William Down, Absalom Lloyd, Charles Horford, Edward Lloyd, Caleb Lloyd, George Whitehead and Richard Cool, merchants of that town. The object of the company was to plant and cultivate hemp in the colonies, and Benjamin Shurmer, of Kent County, formerly of Bristol, was commissioned to purchase a tract of land for that purpose. He took up of this tract three thousand one hundred and twenty-five acres on a branch of Duck Creek, on a warrant granted September 22, 1714. In 1706 Walter Dulany took up a large part of this land, which was conveyed to him, and embraced old surveys lying largely in the northwest corner of Kent County and in parts of New Castle County and Maryland. "Caudley's Adventure," on a branch of the Chester River, on the New Castle and Maryland line, was a portion, and was taken up in 1727. Several tracts of this same land were warranted to Captain Richard Smith, January 18, 1696, and patented in 1710. They were called "the remains of my Lordship's Gracious Grant," "Mitchell's Park," "Mitchell's Risque," "Jones' Adventure," "Ellinor's Delight," and "Beaver Dam."

The present holders of the Dulany land are Samuel and George Beck, Patrick Hanifee, J. L. Holt, Henry Holt, Jacob Hartman, Frank Bowers and Bernard Donnelly.

South of the Dulany land is the Blackiston tract, called the "Deer Park" tract, and containing two thousand two hundred and fifty-five acres, which was granted to Benjamin Blackiston, June 14, 1733, upon payment of forty-five pounds and two shillings to Lord Baltimore. The greater part of this land remained in the possession of the Blackiston family as late as 1850, and over four hundred acres of it is now owned by Miss Ann

The old log building used as a school for District No. 2, which is next to No. 1, was built in 1797, at the Alley Cross-Road. The school in 1829 contained twelve scholars and the district eighty-five children between the ages of five and twenty. In 1848 the old log building was replaced by a frame. Upon this being torn down in 1876 a neat structure valued at eight hundred dollars was erected. In 1886 there were forty-two scholars. One of the first teachers was John Palmetry, a staid old Friend.

District No. 8 was south of No. 1, on the Maryland line and the western part of what was formerly Little Creek Hundred. In 1829 there were seventy-five children between the ages of five and twenty years, but no school. In 1835, Jonathan Gordon and Captain Edward Attix (father of Thomas and Samuel Attix) interested themselves in having a school. Mr. Gordon donated the ground and Mr. Attix the greater part of the material and was one of its main patrons From this fact it received the name of Attix's schoolhouse. The building stood opposite Downs Chapel. About twenty years ago a new building was put up, which still stands one hundred yards from the old building. In 1886 there were eighty-two scholars.

Wilds' School-House was the name given to the school in District No. 9, for the reason the land upon which it was erected was given by Nathaniel Wilds, which has in its limits the town of Kenton, the building being located there. In 1829 there was a school-house a short distance below Kenton, with twenty scholars and eighty-five children between the ages of five and twenty. The old building was log and had been erected about 1800. It stood until 1839, when it was torn down and a frame building erected in its place. In 1885 the Legislature authorized the erection of a new building, the old one was abandoned and a fine brick building erected in the town of Kenton valued at three thousand dollars. In 1886 there was in it a graded school and primary with one hundred and twelve scholars.

District No. 10 is in the southeastern corner, and at the time of the passage of the school law, in 1829, was without a school building, but had seventy-five children. The land for a school building, was given by Israel Peterson, in 1835, and a building erected between Moorton and Moore's Corner. In 1860 this building was destroyed by fire, and a new one erected south of Moore's Corner, at a cost of one thousand dollars. It is still standing and in good condition. In 1886 there were thirty-five scholars.

District No. 49 is one of the new districts, and was laid out in 1846. The school building was erected in 1847, and a new building, costing six

hundred dollars, erected in 1886. In this year there were forty-five scholars.

In the extreme southern part of the hundred is District 97, erected within the last twenty years. The school built at first still stands, and had fifty scholars in 1886.

District No. 114 was erected by the Legislature, in 1885, out of District No. 1. A new building was built, out of money raised by taxation, costing eight hundred dollars, at Hazel's Corner. At the time of the annual reports there were fifty-one scholars in attendance.

The Clayton District is known as 119, and was cut out of Districts Nos. 2, 84 and 49, in 1873. The building was erected the same year at a cost of nine hundred dollars, out of funds advanced by A. L. Hudson. In 1887 an addition was built, and the school grade advanced, and another teacher employed. In 1886 there were sixty-four scholars. The new building, when completed, will make accommodations for about eighty pupils, and room for additional desks has been made to meet the increasing population of Clayton.

Towns .- Clayton is the largest town in the hundred, and is situated in the extreme north eastern part, and is next in importance to Wilmington as a railroad centre. It is thirty-six miles from Wilmington on the main line of the Delaware Railroad. In 1854, the time of the surveying of the railroad, there was not a house in the town; all the land being owned by Richard Tibbitt. Previous to that time a little village existed about a quarter of a mile away, called Jimtown. It was a great stopping-place for years for teams on their way to Smyrna Landing to unload grain. There was a large grove, and an old character, "Aunt Hetty Johnson" by name, sold beer and cakes to the drivers. Tibbitt gave ground for a depot and sold land for building-lots, and, in 1859, a hotel and store were built; the store being kept by Thomas B. Lockwood in a building now occupied by Abel Sevil. Up to this time it was known as Smyrna Station, and in 1867 was named by the Legislature Smyrna Station, but the inhabitants wanted it to be called Clayton, and in 1860, Alexander McConaghy sent an application to the Post-Office Department for the establishment of a post-office. This was granted, and upon his recommendation it was called Clayton, and he was appointed postmaster, a position he held until February, 1866, when John S. Casperson was appointed. The State recognized the name of Clayton at the last Legislature.

It was generally supposed that Tibbitt held a fee-simple in the land, but after his death the land was claimed by a William Wartenby, of San Francisco, on the ground that Tibbitt, in default of heirs, had but a life interest, and the reversion in fee was in him. The case was carried to the

Supreme Court of the United States, -Secretary of State Bayard appearing for Wartenby, and Reverdy Johnson, of Maryland, for the holders of the land. The case was decided in favor of Wartenby, and the tract of one hundred and seventy acres, embracing the entire town, was decreed as his property and that of his sister, Mrs. W. Harris, of Philadelphia. The holders had to make settlements with the new owners, and Wartenby disposed of his interest to Mrs. Harris, and gave Mr. Bayard one-fourth of the tract as a fee; they still own nearly all of Clayton. In 1867 Mrs. R. S. McConaghy started the Clayton Herald and ran it until her death, January, 1868, when it was sold to J. W. Spruance, and moved to Spruance City and its name changed to Font Hill News.

The town received a boom in 1885, when the Delaware Railroad's main office was moved there and with it I. N. Mills, the superintendent and a number of other officials and employees. April 15, 1887, the Legislature passed an act appointing Hon. James R. Williams, ex-Senator C. S. Pennewill, D. J. Cummins, George W. Whitaker and ex-State Treasurer Robert J. Reynolds to lay out the town, define its limits, and to hold an election for town commissioners This duty they have performed and commissioners were elected. In 1887 there were sixty houses in the town, three general stores, kept by Abel Sevil, George Brockson and W. S. Reynolds, two millinery stores by E. O'Conner and Mrs. John Wright, three confectionery stores by John Casperson, Sarah A. Tims and W. H. Boggs, a wheelwright and blacksmith shop by Thomas Holliday, a lumber-yard by Hudson & Moore, J. Leinberger butcher, two hotels-the Bingham House, kept by William Whitlock, and the Hotel Stockle, by Michael Riley-and a drug store by Dr. Charles G. Harmonson. The population is about four hundred.

Kenton, the oldest town in the hundred, and situated near the centre, on the Delaware and Maryland Railroad, was first known as Lewis' Cross-Roads, afterwards as Grogtown, and by act of Legislature, in 1806, it was changed to Kenton. It was called Lewis' Cross-Roads, after Philip Lewis, who, in 1791, owned all the surrounding land, and laid out the roads in 1796.

The oldest house in the town is one now occupied by Mrs. Mary Green It was built by Philip Lewis, and is of frame, and was moved to its present location about seventy years since. On the corner is an old brick house standing on the road, which was built shortly afterwards and used as the first general store in the town. The old hotel, still standing and known as the Kenton Hotel, was also built by him in 1809. It was occupied by William Arthur in 1811, and in 1812 by James Bayels, who run it for a number of years. Charles Hamm had it in 1843, and in the same year Thomas

L. Temple, a brother of Governor Temple, took it and ran it for a number of years; it is now in charge of Terance Carvin.

The post-office was started in 1860, and since that time the postmasters have been W. H. Taylor, John Wilds, William C. Jump, Joseph Roop, William H. Moore and W. Denny Wilds.

The town's main growth has been since the war, and the Legislature, on April 23, 1887, passed an act incorporating it into a town.

At present there are three general stores, kept by J. M. Arthurs, W. H. Moore and W. Taylor; a millinery store, two blacksmith shops and one drug store. There are sixty houses and a population of three hundred

Blackiston's Cross-Roads was so named from the fact that when roads were laid out in 1764, running into Maryland, the land was owned by Benjamin Blackiston, and had been in the possession of the Blackiston family since 1684. At present there are twelve houses, a blacksmith shop, and a population in 1880 of fifty.

Downs' Chapel is also a cross-roads, the first building having been a store erected there by William Downs, in 1838. The chapel was built in 1842, the school-house having already been there. At present there are nine houses, two general stores and a population in 1880 of forty-five persons. The post-office was established in January, 1877, with James B. Messer, postmuster. There are two general stores, kept by Enoch S. Short and James T. Jacobs.

Brenford existed only as a railroad station until 1866, and was named after the Brenford farm, near there. On the 26th day of May, 1866, it was created a post-office, with J. P Dickson as post-master He was succeeded, November 13, 1886, by L. H. Spruance. At present there are twelve houses and a population of sixty, one general store kept by L. H. Spruance, Boyer & Wallen, fruit and grain dealers, and J. G. & H. M. Farson, dealers in fruit packages.

Chesswold. - Shortly after the railroad was completed, in 1856, John S. Moore, who owned all the land upon which this town is located, opened a store in the building now occupied by James Brown, and was appointed postmaster, in which place he has been succeeded successively by J. Dawson, J. P. Jefferson, Thomas F. Moore and C. C. Boyer. From Mr. Moore the new town was called Moorton, and continued under this name until 1888. The town has improved rapidly the last few years, and now has thirty-five dwelling-houses, a population of two hundred, and the following places of business: general stores, W. L Collins, James Brown and T. F Moore; wheelwright, M. H. Palmatry; and Cooper Brothers, brick manufacturers and grain dealers.

MANUFACTURES. - Kenton has been devoted

Statement of the case.

We repeat the doctrine of this court laid down in *Deery* v. *Cray*,\* that while it is a sound principle that no judgment should be reversed on error when the error complained of worked no injury to the party against whom the ruling was made, it must appear so clear as to be beyond doubt that the error did not and could not have prejudiced the right of the party. The case must be such that this court is not called on to decide upon the preponderance of evidence that the verdict was right, notwithstanding the error complained of.

Other errors are assigned as to the charge of the court, but, as no exception was taken to that charge, it cannot be considered; nor do we deem the errors alleged as growing out of the prayers asked and refused likely to occur again, even if they are fairly presented by the record now.

For the error in admitting the letter objected to the judgment is reversed and the case remanded for

NEW TRIAL.

Mr. Justice DAVIS was absent at the argument.

#### DANIEL v. WHARTENBY.

A testator gave his estate, both real and personal, to his son, R. T., "during his natural life, and after his death to his issue, by him lawfully begotten of his body, to such issue, their heirs and assigns forever." In case R. T. should die without lawful issue, then, in that case, he devised the estate to his own widow and two sisters, "during the natural life of each of them, and to the survivor of them," and after the death of all of them to J. W., his heirs and assigns forever; with some provisions in case of the death of J. W. during the life of the widow and sisters.

Held that the rule in Shelly's Case did not apply, and that the estate in R. T., the first taker, was not a fee-tail, but was an estate for life, with remainder in fee to the issue of his body, contingent upon the birth of such issue, and in default of such issue remainder for life to his widow and two sisters, with remainder over in fee, after their death, to J. W.

In error to the Circuit Court for the District of Delaware. James Whartenby brought ejectment in the court below Statement of the case in the opinion.

against William Dauiel and others for certain premises in the State of Delaware.

Under the instructions given to the jury a verdict was rendered in favor of the plaintiff and judgment was entered accordingly. The defendants, having excepted to the instructions, sued out this writ of error and brought the case here for review.

Mr. Reverdy Johnson, for the plaintiffs in error; Messrs. T. F. and J. A. Bayard, contra.

Mr. Justice SWAYNE stated the case and delivered the opinion of the court.

The premises in controversy were devised by the will of James Tibbitt. The case turns upon the construction and effect to be given to the following clause of that instrument:

"All the rest, residue, and remainder of my estate, both real and personal, of what kind and nature soever, I give, devise, and bequeath to my son, Richard Tibbitt, during his natural life, and after his death to his issue, by him lawfully begotten of his body, to such issue, their heirs and assigns forever. In case my son, Richard Tibbitt, shall die without lawful issue, then, in that case, to my wife, Elizabeth Tibbitt, and my sister, Sarah Heath, and my sister, Rebecca Mull, during the natural life of each of them, and to the survivor of them, and, after the death of all of them, to James Whartenby, son of Thomas Whartenby, of the city of Philadelphia, to him, the said James Whartenby, his heirs and assigns forever. In case the said James Whartenby shall die before my son, Richard Tibbitt, my wife, Elizabeth, my sister, Sarah Heath, and my sister, Rebecca Mull, then, and in that case, to Samuel Stevenson, son of Philip, and to Richard Whartenby, son of John, each two hundred dollars shall be paid out of my estate, and the rest and remainder to William Whartenby, Thomas Whartenby, and John Whartenby, children of said Thomas Whartenby, of Philadelphia, to them and their heirs and assigns forever."

Richard Tibbitt, the first devisee, on the 14th of May, 1853, after the death of the testator, conveyed the premises

#### Opinion of the court.

to Jacob Hazel, who, on the same day, reconveyed to Richard. Richard died in April, 1863, without issue, not having married. Elizabeth Tibbitt, the widow of the testator, and his two sisters, Sarah Heath and Rebecca Mull, were living at the time of the making of the will, survived the testator, and died before the commencement of this suit. James Whartenby, the devisee in remainder, and the next in succession, is still living, and is the defendant in error in this case. The plaintiffs in error claim title by virtue of a sale under a judgment and execution against Richard Tibbitt.

The rule in Shelley's case is in force in Delaware, and an estate tail may be barred there by such a conveyance as that by Richard to Hazel.

Under the law of descents of Delaware all the children share alike—descendants from them taking per stirpes.

The question before us is whether the estate given to Richard, the first taker, was an estate in fee-tail, or whether he took only an estate for life, with remainder in fee to the issue of his body, contingent upon the birth of such issue, and, in default of such issue, remainder for life to his widow and two sisters, with remainder over in fee after their death to James Whartenby, the defendant in error.

It is insisted by the counsel for the plaintiffs in error that the words "issue of his body by him lawfully begotten" in the devise, are words of limitation and not of purchase, and that the rule in Shelley's case applies.

For the defendant in error it is maintained that those words are the synonym of *children*, and must have the same legal effect as if that phrase had been used by the testator instead of those found in the devise; that under the circumstances they are words of purchase, and that the rule in Shelley's case has, therefore, no application.

That rule is thus laid down by Lord Coke: "Where the ancestor, by any gift or conveyance, taketh an estate of free-hold, and in the same instrument an estate is limited, either mediately or immediately, to his heirs in fee or in fee-tail, the heirs are words of limitation of the estate, and not of

#### Opinion of the court.

purchase."\* An eminent English authority gives this definition, as abridged by Chancellor Kent. The chancellor pronounces it accurate. "Where a person takes an estate of freehold, legally or equitably, under a deed, or will, or other writing, and in the same instrument there is a limitation by way of remainder, either with or without the interposition of another estate, of any interest of the same legal or equitable quality to his heirs, or heirs of his body, as a class of persons to take in succession from generation to generation, the limitation to the heirs entitles the ancestor to the whole estate."†

The rule is much older than Shelley's case. In that case several judgments in the Year-Books in the time of Edward III are cited in support of it. Blackstone found it recognized in a case adjudged in 18th Edward II.‡ Some writers trace its origin to the feudal system, which favors the taking of estates by descent rather than by purchase, because in the former case the rights of wardship, marriage, relief, and other feudal incidents attached, while in the latter the taker was relieved from those burdens. Others attribute it to the aversion of the common law to fees in abeyance, a desire to promote the transferability of real property, and, as far as possible, to make it liable for the specialty debts of the ancestor. The subject is one of curious and learned speculation rather than of any practical consequence.

Although the rule has been an undisputed canon of the English common law for more than five centuries it has been abolished in most of the States in our Union, and where it still obtains, questions relating to it are of unfrequent occurrence.

In considering it with reference to the present case a few cardinal principles, as well settled as the rule itself, must be kept in view.

In construing wills, where the question of its application arises, the intention of the testator must be fully carried out,

<sup>\* 1</sup> Reports, 104 † 1 Preston on Estates, 263, 419; 4 Kent, 245.

<sup>†</sup> Hargrave's Law Tracts, 501.

so far as it can be done consistently with the rules of law, but no further.\* The meaning of this is that if the testator has used technical language, which brings the case within the rule, a declaration, however positive, that the rule shall not apply, or that the estate of the ancestor shall not continue beyond the primary express limitation, or that his heirs shall take by purchase and not by descent, will be unavailing to exclude the rule and cannot affect the result.† But if there are explanatory and qualifying expressions, from which it appears that the import of the technical language is contrary to the clear and plain intent of the testator, the former must yield and the latter will prevail.‡ The rule is one of property and not of construction.§

While the rule is held to apply as well to wills as to deeds, the words issue of his body are more flexible than the words heirs of his body, and courts more readily interpret the former as the synonym of children and a mere descriptio personarum, than the latter. "The word issue is not ex vi termini within the rule in Shelley's case. It depends upon the context whether it will give an estate tail to the ancestor."

Where there is a devise like this, if the rule in Shelley's case applies, the estate, upon the death of the first taker, goes, according to the English common-law rule of descent, to the eldest son, to the exclusion of all the other children. The But if to the gift in remainder there are superadded words of limitation which change this course of descent, the rule in Shelley's case does not apply and the children take by purchase.\*\*

It remains to examine the case before us in the light of these considerations.

<sup>\*</sup> Hargrave's Law Tracts, 489. † Ib.; 2 Jarman on Wills, 311, 313.

<sup>†</sup> Hargrave's Law Tracts, 495; Wild's Case, 6 Reports, 16; Doe v. Laming, 2 Burrow, 1100; Lees v. Mosley, 1 Younge & Collyer (Exch.), 589; Bagshaw v. Spencer, 1 Vesey, 142.

<sup>¿</sup> Tod's Leading Cases on Real Property, 483.

<sup>1</sup> Preston on Estates, 379 Sisson v. Seabury, 1 Sumner, 244.

<sup>\*\*</sup> Shelley's Case, Tod's Leading Cases on Real Property, 493; Montgomery v. Montgomery, 3 Jones & Latouch, 47; Doe d. Bosnall v. Harvey, 4 Barnewall & Cresswell, 610.

The estate is given to Richard, the first taker, "during his natural life."

Lord Chancellor Sugden says these words "are, I think, entitled to weight, although when the intention requires it they may be wholly rejected."\*

The estate is given, "after his death, to his issue by him lawfully begotten of his body." These must necessarily have been his children. They could not have been otherwise. It will do no violence, either to the language here used or to the context, if this clause be regarded as if the testator had substituted the latter words for the former in framing this part of the instrument. If this had been done there could have been no controversy between these parties.† The words of inheritance which follow are, "to such issue, their heirs and assigus, forever." These are the usual and largest terms employed in the creation of a fee simple estate. A descent of the property, to satisfy them, must be according to the law of inheritance of the State of Delaware with respect to fee simple property. Such would be the inevitable result, and such clearly was the intention of the devisor.

This would be an entire departure from the course of descent which must necessarily follow from the rule in Shelley's case, if that rule were to control the transmission of the inheritance. The descent prescribed is to be, not from Richard, but from his issue. The language of the testator is too explicit to leave any room for doubt upon the subject.

In Montgomery v. Montgomery, before referred to,‡ the chancellor said: "It appears to be clearly settled that a devise to A. for life, with remainder to his issue, with superadded words of limitation in a manner inconsistent with the descent from A., will give the word issue the operation of a word of purchase. This is established by a series of cases,

<sup>\*</sup> Montgomery v. Montgomery, 3 Jones & Latouch, 61; see, also, Archer's Case, 1 Coke, 67; Clerk v. Day, Cro. Eliz., 313; Wild's Case, supra; Doe v. Collis, 4 Term, 294; Ginger v. White, Willes, 348.

<sup>†</sup> In to Sanders, 4 Paige, 298; Rogers v. Rogers, 3 Wendell, 503; Chrystie v. Physe, 19 New York, 344 Wild's Case, 6 Reports, 17.

<sup>† 3</sup> Jones & Latouch, 61.

from Doe d. Cooper v. Collis,\* to Greenwood v. Rothwell."†
Issue is either a word of purchase or limitation, as will best effectuate the devisor's intention.‡

The next clause is: "In case my said son, Richard Tibbitt, shall die without lawful issue, then, and in that case, to my wife, Elizabeth Tibbitt, my sister Sarah Heath, and my sister, Rebecca Mull, during the natural life of each of them, and to the survivors of them; and, after the death of all of them, to James Whartenby, son of Thomas Whartenby, of the city of Philadelphia, to him, the said James Whartenby, his heirs and assigns forever."

These are substitutionary devises, both contingent upon the death of Richard without issue. In that event, an estate for life was given to the widow and two sisters, and a remainder in fee to James Whartenby. That such was the quantity and quality of these estates, if Richard was not a donee in tail, cannot be doubted.

Finally, the devisor declares, that "in case the said James Whartenby shall die before my son, Richard Tibbitt, my wife, Elizabeth, my sister, Sarah Heath, and my sister, Re becca Mull, then, and in that case, to Samuel Stevenson, son of Philip, and Richard Whartenby, son of John, each two hundred dollars shall be paid out of my estate, and the rest and remainder to William Whartenby, Thomas Whartenby, and John Whartenby, children of the said Thomas Whartenby, of Philadelphia, to them and their heirs and assigns."

The language used with reference to the devisees last named was sufficient, if the devise had taken effect, to give them a fee simple estate. That language, as well as the fact that there was no further devise over, leads necessarily to the conclusion that such was the purpose of the testator.

In describing the estate given to Richard, and that given to the widow and two sisters, in the contingencies specified, the terms of the devise in each case are the same. They are, during the natural life of each devisee. So, as to the

<sup>\* 4</sup> Term, 294.

<sup>† 6</sup> Scott's New Reports, 670.

<sup>†</sup> Doe v. Collis, 4 Term, 294.

estate given to the issue of Richard, if any should survive him; the estate given to James Whartenby, in default of such issue; and that given contingently to the three devisees last named, the same language is employed in each case. The devise is to them, their heirs and assigns forever.

Why should a different effect be given to the same language when applied to different persons in the same class? If the widow and two sisters could take under that employed as to them only an estate for life, why should Richard take more? And if James Whartenby and the three lastnamed devisees could take a fee simple, which, laying out of view the deed to Hazel, no one questions, why not the issue of Richard, if such issue had been born and survived him? The identity of the language and the aptness of the terms employed indicate the meaning and purpose of the testator in each case.

The theory that only a life estate was intended to be given to Richard, derives further support from the solicitude manifested by the testator, that whatever Richard might take under the will should not be subjected to the payment of the liability he had incurred as the surety of his brother. In that event the testator declares that "all the right of the said Richard shall cease and determine as fully as though he were dead, and that no purchaser shall have any right, title, or claim thereby to any part of my estate so sold."

It cannot reasonably be supposed that the testator intended to give Richard a fee, which even with his consent might be "so sold," and if he had children, thus cut them off and transfer the estate out of the family; and if he left no issue, defeat the rest of the scheme of the will. These results could be guarded against only by giving a life estate to Richard, and nothing more.

In this class of cases in the English courts the doctrine of Shelley's case is applied unless there are circumstances which clearly take the devise out of that rule. Every doubt is resolved in favor of its application. Here, we think, the tendency should be otherwise.

There, the rule is in accordance with the established law

of descent—the general sentiment of the people—their public policy and the spirit of their institutions. It helps to conserve the power and splendor of the ruling classes, by keeping property in the line of descent which the rule prescribes.

Our policy is equality of descent and distribution. Such is the sentiment of our people, and such the spirit of our institutions.

This is manifested by the statutes of descent and distribution which exist in all our States and Territories.

We entertain no doubt that the testator intended to give a life estate only to Richard, and a fee simple to his issue, and that they should be the springhead of a new and independent stream of descents. We find nothing in the law of the case which prevents our giving effect to that intent.

We hold that the rule in Shelley's case, for the reasons stated, does not apply. The estate given to the children of Richard was a contingent remainder. Upon the birth of the first child it would have vested, but subject to open and let in after-born children. The devise to Richard and his issue disposed of the entire estate. The devises over to the widow and testator's two sisters, and to James Whartenby, were executory devises. Upon the death of Richard, with the possibility of issue extinct, the devise to James became a remainder in fee simple vested at once in interest, but deferred as to the period of enjoyment until the termination of the intermediate life estates.\*

Numerous authorities have been cited on both sides. We have examined them and many others. It is impossible to reconcile the conflict which they present. Lord Chancellor Sugden said no one could do it.† No controlling principle can be deduced from them.

The conclusion at which we have arrived is sustained by many well-considered cases, both English and American.

<sup>\*</sup> Doe v. Howell, 10 Barnewall & Cresswell, 196; Doe v. Howell, 5 Manning & Ryland, 24.

<sup>†</sup> Montgomery v. Montgomery, 3 Jones & Latouch, 50.

#### Statement of the case.

We think that the learned judge who tried the case below instructed the jury correctly.

JUDGMENT AFFIRMED.

#### WALKER v. THE STATE HARBOR COMMISSIONERS.

In the construction of the statutes of a State, and especially those affecting titles to real property, where no Federal question arises, this court follows the adjudications of the highest court of the State. Its interpretation is accepted as the true interpretation, whatever may be the opinion of this court of its original soundness. So held in a case where the Supreme Court of California had construed the terms "tide lands," used in a statute of that State, as applying only to lands covered and uncovered by the tides, and as not including lands permanently submerged by the waters of the bay of San Francisco.

Error to the Circuit Court of the United States for the District of California.

Walker brought an action of ejectment against Marks and others, the Board of State Harbor Commissioners, for certain real property situated within the limits of the city of San Francisco, State of California. The case, which was tried by the court without a jury, by consent of parties, arose as follows:

In March, 1851, the legislature of the State of California granted to the city of San Francisco an estate for ninetynine years in certain lands covered by the tide-waters of the bay of San Francisco, situated within a designated line, described according to a map on record in the recorder's office of the county, and declared that the line thus designated should "be and remain a permanent water-front" of the city, reserving at the same time to the State the right to regulate the construction of wharves and other improvements beyond the line, so that they should not interfere with the shipping and commercial interests of the city and harbor.

# A POSTAL HISTORY of DELAWARE



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NEWARK, DEL.

Grebran Bon June 30, 1938

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office at Harrington, not only is still in operation, but has just been given a modern, up-to-date building. Harrington also holds the distinction of having had the first rural free delivery route to operate in Delaware.

A station was located by the railroad a few miles north of Dover and called Leipsic Station. A postoffice was established there on July 1, 1857, and James S. Moore was appointed postmaster. On August 13, 1861, the name of the station and the postoffice was changed to Moorton, after the postmaster. Local residents laughingly aver that Mr. Moore dropped the "e" from the name to save ink. Be that as it may, both the Post Office Department and the railroad company experienced considerable confusion due to the similarity of names between Moorton and Morton, Penna., and requested the residents of the Moorton to change their town's designation. Accordingly, it is told, a contest was held to suggest a new name. The winning name, it is further related, was Cheswold, the name of the first Pullman car its sponsor had seen. At any rate, on March 12, 1888, the name of both town and postoffice became Cheswold, William E. Freeston remaining as postmaster during the change. The office at Cheswold is still in operation.

When the railroad was refused permission to build thru Smyrna, is was located about a mile to the west of that town. The town of Smyrna Station was laid out and built on land purchased from Richard Tibbitt. This ground had a provision in its title that it would revert to William Wartenby should Richard Tibbitt die without heir. Tibbitt died without issue and Wartenby sued for ownership of the townsite. After one of the most famous battles in Delaware's legal history, the entire plot of one hundred and seventy-five acres on which Clayton, as the town was then known, stood, was decided to be the property of William Wartenby. It was not until 1877 that the Legislature officially changed the name of the town from Smyrna Station to Clayton, but the postoffice-established June 7, 1860—was called Clayton from the start. The first postmaster there was Alexander McConaughy. The mile-long spur track connecting Clayton and Smyrna was built in 1866, and in 1869 the Delaware and Chesapeake Railroad to Easton and Oxford in Maryland was built. For a long time Clayton was one of the most important railroad towns on the peninsula, but the decrease in freight and passenger business on branch railroads, due to the inroads of trucks and automobiles, has seriously hurt the commerce of the town. The postoffice is still in operation.

In New Castle County, just north of the Canal, is the village of Kirkwood, formerly known as Kemp's Corner. It received its present name in honor of Captain Robert Kirkwood, senior captain of the Delaware Battalion of the Continental Army, a very gallant soldier. For a while after the Delaware Railroad was first built, this stop was known as St. Georges Station. A postoffice was established at Kirkwood on May 2, 1861, and closed on April 14, 1863, James A. Benson being the first postmaster. Mr. Benson was again postmaster ten days later, April 24, 1863, when the office was reoponed. It has since continued in operation.

Another Delaware Railroad postoffice was opened on March 5, 1862, at Greenwood in Sussex County, as has already been told. And, on January 2, 1863, a postoffice was opened at Hare's Corner, the name by which the railroad station at Farnhurst was first known. Hare's Corner took its name from an early settler of that name and was on the old road from New Castle to Christiana Bridge. In early days it was a great cattle mart, and Quinn's Hotel was famous. It was later known as the Green Tree Inn. The old hotel was razed in 1931 during the building of the new dual highway. The first postmaster was Benjamin F. Larzelere and the last was Richard Jackson, the office being closed April 15, 1891.

In 1863, also, Delmar got its postoffice on November 3, the first postmaster being William S. Sirmon. This town, at the southern end of the Delaware Railroad, is really two towns, State Street being the dividing line between Delmar, Delaware, and Delmar, Maryland. There are two high schools and two sets of officials, but for postal purposes there is but one address—Delmar, Delaware, as the post-office has always been on the northern side of the state line. A great railroad town, Delmar has had its periods of prosperity and depression as the fortunes of the railroads fluctuated. The postoffice is in operation as it has been since it was opened.

Two postoffices were opened in Kent County railroad towns in 1866. The first, on January 26, being at the place known successively as West Camden, Camden Station, and Wyoming. Its present name was taken from the Wyoming Valley Conference of Pennsylvania from which the first minister in the town came. The beginnings of

# OYS HURT WHAN AUTO S ROAD NEAR SEAFORD

S GORDY, WM. LAW-RAY LECATES, INJURED

he Driver, Was Pinned Un-Car in Such a Position to orn Button and Give Alarm he automobile in which they ng skidded off the Seaforde State highway at Herring ch about one mile north of t 2 o'clock Monday morning v were returning from Wilthree young men residing at vere seriously hurt and it was e injuries of two of them ive fatal. They are: Jennings ged 23 years, son of Robert , chief of the Seaford Fire int, in the Emergency Hoslilford suffering from a brokpossible fracture of the skull y cuts and bruises about the 'illiam Lawrence, aged in of Mrs. Sallie Lawrence, ngaged at the Babies' Hos-Wilmington but whose home ford, in the Emergency Hos-Milford, suffering from a poscture of the skull, cuts and and internal injuries as indihemorrhages at the mouth. ates, aged 21 years, son of Mrs. Luther Lecates, cut e face and body, possible in-

juries and a crushed chest. his home in Seaford. Lesthe driver and owner of the ile involved in the accident.

### NEW TAYLOR'S BRIDGE SCHOOL

State Auxiliary Gives \$3327 Toward \$8327 Cost of Building—New Site Bought by Taylors Bridge Folks

Bids for the erection of a one-story brick school at Taylor's Bridge to replace the building which was blown down by a storm last spring, were opened Monday at the offices of the Delaware School Auxiliary, in the du-Building, Wilmington, There were four bidders. The lowest offer was made by H. C. Clark and Co., Delaware City, of \$8,327 and will be accepted. Shortly after the school was wrecked by the storm, the General Assembly, which was in session, appropriated \$5,000 for the erection of a new school. This sum proved insufficient and the Delaware School Auxiliary, which administers the funds given by P. S. duPont for the advancement of education in Delaware offered to subscribe the balance necessary.. The auxiliary also offered to pay the architects fee for plans and incidental expenses. The residents of Taylor's Bridge have bought a site for the new school, comprising a plot of three acres, about 500 feet distant from the old building. Pupils of the Taylor's Bridge school, about 30 in number, have been meeting in the parlor of a private home since their building was destroyed. It is expected that work on the new school will be started at once and that the building, which is to be built of brick, will be completed within three months.

## KLANSMEN AT DEAKTNEVILLE

Present School With Flag and Bible— Dr. J. H. Hawkins Makes Address

Kario County Locco Book F-4- 20.9 1853 May 14th. I do acknowledge to Mave received from Isade Kazel Grantio, within nuntioned the sum of Sive dollars consideration money within the cife a Patrul Jeseph Kinning Thomas & Tengle State of Delaware & Be it remembered that on this 14th day of May AD183. Hent County St. Spersonally came before me Joseph Kimmey Motary Roller for the Hate of Delaware, Richard Dibbett party to this Indentine ( Known to one four to be such ) and acknowledged this industries to be his deed, Given under Hal my hand and hat of Office the day and year aforesaide Joseph Hunnuy Asserted this deed to record this Jourtants day of January 60 1850 him copy accorded and compand with the briginal altest & it Colling Acc Deed Stace Hazel to Richard Tibbett This Inderline made this faiteenthe day of May in the year of our Lord me thousand eight hundred and Jefly three between Swae Hozel of Mundechile Houndred Sent bounty and Hate of Vilaware of the Ore part and Hickory Fillett of the same hundred bounty and State of the Other hart; Mitalette That the said Isaac Mazel In and in consideration of the sum of Fire dollars lawful money of the United Halis of anuntes to him in hand paid by the said Richard Teleta at or before the sealing and delivery of these presents the receift whereof is hereby deline ledged HOM granted burgained and sold, aliened, infe offed released conveys and confirmed and by these presents Soth quant bargain and sell, where en Geoff release convey and confirm unto the said Richard Tibbet his heis and ressigns, all that Farm, That, piece or parcel of land selicate in Such lech The stated Sout County and State of Delaware coffining lands now of hesly Specime Isace Davis and Sames Sohnson and also bounded by the trad leading poor Omyna to Senton and the Road, leading from Songena to the head of Chistee (he Manyland) being the same lands and premises Journely belonging to Same Wibbill Father of the said Richard and by him devised to the said Richard his sow, and by the said Richard sold and conveyed to the sais Sace Hugel in few simple, Containing live hundred deres more or less, Together with all and singular the buildings, words ways, waters wallerinses eights hiriteges frasements, herediluments and appurtenances thereunts belonging i it any wise appealaining and the reverseto and reversions remainder and lernainder, unto Dies and profile thereof, and also all the Estate right, lilly intuist claim and demand or possibility thereof in law or lequity of him the said Stack Hazel to in or out of the same and every part and parcel thereof 50 Hoave and To Hold the lands and themises above mentioned and specified and every fact and parcel thing with the Oppulenance unto the said Richard dibbet his heir and assigns to the only profeer use and behoof of him the said Richard

Tibbett his heis and assigns gower, and to and for no other use intens. or purpose whatsower; Intelling Whereof the said Swae Hazel Hathe hounts set his hand and Officed his seal the day and fed fist hours. light lided and delivered \ Same Hougel in presence of 1853 May Silo hereby acknowledge to hand -. . ) Uciera from Richard Telbett the sum of fice dollars. Maple Menning Thomas & Mulle | consideration money in the tithin derd mentioned Machh Rinney \_ Saac Hazel Thomas & Simple Hale of Delaware | De it reminiband that on this 16th day of May 18 1853 Nevet bounty St. \ personally came before me Joseph Semmy Notary pullic for the Mate of Delaware Loane Hazel party to this indentine ( Inoun to. me personally to be such ) and acknowledged this indentino to be his deed Grade Silver under my hand and seal of office the day and year apresaid Joseph Honney I received this deed to weard this Junteenth day of Surmary 20 1854 A hue copy recorded and compand with the original allest G. W. bollen Rees Dell Streph & Comogy, et ue to Sumuel Curry This Indentice made this first day of Grander in the year of our Lord One thousand Eight hundred and Jifly thing, by and belive in farth I bene gy, and Margaret his wife of the Soun of Dover, Sunt bounty and Mate of Delan aw of the One hart and Samuel berry of Dover Hernderd County and State aforesaid of the Other frent, UlMISIM, That the said Sough Hothings and Margaret his wife for and in consideration of the sum of sixty five .. dollars lawful Money of the Milled States of Anneico to there in hand for at and before the enseating and delivery of these presents, the except when is hereby achunitedged, Have and rock of them Hallo grante burgaine and lold aliened enfected released, conveyed and confirmed and by this presents to and each of them dotto grant bargain and sell alien enfeoff, release, carry and confirm unto him the said Samuel buny his heirs and asligns, all that cultivo lot or parcel of land situato in the low of Dover afresails bounded on the North by a lot of on the East by Governois Ovenue or high that ixtended ) on the South by a lot of Andrew Smithers and in the Mest by Ducen Street extended or about to be entented by the said fourth Mangy, it being the same lot of ground which on the plot offits in said lown of Down sold by said bonnegy on the day of the date hung and recorded in the Recorder Office in Dover apresaid in Book I'vol 4 on goles 163, is described as No 35, and contains Eighten Thous

Kent Country Leone 208 67C Leed Richard Filbett Vo Lace Hogel This Andentine made this goverteenthe day of May in the year of our Lord one Thousand eight hundred and gifty thee, between Richard Tillets of Mundulis Coundeed Fent bounty and state of Delaware of the One had and Is were Hazel of the same hundred bounty and State of the other part, Whereas Sames Sibbett gather of the said Richard Sibbett in his lefetime became seized in his demesse as of fee by wither of sundry conveyances and reserved among other lands and real estates of and in certain lands und premises dilicate in Such lever hundred hent bounds and state after said, the said lands and premises being particularly described and set Inth, in hart, in an Indentive of Bargain and sale from Isace hifithe and Many his wife to the said Sahas Fible to bearing date the land Jefthe day of Leplember in the year of our lord one thousand seven hunder und Kinely right and recorded inthe office for Recording deeds to at down in and for Sent bounds in Book dool 2 Jolio 163 %. and also in fact in another Indentitio of Bargain and tale from buffer heddles to the said Samus Sibbile recorded in the Office In recording Seeds to afor result in Both & rol 3: Thes 233-254 and also in fact in an other Indentine of Bargain and Sale from Thomas Munner to the said Sames Tibbett bearing date the risith day of November in the year of Our Lord one thousand eight hundred and Jeflew and also in hart in a culair award made in pursuance of an agreement believe the laid Janus Gibbitt, William Collins and George Commins and Whereas the said Sames Sibbit being to seized of said lands and real estate after wards to Mit, on the closette day of March in thelpear of our Lord on Mionsaid eight hundred and liverty nine made and executed his last will and destament inthiting and afterward died without having rewhed the same best leaving the same in feel force and effect, which said last Mile and Vertament was after the death of the seide lames Tibbett to Wit, or the liventy fight day of March in the year last aforesalos duly admilled to probate by and before the Register for the Pobale of Wills to in and for Stent bounty and seno stands of record in the Office of the Register of Mills to afour aid in Book Delio 133 in and by which fait last Will and testament among other things, the Said Sums Siblett did devise as followy to wet; Millian order and do hereby authory and diretmy Eccenter husinafter Mentioned to sell and ening thetero and a half were of Modland which I punchased at theif's fate of Comelius Battets and all the rest, uside and remounder of my estate both real and perand of what Rind and nature sower, I give, devise and biquent to my son Richard Sibbett during his natural life and after his death to his wine by him lawfully begetter of his body to

FL! 208 such issue their heir and assigns gover", and Whereas the said Richard Tibbete granter in this Indenture is now about to convey to Same Hazel apresaid in few simple absolute the wal estate so divised to him in and by the last Will and Listament of his Father the said Sames Libbets the said real estate being the lands and premises in this weital above mentioned, NOW Therefore This Indentino Mitty UM, That the said Richard Libbeto In and in Consideration of the sum of Sivo Dollars lawful money of the United States of America to him in hand haid by the said baco Hazel at or before the sealing and deliving of these fresonts to receift, whereof is hereby acknowledged Hath granted bargained and alimed released suferfed conveyed and confirmed and by their presents dotto grant, bargain and sele, alien release, infuff country and confirm unto the said Isaac Hazel his heirs and assigns, all that dum, hact, hire or parcel of land stude in Duch bleck Hum deed Hert bounty and State of Delaware, adjoining lands now of Thesley Thurance Lorde Davis and Sames Scholson and also bounded by the. road leading pow Snyma to Heritoro and the Road leading from Grup to the head of Chester (in Maryland) being the same land mentioned in the recitab hereof as having been conveyed to Sames Siblette, Hallier of Richard Libbett the brantor herein named, in part by Lace hiffithe and Mary his wife; in part by Leaffer Golder, in part by Thomas Thummer and in part from William bollis and which was devised as aforesairs to the said Richard Vibbill in and by to last Will and Lestament of his said Faller the said Farm hack peres or parcel of land containing in the Whole two hundred acres more or less. So gether with all und singular the building, woods , ways water watercours rights purileges eastments breudelandents and reflectionaires thereunto belonging or live anywise afe hutaining and the reversion and reversions rebudinder and remainders rents usus and profets thereof and also all the Estate right title inter est claure and demand or possebility thereof in low negetty of him the sound Richard Sibbett to, in or out of the same and every post and havel thereof, To Have and to Hold the lands and frances above mentioned and Specified and way fact and parcel thereof with the Uppentinances unto the land Isace Hazer his heis and assigns, in few simple absolute to the only proper user benefit and belle of of him the said Isaac Hazel his heir and assigns golier and to and for no other use whatsower, In mhies whereof the said Richard Tibbill hath hereunts set his hand and afficers his seal the day and year first herein contlen figued sealed and deliver Richard Sibbeto Secto Monas & Temple

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betwee Calcattein, hiriz & lounty of Lan Francisco, State of Ralgernin, temmissioner
For keleurare
white fan 6.1975, for
Tyceers.

day of October in the year of our Gover one thousand eight hunare and cighty one, personally came befor me. Edward Chatter a Commissioner of Boads
for the State of Kelawas, in and for the foily and bounty
of Dan Francisco, Catifornia, and commissioned Yourn
James Whartenby, party to the above and pacyoing
Indenture, known to me personally to be such, and
acknowledged The foregoing Indenture to be his and.

Tive under my hand and official seal thisday and year of cresaid.

Edwa Chattin, Commissioner for Blaware San Francisco, California.

Rec'd for Kreeord This 5 Th day of November A. D. 1881. John Colysoden, Mewarder.

True copy of original.
Attesti- John Coljonden, Recorder.

Deul- James Whartenby So Emma C. Harris, wife of Dr. James S. Karris.

This Indenture, Made the eleventh day of October in the year ofour Lord one Thousand eight hundred and eighty-one Between Janes Whartenby of California Ison of Thomas Whartenby late of the lity of Philadelphia I party of the first part, and Osume C. Plarris wife of Dr. James S. Harris now residing in the later of Philadelphia state of Pennsylvania, party of the second part,

Withesseth, that the vaid party of the first part, for and in consideration of the sum of five dollars lawful money of the limited states of America, unto him well and truly paid by the said Emma l. Harris the sircilit whereof is hereby asknowledged, and other good and lawful course him therewisto moving. Hatte granted, burguined, wold, alienal, in feoffed, relaced, and conveyed, and by these presents tooth grant, bargain, sell alien, engliff, reliairand convey unto the said Emme le Harris her of all that real citate and premises situate in the hunard of buck levek and the hundred of Kenton in Kent County and State of Belaware at wand was the town of Clayton of which James Sibbett late of burk breek Hunava, deseased, being seized and possessed - did in and by his last will and tiltament datea March 11th A. D. 1829, duly recom ed in the office of the Regester of Wills in and for Kent Country aforeraid, - devise unti his ain Richard Sibbett for the estate in the said lock hundioned, which found and premises is more fully described in a deed dated charge 11th A. M. 1863, executed by the said Richard Sibbett unto -Dunce Huzel and accorded in the office of the Recorder of Desdie in and for Kent hunty at kover, in Record Book F, wel H, Jolin 20840. Logether with all and singular the buildings, improvements, ways,

ecult

Ti

Muit allege, passages, waters, water courses, nights, liberties, privileges,

herodilaments and appartinances whatevever thereunto belonging , or in any wire apportaining. And the reversions and remainders, rents. esence and friefly Thereof, and all the estate, right, title, interest, frequerty, claim, and demand whatever of him, the said party of the first-part as well at bu as in equiliprof, in and to the same, To Have and to hold the vaise Three undivided fourth parts of said mot setate and frames, heralitanist and framises hereby granted or mentioned and intended so to be dutilly The apparatementes, unto the said bound to Barus her heirs and assigns, So and for the only preper use and behoof of the said Emma le Maria her heirs and assigns forever,

. In William Whirrong. The was party of the first furtitiath humanto set his have and use. holed the day and year first above writter.

Signal, Scaled and belivered in presence of, on line 1 1 port 1, words "and ten firmed cra set; on this more and intertine before signing

Junes Whatenby (Eigh)

butwe Shaltin. W. W. Kempalon

State of Colifornia }

King and learning of Law Francis to S.O.V. 130 it remembered. That on the eleventh

day of October in The year of our bord one Edw? Challin, With I County thousand eight hundred and eighty one, personally of ban Sinverse State of Roli formice came before me Edward Chattie, a Commissioner of secus for the State of relativese, chily commissioned RAMINIMIANON for Milaware. and qualified, residing in said bely and lounty of

April Jan 6.7875, you I years.

San Francisco, and State of Colifornia, Junio. (teat of arms of Butunes) Whartenby, franky to the above and foregoing

Indentive, known to me personally to be unch, and acknowledged the foregoing Industrie to be his drea.

Given under my hand and official traday and year aforesaid. Edwa Chattin, Commissioner for Allaway

San Francisco, California.

Kick for Record this to the day of November A-10 1681.

John Ofooden. Viceria.

True copy of original With John Olyooden Rocorder. hastin to this Industrie, known to me personally to be such and such a future permular acknowledged, this Industrial Juhud. Justing to the third Not and Aled her pirtuily; and the third was the paid telegabeth Danis, I fing althouse deficiently examined the paid that the paid telegabeth Danis, I fing the permutated security examined the permutated the paid and that the apparent the paid and indicate and peak of the beautiful to an almost and peak of efficients day and year a formaid. I find any and year a formaid.

Received for Record this 16th day of Sweenber, Ad. 1814.
A Shooloby of Original John C. Hooden, Nicorder.
Latil-John & Joacen, Recorder.

100- Comma O Harris Lo Thos. J. Bay and

Whis browning, made the right day of seember in the year of our Lord one thousand hight hundred and eighty four, but with the start of Philadelphia, and district formulations of the one pearl; and thomas of the soing of Minington, here hearts. I hat the soind borner of the other pearl; but the Bount and borners of the start of Omenia, to her in hand haid by the baid I homes of the search, the resident what a granted in hereby and delivery of these formers, the search and and alique the least of the granted, have said of homes of the search, the search and and alique the feel bleased, coloured and confirmed, and by their feelent that grant hangain and confirmed, and by their feelent that grant hangain and seek alique of Beneard, his blishs and lost gas, all that, that the true individed fourth pearls of all the following land and permises, may all that truet, fulle and parell of land, situated in soulk break thursted, that bounty, and contagions to the town of blogs and last of belaume, and contagions to the town of blogs and last of the seame, and contagions to the town of blogs and last of the seamer, and contagions to the town of blogs and last of the seamer half areas of hand, he same more or less; and being all the balance which sames the fact aide of the seamer Reihood which sames the fact aide of the seamer Reihood which sames the fact of the search of the seamer Reihood which sames the fact of the search of th

harinatur mentioned bereift two certain tracts and parcel of land the ope undivided fourth part of which the said the said Thomas I. Bayand and wife convey, by deed, heaving even date perwith, to said Comma O Marris and described therein as tracts, bienes and parcel ho. 140) the said tract piece and parcel of land and frances above described hering a frant of the same fands and frances of which the one undivided fourth part was conveyed to said throw as I. Boyand by James Wharterby by Indentine dated Wet 11th, A.B. 184, and recorded in the Recordin Office, at Rover, in Kent Country a forward, in deed Back St. Mal. G. 6-1811, ve. and the there undivided fourth parts of which were conveyed to the said Emma Q. Warris by the said James Whartenly, by Indentitue dated Oct. 11. A. D. 1841, and recorded in the Reorder's Office, at Jover, ofor paid in deed Bask H. nol. 6, 6-155, ve., as well appear by refune to paid two Indentities; and the said tract, fixed and panel of land being all the lands conveyed to said Thomas F. Rayand and Emma R. Glamis by Johns When -tologre, belotten and a southern ant get get what the the lots, tracts, pieces and parcels of land, the one undivided fourth fount of which the and Thomas F. Bayand and mife conney by deed heaving even date humith to said Comma Q. Marris, and except also the lot of ground heretofore conveyed by said Thomas F. Royand and wife and Comma De Markis to belayton Basket V Fruit Company sutting, thromovoguri, spiriblind Litt half and District and estrulial, telepir, strameral, egous-retow states, shoow, graw Lies et to sementrudge and appending the said tract piles and paroel of land Villinging, or in anywise appendaming; And the reversion and reversions, mainder and remainders, rents, issues, and profits thus And all the citate, night, title, interest property, elaun, demand and possibility whatever of her, the said Cruma D. Harris, at lder on in equity, of to, in, or cut of the same, and every frant and parel thereof, To Have and Le blood the ben't and opening hereby bangained and add or intended to be with the appurtenature, with the said Thomas 4. Thousand, his him and assigns, Is and for the only proper us, benefit and delisif of him, the said Thomas 8. Realand, his their and assigns forming In Ollitras Mherof, The said Emma lo. Namis has here. unto out her hand and deal the day and year first. written. M Chima & Warris

Resided, the day of the date of the within Indultie, of the within maned Thomas & Reayand, full patrifaction for could enation money in said Indenture mentioned, the pance having been fully paid.

State of Burushania. Object Remembered, Ilhat on this Cleviothe day of Neumber. Philadelphia Oty + Dounty A in the year of our Lond one thousand right hundred and John co parhank eighten four personally came beford my John & pathank For Delaware, in Rennythania. Emma to Hamis, party to Appointed June O. 5th, 187 F. dermof office neveryears. this Indentine, known to me personally to be such, and anknowledged this Indentine to the hereth and Beed, your under sity hand and lead of Office The day and year aforesaid nar hall for the batt of Delaware, resident in Philadelphia, tool of Kunayhum

Resident for Regard the 19th day of December, A. S. 1884.

a Some John of Onignal.

Coden, Recorder.

Idjød- Thes. F. Bayand suf. Io Emma b. Harris

This Indenture, Made the Eighth day of oreember in the year of our Lond one thousand eight hundred and eighty four, Between Thomas F. Rayans, of the Dily of Wilmington, hus Castle
learning, and State of orchware, and Louisa Lee, this soife, of
the one frant, and Emme O. Harris, of the Dily of Philadelphia,
and State of Remreghania, of the other frant: Witnesseth: That
the said Thomas F. Rayand and Lauisa Lee, his infe, for and
in consideration of the sum of Fine Dollars, lawful money
of the United State of America, to them in hand fraid by the
said Emme to Harris before the sealing and delining of these
foresents, the resiph-whereof is hereby tooknowledged, Hare
and each of them Hath granted, brogained and sold, alice
uned, inferfile, released consequed and confirmed, and by these
presents the drive seals of them aboth grant hargain and
all, alice, inferfy release, coming and confirm unto the said
forms to Harris, his blairs and Assigns, All that the one
undivided fourth frant of all the following described
lands and farmises, viz. No. 1. All that made, fisher and france

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of land, situated in such bruk infunded, Kent-learning and state of or South by Smyrna Branch Railroad, on the East- and Bounded by unds late of forace Spenance, deceased, and now of Alfred Mudson, and on the Hest by lands of Bright Shannon of savid 2h Thompson, deceded, and others, Containing Sixteen Cleres of land, rum or less, no. 2. - all that certain lot; peri and plancel of ground, situated in the town of alayton, such Quele Mundred, Kent- Danney, and State of Orlawore, lying on the East side of Front Steet, in said town, adjoining lands of Frank Kelley, lands late of Daniel It Thompson Observed and others, - trading a front on said Front steel of one hundres feet and Jumling hack from said Front street; in an Casterly direction, or course, between formallel lines, a distance of one humbes feet, where is ended a frame, tros-stry hold building, and out buildings, be the contents thereof what they may. No. 3 .- all that centain other tract; frice and france of land, or ground, situated at and contiguous to the torn of Clayton, in Kenton plunded, Kent County, and State of Deldware, and on the West side of the Delamare Railroad; and being all the lands and fremises and grounds on the West aide of the Delaware Rail road which James Whartenby conveyed to the Raid Thomas 7. Bayand and Ceruma C blancis, by Saidentine hereinafter men. tioner-fereight a centain lot and fearel of ground here. to for conveyed by the sait Thomas F. Rayant and raife, and Crima le. Alamis to the "lelayton Basket and fruit Dom. rany", be the contres thereof what they may The said three late, tracts, prices and parels of land or ground above described being a faint of the name land and formies of which the one undivided fourth frant was conveyed to the said Thomas F. Rayard by James Whar. anly, by Indenture dated Oct. 11, A. Q. 1881, and regarded in the Recorder's Office, al-Doner, in Kent-County aforesaid in Daid Rook W. wal. 6, p. 154, re., and the three undivided fourth parts of which were conveyed to the said Cemma C. Mamis by the said James Inhantentry, by Indentine dated lat: 11, A. D. 18th, and monded in the Granders Office, at Doner, afor anid, in and Roote A. wel. 6, for 185, ve., ap will appear by u mue is said tras Indentures will appear - and the said thee late, trade, pieces and parcel of land on ground being all the lands conveyed to and Thomas F. Rayard and Emma a Chamis by James Whattuby by the too Inden. turns above mentiones, except the track, friede and famel of hand, the three undivided fourth facility of which the raid Conna & Maries conveys by seed hearing even date here, with, is said Thomas F. Rayand, and in eight also the lot of

ground conveyed, as a formaid, by said Thomas F. Rayand and Juma D. Harris to Ellyton Baskel- & Fruit-leon pany: Und all and Singular the buildings, improvements, fixtures ways, woods, material mater-courses, leasements, rights, like the pribuleges, bereditaments and apprintments to the said late, tracts, files and franch of land belonging, or in anywise of fertaining, And the reversion and reversions, remainde and remainder, rents, issues, and for ofits thereof, And all the estate, right, title, interest, for fearing claim, demand and fracilities whatever of the Raid Thomas F. Rayand and Louisa for his wife, and of each of them, at law or in equity, of to, in, or out of the came, and every frant and Lancel thereof. To Stand and To blold the land and remises hereby hangained and gold, or intended to he, with the appointenances, unto the said anima D. Okarais her heins and assigns to and firethe only foroper use, herefit- and he hoof of her, the said Emma C. Nami, her Hein and Assigns france. In Witness Whereof, The said Thomas F. Bayand out Lamin Lis, his wife, have hereints refrectively set their chands and seals the day out year first heldin written. Signet, dealet and Delime in Presence of the medical front of.

and also small before in with signing. Anne Francis Rayand.

7. 7. Rayand a anisa Les Rayand

Received the day of the date of the within Indultie of the within named Emma a Marie full satisfaction for cound. enation money in said Indentine mentioned, the same having her fully faid. 7. 7. Bayand Whitnes, Anne Francis Bayand

Destrict of Jumbia, machington Lounty, of

John a. Beall, Comminment of seed forthe State of idelaman, eintrict of Columbia. lemminud June 8,1 Ho Expens June 8, 1887.

Be it (Kemembered, That on this 18th day of Desember in the year of our Lord one thurand eight hundred and eighty of our fremally came he for me, John & Reall, a Commissioner of clear for the State of Delandia was, in and for the District of Robumbia Thomas Fr. Prayand and Lawis Les, his wife parties to this Indentite Pension to me Grennally or the such, and severally acknowledged this Indenture to the their

Ad- and seed respectively; and that the said Laures Les Bayand. being at the same time projectely examined by me, rapartfrom her husband, asknowledged that she executed the said Indeneme willingly, without compension on theats, or efear

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of her husband's displeasure.

Solut mater my hour and and of office, the day and year aformaid.

John G. Biell.

a Commissioner of wirds for the state of arlaman, in and for the seistrict of Columbia

Received for Record this 20th day of December, 1.D. 1894.

I thue topy of OriginalLetter-i John b. Standen, Recorder.

1000 - Robert dr. Greenlee To William E. Isreenlee

This Indentire, made the tench day of nonember in the year of our Lond one thousand eight-hundred and eighty of Between Robert & hunder, of douth Tunderfile Orinseld. Kent County, and State of Oclamar, of the first-frant and State, of the finely and State, of the water frant. Witheseth: That the caid Robert W. Grenere, for and in ancideration of the aum of Twelve shundred and ify Dallan, lawful money of the United States of America, i him in hand fraid by the acid William G. Sheenle, before the realing and deliny of these fresents, the reseifed-whereof is hereby acknowledged. Was granted, hangained and sold, allered enfoffed, released, conveyed and confirmed, and by these forward, both grant; hangain and sell, alin, infeoff, release, convey and confirm unto the acit William G. Guenles, his Mins fans recign, all that aertain farm, tract and parech of land and anements, situated in South numberfiel Dhundred, Kent Downty and that of Delaman, lying on both aide of the feublic road leading from Histlandsmille to Guenchrangh, adjoining ohn H. Carper, lands of James A. Melvin, ladds of John D. Mendick, lands of Philemon ledwards, lands of William s. Jump, and lands of William lo. Latterfield, and levitains seventy eight thee of land, buthe same mor or less; said from or trout of land is emposed of thee separate frances or purchases, wembraced in one accord, made by Joseph Ward, Surveyor and for further information refer & sees from William Cl. Greenle to Robert W. Greenlee, recorded in the office for the recording deed, at soner, in and for Kent-Danning in seed Reard Back S. volume 6, page 72, date, 20th day of July ld. D. 1881. and all and Singular the buildings, improvements, finites, may, moods, waters, water-courses, easement, nights, liberties, pris. dege, hereditaments and appuntinances to the said farm, track-or parel of land and timements belonging, or in anywise affertaining and the reversion and reversions, remainder and remainder,