

L A W S

O F T H E

S T A T E

O F

DELAWARE,

FROM THE FOURTEENTH DAY OF OCTOBER, ONE THOUSAND SEVEN  
HUNDRED, TO THE EIGHTEENTH DAY OF AUGUST, ONE  
THOUSAND SEVEN HUNDRED AND NINETY-SEVEN.

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IN TWO VOLUMES.

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VOLUME II.

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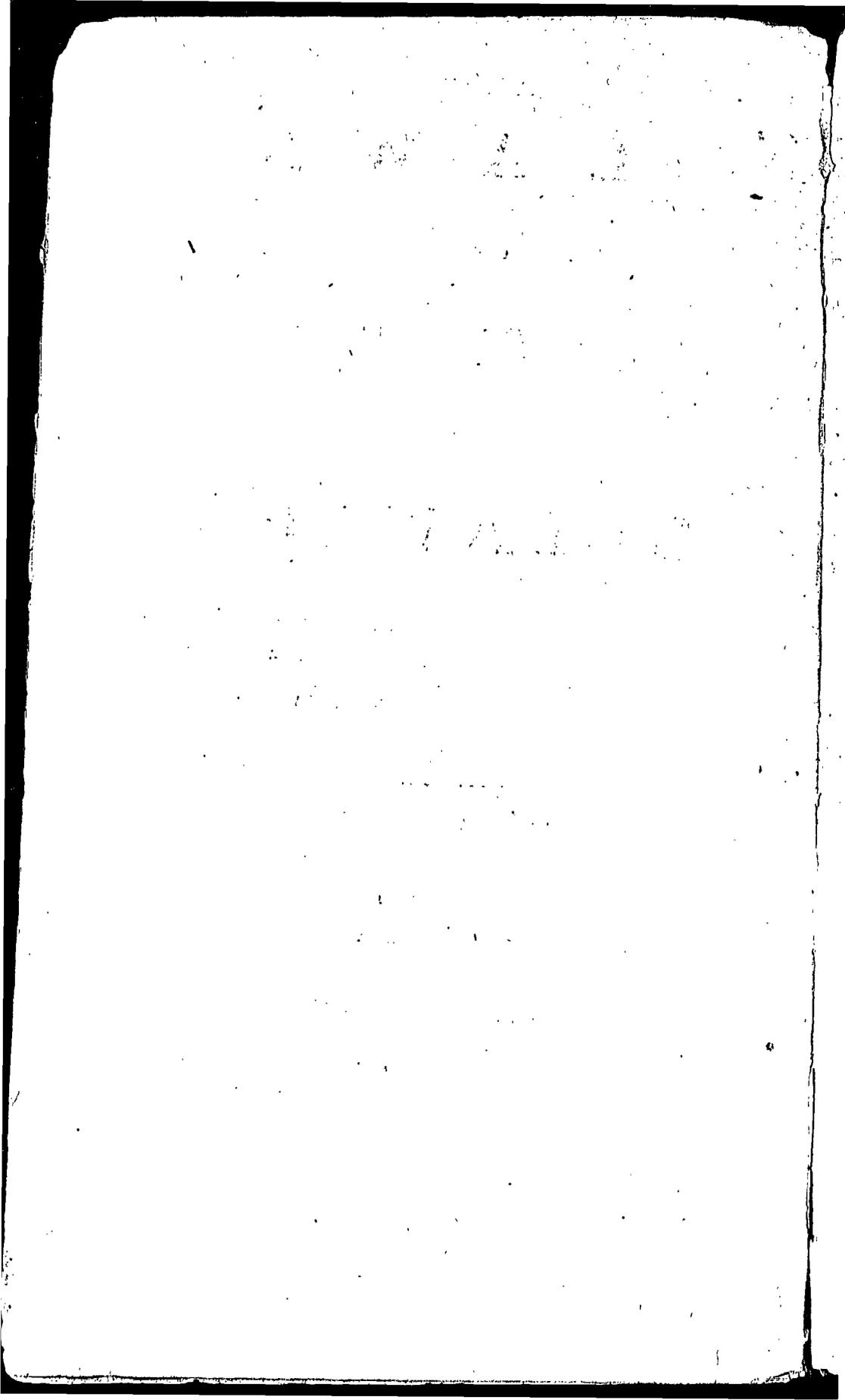
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*Published by Authority.*

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N E W - C A S T L E :  
PRINTED BY SAMUEL AND JOHN ADAMS,

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SECRETARY'S OFFICE, NEW-CASTLE, AUGUST 18, 1797.

*I Do certify, that this Edition of the LAWS OF THE STATE OF DELAWARE, comprised in Two Volumes, printed by Samuel and John Adams, is published pursuant to the Directions of an Act of the Legislature of the said State, passed on the nineteenth Day of June, in the Year One Thousand Seven Hundred and Ninety-three.*

JAMES BOOTH,

*Secretary of the State of Delaware.*



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L A W S

OF THE

State of Delaware.

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C H A P. I. b.

CHAP.  
I.

1777.

An ACT to punish treasons and disaffected persons, and for the security of the government. To continue during the war.—Expired.

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C H A P. II. b.

An ACT to render parts of divers acts of Assembly and certain law proceedings more conformable to the present constitution. (a)

1777.

**W**HEREAS the bonds and obligations, directed by any act of Assembly to be taken in the name of the King of Great Britain, or the Governor or Lieutenant Governor for the time being, cannot now be sued, and it is necessary that all such bonds or obligations should hereafter be taken in a different manner: *And whereas* all recognizances taken in the name of the same King, or Governor or Lieutenant Governor, or government of the counties of Newcastle, Kent and Suffex, on Delaware, cannot now be sued, nor new recognizances taken agreeable to

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B

former

(a) For this constitution, established the 20th of September, 1776, See the Appendix.

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1777.

former practice: *And whereas* it is expedient that certain fees and perquisites heretofore given by law to the Governor or Lieutenant Governor, for the support of government, should hereafter belong to the President or Commander in Chief of this state for the time being; and that the oaths or affirmations of allegiance, directed to be taken or subscribed before the fourteenth day of May last, should be totally abolished;

Public bonds, &c. heretofore taken and remaining in force how to be sued.

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That all bonds, obligations and recognizances taken in the name of the King of Great Britain, or in the name of the Governor or Lieutenant Governor for the time being, or in the name of the government of the counties of New-Castle, Kent and Suffex, upon Delaware, which remain in force at the publication of this act, may and shall be sued, in the name of the Delaware State in the same manner they heretofore have been sued in the names of the said King, Governor, Lieutenant Governor, or in the name of the government of the counties of New-Castle, Kent and Suffex, upon Delaware.

How all such bonds, &c. are to be taken hereafter.

SECT. 3. *And be it further enacted,* That all recognizances, bonds and obligations heretofore directed to be taken, or usually given, in the name of the King of Great Britain, the Governor or Lieutenant Governor, may and shall from and after the publication of this act be given and taken in the name of the Delaware State (except such as are by this act directed to be in the name of the President) and shall be for the use of the public or persons interested. (b)

Licences of divers kinds by whom to be granted.

SECT. 4. *And be it further enacted,* That all licences to inn-keepers, tavern-keepers and other public house-keepers, and also to pedlars, hawkers or petty-chapmen, and all marriage-licences, heretofore granted by the Governor or Lieutenant Governor, may and shall from and after the publication of this act be granted

(b) By art. 6. sect. 21. of the constitution of this state, adopted in June, 1792. the stile in all process and public acts is to be "The State of Delaware."—And in chap. 5. c. sect. 6. Anno 1793, bonds and recognizances of public officers, &c. to be taken in the name of the State.

granted by the President or Commander in Chief of this state, and not otherwise; and all bonds or obligations, required by any act of Assembly to be given and taken previous to the granting such licences, may and shall be given and taken for the future in the name of the President or Commander in Chief for the time being, and payable to him or his successors, (c) for which purpose he is hereby made a body politic and corporate; and all fines and perquisites allowed by law to the Governor or Lieutenant Governor for such marriage or other licences shall hereafter be paid to the President for the time being; any thing in any act of Assembly of this state to the contrary notwithstanding. (d)

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Bonds to be given on granting such, in whose name to be.

Fines and perquisites thereon to whom payable.

SECT. 5. *And be it further enacted,* That no person or persons shall presume to keep any inn, tavern, ale-house, ordinary, victualling-house, or other public house of entertainment within this state, from and after the twenty-fifth day of March next, without obtaining, by petition, a recommendation from three or more of the Justices of the Peace of the county in which he, she or they reside to the President for a licence to keep the same, setting forth, that the person or persons so petitioning is or are fit and well qualified for keeping such a house: *Provided always,* That every licence, so to be granted shall continue in force until the last day of the Court of Quarter Sessions to be held in each county in the month of February, which will be in the year of our Lord One Thousand Seven Hundred and Seventy-eight; at which Courts of Quarter Sessions in the month aforesaid, and in like manner at all succeeding Courts of Quarter Sessions to be held in the same month annually forever; the justices of the said respective courts are

Manner in which public-house licences must be obtained.

(c) By chap. 5. c. sect. 14. all the powers formerly vested in the President alone, or in the President and Privy Council, under the late constitution, (of 1776) and by the laws of this state, not provided for by the constitution (of 1792), are vested in the Governor; but all licences are to be countersigned by the Secretary, and sealed with his seal of office.

(d) For the fees on those licences, see chap. 27. c. sect. 1. passed June 15, 1793.—By chap. 5. c. sect. 5, all such fees are declared thereafter to belong to the state, payable into the treasury thereof.—And in chap. 28. c. were appropriated to the discharge of the salaries of the Chancellor and Judges.—But after appropriated in chap. 105. c. passed Feb. 9, 1796, as part of a fund for establishing schools in this state.

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are authorized and impowered to give, in full sessions, such recommendations as aforesaid; and that no such licence shall afterwards be granted but upon such recommendations, nor continue longer in force than the last day of the succeeding February Sessions. (e)

Repeal of former acts, &c.

SECT. 6. *And be it further enacted*, That so much of every act of Assembly prescribing the taking or subscribing any oath or affirmation of allegiance to the King of Great Britain for the time being; or acknowledging any authority in him, or the Parliament of Great Britain, or in the heirs and devisees of William Penn, esq. deceased, formerly Governor of this state, or in any other person whatsoever as Governor; and so much of every act of Assembly as declares, directs or commands, any matter, act or thing repugnant or contrary to, or inconsistent with, the present constitution of this state, (f) framed and established by the late convention, shall and are hereby declared to be repealed and absolutely null and void.

*Passed February 22, 1777.*

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C H A P. III. b.

1777. *An ACT against desertion, and harbouring deserters, or dealing with them in certain cases.* Repealed by chap. 18. b.

CHAP.

(e) This sect. 5: altered and supplied in chap. 20. c. passed June 14, 1793. and in chap. 61. c. sects. 5, 6. passed Feb. 7, 1794.

(f) Framed in September, 1776.

## C H A P. IV. b.

C H A P.  
IV.

1777.

An ACT for supporting and establishing certain bills of credit issued by the Congress of the United States of America, and to prevent the counterfeiting of the same, and certain lottery tickets issued by their authority, certificates of the Continental Loan Office, and also other bills of credit.

**W**HEREAS the safety and prosperity of this Preamble. state, as well as of the United States of America, in a great measure depend upon the supporting the credit of the paper money emitted by the Congress, by making it a legal tender at the full value expressed in the respective bills, and by preventing the raising the nominal value of gold and silver, or any other species of money whatsoever;

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the bills of credit, emitted by the Continental Congress, shall be, and they are hereby declared to be, a legal tender for the payment and discharge of all manner of debts, rents, sum, and sums of money whatsoever, due; payable or arising, upon, or by reason of any mortgage, bond, bill, specialty, note, book account, promise, assumption, or any other contract or cause whatsoever, as if the same was tendered or paid in the money mentioned in such mortgage or other writing, book account, promise, assumption, or any other contract whatsoever, and shall be so received in all payments by all persons whomsoever; and that the same shall be deemed equal in value to the like nominal sum in Spanish milled dollars, weighing seventeen pennyweight and six grains, accounting each dollar at the rate of Seven Shillings and Six-pence lawful money of this state; and that all debts payable in sterling money may and shall be discharged with the said bills at the rate of Four Shillings and Six-pence sterling *per* Dollar.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if such tender in the said Continental bills be legally made to any creditor or creditors whatsoever,

Bills of credit  
issued by Con-  
gress a legal ten-  
der, &c.

Value of such  
bills in Spanish  
Dollars,

or sterling mo-  
ney.

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On such tender and refusal, &c. debt discharged, and the sum thereof forfeited, &c.

soever, and he, she or they, shall refuse to accept thereof in payment, and shall afterwards by the space of ten days neglect to declare or make known to his said debtor personally, or by notice in writing left at his usual place of abode; his, her or their willingness to accept of the same bills of credit in payment, such tender and refusal shall operate as a discharge and forfeiture of the debt due to him, her or them, one third part thereof to be retained by the debtor tendering the same, for his own use, and the other two third parts thereof to be paid by the said debtor into the hands of the Treasurer of the county, where such forfeiture happens; for the use of the state; and in case the said debtor refuses or neglects to pay the said two third parts of the debt so forfeited to the Treasurer as aforesaid, the same may and shall be sued for and recovered, with interest, in the manner herein after directed as to the other forfeitures under this act.

And any assignment of the security for such debt declared fraudulent, &c.

SECT. 4. *And be it further enacted by the authority aforesaid,* That where such tender and refusal shall be made as aforesaid, and the person to whom the same tender is made shall afterwards assign, transfer, or set over any such mortgage, bond, specialty, bill or note, every such assignment shall be deemed fraudulent, and the assigner shall forfeit and pay to the assignee, or to his or her executors or administrators, double the sum mentioned in such mortgage, bond, specialty, bill, or note so assigned or transferred, to be recovered by action of debt in any Court of Record in this state.

Persons offering more in the said bills in exchange for gold or silver, or

for goods, &c.

or persons offering to sell any goods, &c. for gold and silver, and refusing to sell for the said bills, to forfeit the value, &c.

SECT. 5. *And be it further enacted by the authority aforesaid,* That whosoever shall offer, ask, or receive, more in the said bills for any gold or silver coins, bullion, or any other species of money whatsoever, than the nominal sum or amount thereof in Spanish milled dollars, or more in the said bills for any goods or commodities whatsoever, than the same could be purchased at of the same person or persons in gold or silver, or any other species of money whatsoever, or shall offer to sell any goods or commodities for gold or silver coins, or any other species of money whatsoever, and refuse to sell the same for the said Continental bills, every such person shall forfeit to the use of the state, for

for the support of the government thereof, the value of the money so exchanged or goods or commodities so sold or offered to sale, and on proof thereof being made by one or more credible witnesses, before any Justice of the Peace of the county, such justice shall (if such sum of money as aforesaid forfeited shall not exceed Five Pounds) issue his precept in the name of the state, in the nature of a summons or a *capias* as the case may require, and proceed to recover the value of the money so exchanged, or goods or commodities so sold or offered to sale, so proved to be forfeited, in the manner directed by the laws of this state for the recovery of debts not exceeding Five Pounds, together with costs of suit, and when so recovered and received shall pay the same to the Treasurer of his county, who shall give his receipt therefor; and if any such forfeiture as aforesaid shall exceed the sum of Five Pounds, the justice before whom such proof shall be made shall within three months send an account in writing to the Attorney General of this state, containing the names of the witnesses, and the person who, and the sum that he or she, has so forfeited; and the Attorney General is hereby required as soon after as conveniently may be to sue for and recover, in the name of the state, such sum or sums of money by action of debt in any Court of Record of the county where the forfeiture shall happen, and when so recovered and received, to pay the same to the Treasurer of that county, who shall give his receipt therefor. And the said Treasurer shall afterwards account for all the monies coming to his hands by virtue of this act, and pay over the same as the General Assembly shall from time to time order and appoint. (a)

SECT. 6. *And whereas* it is necessary that the counterfeiting of the bills of credit made current by public authority, the tickets in the public lottery set on foot by Congress for the support of the American war, and the

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how such forfeiture to be recovered.

Counterfeiting such bills of credit, certain lottery tickets and continental Loan Office certificates, punished with death.

(a) By chap. 68, b. passed November 4, 1780. the operation of this act, inter alia, so far as the same made the bills of credit of the United States, and of this state, a legal tender, equal to gold and silver, suspended for one month, and from thence until the end of the then next sitting of the General Assembly.—At the said next sitting, to wit, February 12, 1781. by chap. 71, b. sect. 37. this chap. 4, inter alia, so far as it related to making the said bills a legal tender, repealed.

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the certificates of the Continental Loan Office, should be punished and prevented, *Be it enacted by the authority aforesaid,* That all and every person and persons, who, from and after the publication hereof, shall counterfeit or alter any of the aforesaid bills of credit by this act made a legal tender, or any of the bills of credit emitted and made current by any of the Assemblies, Conventions or Congresses, of any of the United States of America, or any ticket in the lottery before mentioned, or any certificate signed by any Commissioner of the Continental Loan Office, or utter any bill or bills, ticket or certificate, so counterfeited or altered, knowing the same to be so counterfeited or altered as aforesaid, and be legally convicted thereof, shall be adjudged guilty of felony, and be punished with death in like manner as persons convicted of counterfeiting or altering the bills of credit of this state, and knowingly uttering the same, may or can be.

*Passed February 22, 1777.*

## C H A P. V. b.

1777.

*An ACT for aiding the discontinuance of the process in the Supreme Court, and for altering the times of holding the said Court, and also the Courts of General Quarter Sessions of the Peace and Gaol Delivery, and Courts of Common Pleas.*

Preamble.

**W**HEREAS the process and proceedings in the Supreme Court for this state are now discontinued and put without day, by occasion of the non-coming of the justices thereof at the days appointed by law for holding the said court in the several counties within the said state: *And whereas* the days appointed by law for holding the said court, within the counties of this state, are found by experience to be improper times for holding the said court;

*SECTION 2. BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That every indictment, presentment,*

ment, action, suit, plea, process or other matter whatsoever, that were depending in the Supreme Court, within any or either of the counties of this state, and are now become discontinued, abated and put without day, by reason of the non-coming of the justices thereof as aforesaid, shall be and are hereby revived and continued, and shall and may be heard, tried and determined, before the justices of the said court for the time being, on the days and times, and at the places herein after appointed and directed, in as full and ample manner to all intents and purposes whatsoever as they might or could have been if such action or other matter had not been determined by the means aforesaid. (a)

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Revival and  
continuance of  
the process, &c.  
in Supreme  
Court.

SECT. 3. *And be it further enacted*, That, from and after the publication of this act, the Supreme Court for this state shall be held twice in every year; *That is to say*, At New-Castle, for the county of New-Castle, on the second Tuesday in the months of April and October; and at Dover, for the county of Kent, on the third Tuesdays of the months aforesaid; and at Lewes, (b) for Suffex county, on the fourth Tuesday of the same months. (c)

Times for hold-  
ing the said  
court in future.

SECT. 4. *And whereas* it is thought expedient and necessary to alter the days of holding the Courts of General Quarter Sessions of the Peace and Gaol Delivery, and County Court of Common Pleas within the several counties in this state,

SECT. 5. *Be it therefore enacted*, That the said Courts of General Quarter Sessions of the Peace and Gaol Delivery shall be holden at Lewes, (d) for the county of Suffex, on the first Monday in the months of May, August, November and February; at Dover, for the county of Kent, on the second Monday in every of

Times for hold-  
ing the Courts  
of Quarter Ses-  
sions in each  
county in future;

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the

(a) For subsequent similar provisions, see chap. 13. b. sect. 5.—chap. 16. b.—chap. 29. b.—chap. 31. b.

(b) This place of holding the courts, &c. changed to George-Town in that county by chap. 237. b. passed October 26, 1791.

(c) For the several alterations of the days for holding this court in the respective counties from its establishment in chap. 54. a. sect. 6.—See chap. 167. a.—chap. 177. a.—chap. 193. a.—and for subsequent alterations see chap. 19. c. passed June 14, 1793. and chap. 61. c. passed Feb. 7, 1794.

(d) See note (b) before.

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the same Months; and at New-Castle, for the county of New-Castle, on the third Monday in every of the months aforesaid, (e) which said Courts of General Quarter Sessions of the Peace may be kept and continued for the space of three days, and no longer, in the said counties respectively, at any of the times herein before appointed for the holding and keeping of the courts and sessions aforesaid in each of the said counties.

and when the  
Courts of Common  
Pleas shall  
begin.

SECT. 6. *And be it further enacted*, That the said County Courts of Common Pleas respectively shall begin and be holden in each of the said counties on the Wednesday or last day of the said Courts of Quarter Sessions in the several months aforesaid. (f)

Repeal of former  
acts.

SECT. 7. *And be it further enacted*, That all the acts of Assembly heretofore made, and supplements to them, and every clause therein contained, so far as the same relate to days and times of holding the several courts before mentioned, be and are hereby repealed, annulled and made void. (g)

*Passed February 22, 1777.*

C H A P. VI. b.

1777.

*An ACT for ascertaining the salaries and allowances to the officers and persons herein mentioned, employed in the government of this state, and for the providing a fund for the payment thereof.*

Preamble.

**W**HEREAS, by the Constitution or System of government established by the Convention, (a) it is declared and ordained, that adequate but moderate

(e) See chap. 54. a. sects. 1, 2, 3. for the prior time of holding this court in the respective counties.

(f) See chap. 54. a. sect. 15. for the days of commencing this court in the respective counties heretofore.

(g) For the existing alterations in these courts, see art. 6. of the constitution of this state of June 1792.—chap. 19. c. passed June 14, 1793.—and chap. 61. c. passed Feb. 7, 1794.

(a) In September 1776.

rate salaries should be settled on several officers therein mentioned; in pursuance thereof, We the Representatives of this state, in Assembly, desire that it may be enacted,

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SECTION 2. *AND be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the several yearly salaries and allowances herein after mentioned, shall be settled upon and made to the following officers during their continuance in office, *to wit*;

Salaries of the following officers.

The President or Chief Magistrate—The Chief Justice and the other Justices of the Supreme Court—The Chief Justices and the other Justices of the Courts of Common Pleas and Orphans Courts--- Judge of the Admiralty---The Members of the Council and Assembly, and also of the Privy Council---The Clerk and other Officers appointed by the Council, as set forth in this and the two following sects. No. 3, 4; all of which were altered and supplied in articles 2, 3, 6, of the Constitution of this state, adopted in June 1792. ---chap. 6. c. passed February 2, 1793---and chap. 27. c. sects. 4, 5, 20, 21, 22, 23, except Judge of the Admiralty whose jurisdiction is taken away and given to the United States by their Constitution framed in September 1787, in article 3, sect. 2.

SECT. 5. *And be it further enacted by the authority aforesaid,* That all fines and forfeitures hereafter accruing or arising within this state, shall belong to, and be for the use of the same, and shall be paid by the Sheriffs, or other persons authorized to receive the same, in each county, to the Treasurer of such county where such fine shall be imposed or forfeiture happen, within two months after he shall receive the same, under the penalty of double the sum coming to his hands, to be sued for and recovered by the Treasurer in the name of the Delaware State, by action of debt, bill or plaint; (b) and the same fines, forfeitures and penalties, shall be liable to the joint draughts

All fines and forfeitures to the use of the state.

(b) All such fines and forfeitures made payable to the State Treasurer within sixty days by every Officer who may have the collection of the same, &c. which see in chap. 28. c. sect. 2. passed June 15, 1793. See also chap. 143. b. sects. 7, 9. passed February 3, 1787.

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VI.

1777.

Fines, &c. by  
whom to be  
remitted,

Interest arising  
in Loan Office  
to be the fund  
for payment of  
the annual sala-  
ries aforesaid,

draughts of the Speakers of the two Houses, drawn by the orders of the same, and not otherwise. (c)

SECT. 6. *Provided always, and be it enacted by the authority aforesaid,* That it shall and may be lawful for the President and Commander in Chief for the time being, with the advice and consent of the Privy Council, to remit fines and release forfeitures upon the recommendation of the judges of those courts wherein such fines may be imposed or forfeitures happen upon conviction before them. (d)

SECT. 7. *And be it further enacted by the authority aforesaid,* That the interest monies arising from any of the bills of credit, emitted or to be emitted on loan in this state, shall be the fund for the payment of the yearly salaries herein before made and settled upon the President or Commander in Chief, the Justices of the Supreme Court and Courts of Common Pleas, and Judge of the Admiralty, whose respective receipts, or orders and receipts, for the same salaries, shall be a sufficient discharge to any of the Trustees of the Loan Offices in this state for the amount thereof respectively, and the sums so paid shall be allowed to them by the Committees of the General Assembly, appointed from time to time to settle and adjust their accounts, any law, custom or usage to the contrary notwithstanding. (e)

*Passed February 22, 1777.*

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(c) In sect. 5, of said chap. 28. c. appropriated to the discharge of the salaries of the Chancellor and Judges.

(d) This power vested in the Governor in sect. 9. of art. 8. of the constitution adopted in June 1792.

(e) This sect. 7. altered and supplied in chap. 90. b. sect. 6. passed Feb. 5, 1792.

An ACT for the recovery of a sum of money due from Boaz Manlove, of the county of Suffex, to the Delaware State.

**W**HEREAS the said Boaz Manlove, as one of Preamble. the signers of the bills of credit of this state, appointed in the act of Assembly, passed in the year One Thousand Seven hundred and Seventy-five, intituled, *An act for emitting the sum of Thirty Thousand Pounds in bills of credit on loan, and providing a fund for payment of public debts,* (a) did receive the sum of Ten Thousand Pounds of the said bills of credit, being the Suffex county quota of the said sum of Thirty Thousand Pounds, to be by him signed, numbered and delivered to John Rodney, esquire, of Suffex county aforesaid, as Trustee of the General Loan Office of the said county; of which said sum of Ten Thousand Pounds the said Boaz Manlove hath delivered as aforesaid the sum of Nine Thousand Six Hundred and Twenty Pounds only, and the residue thereof, *to wit,* the sum of Three Hundred and Eighty Pounds, the said Boaz Manlove hath, in violation of the public trust reposed in him as aforesaid, retained and still doth retain in his hands,

SECTION 2. *And whereas* sundry expences to the amount of Ten Pounds have incurred to this state in and about the summoning, and endeavouring to arrest the said Boaz Manlove for his contempt of the orders of the Assembly touching the premises; *to the end therefore,* that the public debt aforesaid may be rendered more secure until a legal recovery thereof can be had,

SECT. 3. *Be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That all and singular the lands and tenements of the said Boaz Manlove in the county of Suffex aforesaid, or in any other county in this state, to which

Lands of Boaz Manlove made subject to the payment of his debt to the state.

he

(a) See before chap. 230. a.

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1777.

he the said Boaz Manlove is intituled either in law or equity, are hereby made chargeable and subject to the payment of the aforesaid sum of Three Hundred and Eighty Pounds and the interest thereon due, and to become due, at the rate of five *per cent.* from the first day of April last past until the same shall be delivered and paid to the Trustee of the General Loan Office for Suffex county aforesaid: And' also the farther sum of Ten Pounds and interest thereon due, and to become due, at the rate of six *per cent.* from the twenty-third day of January last past until the same shall be paid to the Trustee as aforesaid.

Person appointed to sue for said debt.

SECT. 4. *And be it further enacted,* That the said John Rodney is hereby directed and required as soon as conveniently may be, in the name and for the use of the Delaware State, to sue for and recover the said sum of Three Hundred and Eighty Pounds, and likewise the aforesaid sum of Ten Pounds, together with the interest for the same sums respectively, from the said Boaz Manlove, his executors or administrators, by action of debt in any Court of Common Pleas or Supreme Court in this state; and when the same sums are recovered and received to dispose of the said Three Hundred and Eighty Pounds, and interest as aforesaid, to the like uses as by the said recited act is directed as to other monies coming to his hands by virtue thereof, and the said Ten Pounds, and interest as aforesaid, to be disposed of as the General Assembly shall hereafter direct.

*Passed February 22, 1777.*

C H A P. VIII. b.

1777.

*An ACT for printing and emitting Fifteen Thousand Pounds in bills of credit of this state, to be let out on loan; and for striking the further sum of Ten Thousand Pounds in such bills for the use of this state, and for providing a fund for sinking the same.*

Preamble.

**W**HEREAS it is expedient and necessary to strike and make current an additional sum of Twenty-

Twenty-five Thousand Pounds in bills of credit in this state, as well for the support of the government thereof in an honorable manner, as for its defence against the unjust and cruel attempts of the King of Great Britain to inflave the good people thereof, and for carrying on the trade and commerce of the same; We the Representatives of the freemen of this state, in Assembly, being desirous to exert ourselves with the utmost vigour in the defence of our just rights and liberties against all the enemies thereof, and to support our present government in a suitable manner, have agreed to give the sum of Fifteen Thousand Pounds in bills of credit to be let out on loan, and the sum of Ten Thousand Pounds in such bills of credit for the defence of this state, and desire that it may be enacted;

SECTION 2. *And be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That indented bills of credit to the value of Twenty-five Thousand Pounds, lawful money of America, shall, before the first day of May in the year of our Lord One Thousand Seven Hundred and Seventy-seven, be prepared and printed on good strong paper, under the care and direction of John Lea, Jonathan Robinson and Jacob Stout, gentlemen, or any two of them, and at the public charge, to be defrayed out of the interest money that hath arisen or shall arise upon the loan of any bills of credit formerly emitted, or to be re-emitted, by any of the Trustees of the Loan Offices of this state; which bills shall be made in the manner and form following, and no otherwise, *viz.*

Twenty-five  
Thousand  
Pounds to be  
struck in bills of  
credit.

“ This indented bill shall pass current for \_\_\_\_\_ within the Delaware state, according to an act of General Assembly of the said state, made in the year of our Lord One Thousand Seven Hundred and Seventy-six. Dated the first day of May, 1777.”

Forms of bills.

SECT. 3. *And the same bills shall be printed with the sums of money for which every of the said bills is to pass in words at length at the top of each bill, and*

C H A P.

VIII.

1777.

Number and  
denominations  
thereof.

and such devices on the same as the said John Lea, Jonathan Robinson and Jacob Stout, or any two of them, shall think fit to direct, as well to prevent counterfeits as to distinguish their several denominations; each of which bills shall be of the several and respective denominations following, and no other, *to wit*;

Nine thousand eight hundred of the said bills, the sum of Twenty Shillings value in each of them.

Nine thousand eight hundred of the said bills, the sum of Ten Shillings in each of them.

Nine thousand eight hundred of the said bills, the sum of Six Shillings in each of them.

Nine thousand eight hundred of the said bills, the sum of Five Shillings in each of them.

Nine thousand eight hundred of the said bills, the sum of Four Shillings in each of them.

Nine thousand eight hundred of the said bills, the sum of Two Shillings and Six-pence in each of them.

Nine thousand eight hundred of the said bills, the sum of One Shilling and Six-pence in each of them.

Nine thousand eight hundred of the said bills, the sum of One Shilling in each of them.

Five thousand four hundred and fifty-five of the said bills, the sum of Nine-pence in each of them.

Five thousand four hundred and fifty-four of the said bills, the sum of Six-pence in each of them.

Five thousand four hundred and fifty-four of the said bills, the sum of Four-pence in each of them.

Five thousand four hundred and fifty-five of the said bills, the sum of Three-pence in each of them.

SECT. 4. *And* the said John Lea, Jonathan Robinson and Jacob Stout, or any two of them, shall use the utmost care, attention and diligence, during the printing the said bills, that the number and amount of them, according to their respective denominations and value aforesaid, be not exceeded, nor any clandestine or fraudulent practices used by the printer, his servants, or any person concerned therein.

SECT. 5. *And* for the perfecting the said bills, to make them current within this state according to the true intent and meaning of this act, *Be it enacted by the authority aforesaid,* That all and every of the said bills

bills above the value of Nine-pence, shall be signed and numbered by any two of the persons following, *to wit*, John Thompson, John Wiltbank, John Jones, Abraham Robinson, Alexander Porter, John Clark, Richard Lockwood, John Laws, Joshua Hill; and all and every of the said bills under the value of One Shilling, shall be signed and numbered by any one of the persons aforesaid, who are hereby nominated and appointed to be the signers of the said bills, and shall, before they presume to receive any of the said bills of credit, take an oath to the following effect: *That they will well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver, or cause to be delivered, unto the Trustees of the respective General Loan Offices of this state, pursuant to the directions of this act.*

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Signers names.

SECT. 6: And the said John Lea, Jonathan Robinson and Jacob Stout, or any two of them, after the said bills are printed, shall deliver them into the hands of the said signers to be signed and numbered, who shall give their receipts for the said bills; and the said signers shall deliver to the Trustees hereafter named, at the respective Loan Offices, all the said bills so made, numbered and signed as aforesaid, in the respective quotas or proportions hereafter limited and appointed; of all which said bills of credit, so delivered to be signed and numbered, a true account shall be kept by the signers, who, upon their delivery of the said quotas or proportions of the said bills by them signed and numbered, shall take the receipts of the said Trustees respectively, to charge them before any Committee of the General Assembly, to be appointed for that purpose, and to that end the said accounts and receipts shall be returned to the General Assembly of this state at their next meeting after signing the said bills: And the said signers for their trouble, care and diligence in doing what is required of them by this act, shall each of them receive Ten Shillings for every thousand bills by them so signed and numbered, to be paid them out of the interest money to arise in the Trustees hands of the respective Loan Offices aforesaid, to be paid them by the

and allowances

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faid Trustees equally. And if any of the persons before nominated to be signers shall happen to die or be rendered incapable of doing his or their duty, by this act required, it shall and may be lawful for the Members of the Council and Assembly of that county in this state, where any such death or incapacity shall happen, to appoint another signer in the stead of such person so dying or rendered incapable as aforesaid; which said person or persons so to be appointed, shall take the same qualifications as the signers in this act are appointed to take.

Trustees names.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the sum of Eight Thousand Three Hundred and Thirty-three Pounds, Six Shillings and Eight-pence, of the said bills of credit, being signed and numbered as aforesaid, shall be by the said signers put into the hands of Richard M<sup>r</sup> William, esquire, Trustee of the Loan Office for the county of Newcastle, and the like sum shall be by them put into the hands of Cæsar Rodney, esquire, Trustee of the Loan Office for the county of Kent, and the like sum shall be by them put into the hands of John Rodney, esquire, Trustee of the Loan Office for the county of Suffex, or in case of death, into the hands of their successors respectively; (a) which Trustees shall give their receipts for such bills as shall be by them received; which receipts, as also the receipts given by the signers, shall be delivered to the House of Assembly of this state at their next Sessions, after the dates of the said receipts.

To let out Fifteen Thousand Pounds, part of the said bills, on  
act.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the said Trustees shall and they are hereby authorized and directed to let out on loan, Five Thousand Pounds of the said bills of credit, in each county of this state, to such freeholders within the same as shall apply for and be intitled to receive the same, in any proportion not less than Twenty nor exceeding One Hundred and Twenty Pounds to one person, and in the manner, and for the time, and upon

(a) For after appointments see chap. 52. b.—chap. 74. b. sect. 3.—chap. 113. b. sect. 14.—chap. 192. b.—chap. 217. b.—chap. 41. c.—chap. 75. c.

upon the like securities and terms as is prescribed by an act of Assembly, passed the second day of September, in the year of our Lord One Thousand Seven Hundred and Seventy-five, intituled, *An act for emitting the sum of Thirty Thousand Pounds in bills of credit on loan, and providing a fund for the payment of public debts.* (b)

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SECT. 9. *And be it further enacted by the authority* Bills of credit  
lawful tender. *aforsaid,* That the said new bills of credit hereby directed to be made and signed as aforesaid, shall, from and after the first day of May next, be current bills of this state for the payment and discharge of all manner of debts, rents, sum and sums of money whatsoever due, payable or arising upon, or by reason of any mortgage, bond, bill, specialty, note, book account, promise, assumption, or any other contract or cause whatsoever, as if the same was tendered or paid in the coins mentioned in such mortgage or other writing, book account, promise, assumption, or in any other contract whatsoever, and shall be so received in all payments by all persons whatsoever. (c)

SECT. 10. *And be it further enacted by the authority* Trustees to give  
bond. *aforsaid,* That each of the Trustees of the Loan Offices in this state, before he enters upon the execution of the trust reposed in him by this act, shall enter into bond with two good sureties, for the sums delivered into his hands and possession, to the President or Commander in Chief of this state for the time being, and his successors, conditioned for the faithful discharge of the trust and performance of all and every the acts, matters and things enjoined and required of him by this act, and shall also take an oath or affirmation before some Justice of the Peace, to be endorsed

(b) Chap. 230. a.—See also chap. 15. b. passed Dec. 20, 1777. making other disposition of such of the said quotas of the same bills of credit, in this sect. 5. directed to be let out on loan in the counties of Kent and Sussex, as then remained in the offices there.

(c) The operation of this clause suspended by chap. 68. b. passed November 4, 1780, for one month, and from thence until the end of the sitting of the General Assembly next thereafter.—At the said next sitting, viz. February 12, 1781. in chap. 71. b. sects. 28, 29, 37. repealed, &c.—See also chap. 113. b. sects. 2, 3, 4; 5. passed February 5, 1785, directing the exchange of all bills of credit theretofore emitted, at the rate of One Pound for every Seventy-five Pounds brought in, which was limited, as to residents, to the first of August then next, and as to non-residents to the first of November following, and thereafter to be burnt and destroyed.

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Their qualifica-  
tion,

dorfed on the said bond, in the words following, *to wit*;

*I, A, B, will, to the best of my skill and knowledge, faithfully, impartially and truly perform and discharge the trust required of me by an act of General Assembly of this state, intituled, "An act for printing and emitting Fifteen Thousand Pounds of the bills of credit of this state, to be let out on loan; and for striking the further sum of Ten Thousand Pounds in such bills for the use of this state, and for providing a fund for sinking the same," so that none may be prejudiced by my consent, privity or procurement, and that I will not lend out for, or apply or appropriate to, my own private use or benefit, or the use or benefit of any other person or persons whatsoever, any of the monies to me intrusted, otherwise than according to the directions, true intent and meaning of the said act.*

Trustees bonds  
to be recorded.

SECT. 11. *And the said bonds with the endorsements aforesaid, shall be delivered into the office of the Secretary of this state, to be by him recorded; and in case the said bonds or any of them shall in any wise be forfeited, the same shall be sued and prosecuted, and the penalties thereof recovered for the benefit, advantage and use of the state.*

Power of Truf-  
tees;

SECT. 12. *And be it further enacted by the authority aforesaid, That the said Trustees shall have the like power and authority, to lend out and manage the said Fifteen Thousand Pounds, that they are vested with respecting the Thirty Thousand Pounds put into their hands by virtue of the act of Assembly before mentioned, and shall keep fair accouts of all their proceedings, and conduct themselves in all things as by the said act is directed; and the said Trustees shall have and receive for their trouble and service in carrying this act into execution, an additional sum of Twenty Pounds *per annum* each, over and above the Thirty Pounds *per annum* allowed by the aforesaid act, during the continuance of their trust, out of the interest money arising by this act.*

their allowance.

SECT. 13. *And whereas the late change of the government of this state (d) renders it necessary to alter the*

(d) To wit, under the constitution or system adopted in September 1776,

the mode of accounting with the said Trustees, and the power of disposing of the interest money arising from the loan of the Thirty Thousand Pounds emitted by virtue of the before mentioned act, *Be it therefore enacted by the authority aforesaid,* That the respective Trustees shall, from and after the publication of this act, exhibit once in every year or oftener, their accounts aforesaid; and produce their books and other vouchers, together with all monies remaining in their hands, unto the Committees of the General Assembly appointed for that purpose, which shall consist of three persons, two to be appointed by the Assembly and one by the Council, and who shall count the said money and settle and adjust the said accounts, and make report thereof to the two Houses; (e) and all the interest money received by the said Trustees by virtue of the before mentioned act, or this present act, from time to time, being accounted for, and the salaries and charges allowed for by the said acts being deducted, the residue of the interest money arising from the loan of the whole Forty-five Thousand Pounds, shall be disposed of as the General Assembly of this state shall direct and appoint, and not otherwise; and as for and concerning all yearly quotas and payments in the bills aforesaid (part of the principal sums to be emitted and re-emitted upon loan, as this and the aforesaid act direct) which by virtue thereof or of any mortgage or security heretofore taken, or to be taken as aforesaid; shall be recovered or received, and remaining in the hands of the Trustees respectively, on the first day of January, which will be in the year of our Lord One Thousand Seven Hundred and Eighty-eight, the said respective Trustees shall, from time to time as they come to their hands, exhibit the said bills of credit to the aforesaid Committees of the General Assembly, who, having duly examined and compared the same, shall

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To account at least once in every year with the Committees of the General Assembly.

Interest money to be disposed of by the General Assembly.

How bills to be destroyed.

(e) See chap. 74, b. passed Feb. 12, 1781, a special appointment of persons to state and settle all the accounts of the several Loan Offices in the state, &c. from June 1, 1774, to June 1, 1781—And see chap. 113, b. Anno 1785, sect. 13—And also see chap. 143, b. sect. 1. Anno 1787, authorising "The Auditor of Accounts" to call upon persons or their Representatives who shall be possessed of any mortgages, pledges, or other securities, monies, goods, or effects belonging to this state to account for the same—and chap. 229, b, sect. 6, passed January 29, 1791.

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Allowance to  
Committees.Counterfeiting  
the bills of cre-  
dit, &c. death  
without benefit  
of clergy.Persons altering  
the denomina-  
tion of said bills  
to be pillored,  
&c.

shall cause them to be burnt and destroyed in their presence. And the said Committees of the respective counties within this state, shall have for their said services the sum of Five Pounds each and no more, to be paid them annually out of the interest money arising in the said offices.

SECT. 14. *And be it further enacted by the authority aforesaid,* That if any person or persons shall presume to counterfeit any of the said bills of credit, directed to be emitted by this act, by printing or procuring the same to be printed, in the likeness of the said genuine bills of credit, and also if any person or persons shall forge the name or names of the signers of the true bills of credit, to such counterfeit bills, whether the counterfeiting of the said bills, or names, be done within this government, or elsewhere, or shall utter such bills, knowing them to be so counterfeited as aforesaid, and being thereof legally convicted by confession, standing mute, or by the verdict of twelve men, in any Court of Oyer and Terminer within this state, he, she, or they, shall suffer death, and the discoverer or informer shall have, as an encouragement for his discovery, the sum of Fifty Pounds, to be levied out of the goods and chattels, lands and tenements of the person convicted; and if no such goods and chattels can be found, then the Trustees of the General Loan Office shall pay to such informer or discoverer, his executors, administrators or assigns, the sum of Ten Pounds. And if any person or persons shall counterfeit any of the said bills of credit of this state, by altering the denomination of the said bills, with design to increase the value of such bills, or shall utter such bills knowing them to be so counterfeited or altered as aforesaid, and shall thereof be legally convicted in any Court of Record in this state, such person or persons shall be sentenced to the pillory, and have both his or her ears cut off, and nailed to the pillory, and be publicly whipped on his or her bare back with thirty-one lashes well laid on; and moreover, every such offender shall forfeit the sum of One Hundred Pounds, lawful money of this state, to be levied on his or her lands and tenements, goods and chattels; the one half to the use of this state, and the other half to the discoverer; and the

the offender shall pay to the party grieved, double the value of the damages thereby sustained, together with the costs and charges of prosecution; and in case the offender hath not sufficient to satisfy the discoverer for his or her damages and charges, and pay the forfeiture aforesaid, in such case, the offender shall, by order of the court where he or she shall be convicted, be sold for any term not exceeding seven years for satisfaction; and in such case the said Trustees shall reward the discoverer of such insolvent offender to the value of Five Pounds, out of the interest money which shall be in their hands. And every such counterfeit bill shall be delivered to the said Trustees, to be burnt or destroyed by them in the presence of a Committee of the General Assembly.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the sum of Ten Thousand Pounds, the residue of the bills of credit aforesaid, shall be and is hereby given for the defence and use of this state.

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Ten Thousand Pounds given for the defence of the state.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said sum of Ten Thousand Pounds shall be subject to the joint draughts of the Speakers of the Council and Assembly, made by order of their respective Houses, or the draughts of the President and Commander in Chief for the time being, in the manner that shall be directed by joint resolutions of the Council and Assembly from time to time.

To be disposed of by the Council and Assembly.

SECT. 17. *And,* to the end that the said sum of Ten Thousand Pounds in bills of credit hereby given for the defence and use of this state may be sunk and destroyed within the term of five years, *Be it enacted by the authority aforesaid,* That the Justices, Grand Jurymen and Assessors of each respective county, at the usual time of holding their Levy Courts, but for the first year on the days of holding the Courts of Quarter Sessions in each county respectively in the month of May next, at which time they are hereby required to meet for this purpose at the several Court Houses, shall, over and above the tax laid for discharging the county rates and levies upon the freeholders and inhabitants, lay an additional tax of as much money in the Pound as shall raise the sum of Six Hundred and Sixty-six Pounds, Thirteen Shillings and Four-pence, within such

Tax to be laid for sinking the Ten Thousand Pounds.

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such county; which tax shall be collected by the Collectors of the respective hundreds within this state at the same time and in the like manner that they collect the other taxes.

To be paid to  
the Trustees.

SECT. 18. *And be it further enacted by the authority aforesaid,* That all the sum or sums of money, levied by the Collectors of the several counties by virtue of this act, shall be paid by the said Collectors to the Trustee of the Loan Office of the said county in bills of credit made current by this act; which said bills shall be yearly produced by the said Trustee to the Committee of the General Assembly for that purpose appointed, and in their presence to be burned and destroyed.

Collectors al-  
lowances.

SECT. 19. *And be it further enacted by the authority aforesaid,* That the said Trustees shall respectively give to the said Collectors their receipts for all such sums as shall be so as aforesaid paid to them; which receipts, produced by the said Collectors to the next Levy Court, shall be allowed of and adjudged sufficient to discharge the said Collectors for the sums therein specified. And the said Collectors shall have and retain in their hands, for all sums of money by them respectively collected as aforesaid, the sum of Two Pounds and Ten Shillings *per cent.* and no more; and the said Collectors, before they enter on the execution of their offices, shall enter into bonds to the Trustee of the Loan Office for each county respectively, with a good surety, in such sum as he shall direct, for the faithful performance of the duties required of them by this act.

To give bond.

Public act.

SECT. 20. *And it is hereby declared and enacted by the authority aforesaid,* That this act shall be taken and allowed in all courts and places within this state as a public act; and all judges and justices, and other persons concerned, are hereby required to take notice thereof as such, without pleading the same specially.

*Passed February 22, 1777.*

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## C H A P. IX. b.

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IX.

*An ACT for establishing a militia in this state.*—Repealed in chap. 20. b.

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## 2d. C H A P. IX. b.

*A Supplement to the act, intituled, "An act for establishing a militia in this state."*—Original act repealed in chap. 20. b.

1777.

## C H A P. X. b.

*An ACT for the more speedily compleating the quota of troops to be raised in this state for the continental army.*—Passed May 12, 1777.—Obsolete.

1777.

## C H A P. XI. b.

*An ACT for the holding of the General Assembly at Dover, in the county of Kent.*

1777.

**W**HEREAS it is just, that the seat of government should be made as central and convenient to all the inhabitants of the state as possible : Preamble.  
*And whereas* the holding of the Assembly in the town of New-Castle has been long found extremely burthenfome to the good people of the counties of Kent and Suffex : For remedying whereof,

SECTION 2. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority, of the same,* That from and after this present sessions, the General Assembly of this state shall meet, and hold their sessions at the town of Dover, in the county of Kent, as well at such times as they shall adjourn to,

The future Sessions of the General Assembly to be holden at Dover.

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as at their annual and stated meetings to be held on the twentieth day of October, unless that day shall happen to be on a Sunday, in which case the meeting shall be on the next day:

Except in certain cases.

SECT. 3. *Provided nevertheless*, That if a foreign invasion should happen, or any raging sickness should prevail in the town of Dover aforesaid, or any other cause should make it necessary for the Assembly to adjourn to any other place in this state, they shall have power so to do.

Repeal of former acts of Assembly to the contrary thereof.

SECT. 4. *And be it further enacted by the authority aforesaid*, That so much of any and every of the acts of Assembly of this state, as requires the meeting and sitting of the Assembly at the town of New-Castle is hereby repealed, and made null and void. (a)

Passed May 12, 1777.

## C H A P. XII. b.

1777.

*A Supplement to an act, intitled, "An act for regulating innholders, tavern-keepers, and other public house-keepers within this government; and empowering the justices to settle the rates of liquors."* (b)—Passed May 12, 1777.

This act, as appears by the latter part of the preamble only, was to continue but during the fluctuating state of the prices of many of the necessaries of life, produced by a variety of causes existing at that time; and hath been considered, since the calling of the paper bills of credit out of circulation, as obsolete.

## CHAP.

(a) Chap. 62. a. sect. 1, &c.—See after in chap. 47. b. further provision.

(b) Chap. 75. a.

## C H A P. XIII. b.

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An ACT for aiding the discontinuance of the proceſs in the Courts of General Quarter Sessions of the Peace and Gaol Delivery in the counties of New-Caſtle and Suffex, and for other purpoſes therein mentioned.

**W**HEREAS the proceſs and proceedings in the Courts of General Quarter Sessions of the Peace and Gaol Delivery for the counties of New-Caſtle and Suffex, are now discontinued and put without day, by occaſion of the non-coming of the juſtices thereof at the days appointed by law for holding the ſaid courts in the counties aforeſaid,

Preamble.

SECTION 2. *BE it therefore enacted by the General Aſſembly of Delaware, and it is hereby enacted by the authority of the ſame,* That every indictment, preſentment, recognizance, plea, proceſs, or other matter whatſoever, that were returnable to, or depending in, the ſaid courts, or either of them, and are now become discontinued, abated, and put without day, by reaſon of the non-coming of the juſtices thereof as aforeſaid, ſhall be, and are hereby revived and continued, and ſhall and may be returned, heard, tried, and determined before the juſtices of the ſaid courts reſpectively, for the time being, on the days and times herein, or by any former law, directed for holding the ſame, and at the places where the ſame have been heretofore holden in the ſaid counties reſpectively, (a) in as full and ample manner to all intents and purpoſes whatſoever, as they might or could have been, if ſuch indictment or other matter had not been discontinued, abated, and put without day, by the means aforeſaid.

Revival of all proceſs and proceedings returnable to or depending in the Courts of General Quarter Sessions of New-Caſtle and Suffex counties.

SECT. 3. *And to prevent the many inconveniencies that may happen by the non-coming of a ſufficient number of juſtices for the holding of the ſaid courts in future, Be it further enacted,* That in caſe of the non-coming of three of the Juſtices of the Peace, at the times of holding of the Courts of General

Any one juſtice ſitturely may adjourn ſuch courts in any of the counties of this ſtate,

Quarter

(a) See chap. 16. b.

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Justices directed  
to hold Courts  
of General  
Quarter Sessions,  
&c. in each  
county in the  
state on the 23d  
day of June, &c.

Quarter Sessions of the Peace and Gaol Delivery in any of the counties of this state, then it shall and may be lawful for any one justice of the said courts respectively to open and adjourn the same.

SECT. 4. *And be it further enacted,* That the justices of the courts aforesaid, in each county in this state, be, and they are hereby directed, on the twenty-third day of June next ensuing, to hold the said Courts of General Quarter Sessions of the Peace and Gaol Delivery; and the Justices, Sheriffs, Constables, Overseers of the Poor and Highways, in each county, shall and may return to the said courts respectively, all writs, processses, lists and pannels of jurors, and all recognizances, returns of Constables and Overseers of the Poor and Highways, which were returnable at the last May Sessions, and not then returned and acted upon; and the said Courts, Grand Jurors, the Assessors and all other officers respectively, shall and may, and they are hereby directed, to do, and cause to be done, all and every matter and thing which by any law of this state, might, could, or ought to have been done at the said May Sessions.

SECT. 5. *And whereas* by a law passed the twenty-second day of February last, intituled, *An act for aiding the discontinuance of the process in the Supreme Court, and for altering the times of holding the said court, and also the Courts of General Quarter Sessions of the Peace and Gaol Delivery, and Courts of Common Pleas,* (b) the Supreme Court for this state is directed to be holden, in the several counties thereof, on the days, and at the places, in the said act mentioned.

*And whereas* the Justices of the said Supreme Court, appointed by the General Assembly of this state, have severally declined to accept of said offices;

Revival of the  
proceedings in  
the Supreme  
Court for this  
state.

SECT. 6. *Be it therefore enacted,* That the said Supreme Court shall and may be holden, and all matters, suits, and controversies whatsoever, depending and determinable in the said court, shall be heard, tried, and determined, at the places, (c) and on the days,

(b) Chap. 5. b. Ante.

(c) See chap. 16. b. Post—See also chap. 31. b.—chap. 79. b.

days, in the said act directed and appointed, which shall happen next after the qualification of such Justices as are or may be appointed to hold the said court, in as full and ample manner as by the said act is directed.

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*Passed June 7, 1777.*

C H A P. XIV. b.

*An ACT to remedy the loss of divers public seals of office in the county of New-Castle.* 1777.

**W**HEREAS the seals belonging to the respective Preamble. offices of the Prothonotary or Clerk of the Court of Common Pleas, of the Clerk of the General Quarter Sessions of the Peace, of the Register for the probate of wills and granting letters of administration, of the Clerk of the Orphans Court, and of the Master of the Rolls and Recorder of Deeds for the county of New-Castle, heretofore made use of, and by law directed to be affixed to all writings and copies, to which a seal of office ought to be affixed, have fallen into the hands of our unnatural enemies, the British forces; and by them have been taken away and detained; by means whereof a stop hath been put to the business of the said several offices: For remedying whereof,

*BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That from and after the publication of this act, all writs, processses, and other public writings, issuing out of, or belonging to, the said offices respectively, signed by the proper officers (*a*) thereof, shall be as good and available in law to all intents and purposes, as if the same were sealed with the seals

Signature of the officers whose seals have been lost declared sufficient until the same or others shall be had.

so

(a) See chap. 131. b. passed February 2, 1786; wherein the respective officers within this state to whom any fee is allowed for affixing their seal of office to any writing, are to procure such seals within four months thereafter.—See also chap. 5, c. sect. 12, further provision as to seals of certain offices.

C H A P. XIV. 1777. so as aforesaid taken and detained, until the same seals shall be obtained again, or others provided by the direction of the General Assembly of the state.

Passed December 20, 1777.

C H A P. XV. b.

1777. *A Supplement to an act, intituled, An act for printing and emitting Fifteen Thousand Pounds in bills of credit of this state, to be let out on loan; and for striking the further sum of Ten Thousand Pounds in such bills for the use of this state, and for providing a fund for sinking the same." (a) -- Passed December 20, 1777.*

It is herein recited, That, by the act to which this is a supplement, the sum of Eight Thousand Three Hundred and Thirty-three Pounds, Six Shillings and Eight-pence, was put into the hands of Cæsar Rodney, esq. Trustee of the Loan Office of Kent county, Five Thousand Pounds whereof were to be let out on loan, and the residue subject to the joint draughts of the Speakers of the Council and Assembly, &c. and that the same sum was put into the hands of John Rodney, esq. Trustee of the Loan Office of Suffex county, for the like purposes: That few or no persons have applied to take out the said sums on loan, in either of the said counties: And that it hath been found necessary to raise and draw forth the militia of this state, from time to time, for its protection and defence; and the like necessity still continues. In order, therefore, that the public debts which have been, or may be so incurred, may be duly paid, *It is enacted,* That the President, or Commander in Chief of this state for the time being, with the approbation of any two of the Privy Council, be empowered to draw for the said several sums of Five Thousand Pounds, put into

Another appropriation of the quotas of Kent and Suffex Loan Offices in the Fifteen Thousand Pounds, emitted, &c. as in chap. 8. b.

(a) Chap. 8. b. Ante.

into the hands of the respective Trustees aforesaid to be let out on loan; or any part thereof; and order and appoint the disposition of the sums so drawn for towards paying and subsisting the militia called or to be called forth by the Supreme Executive Authority of the state: That the said Trustees shall pay such draughts, which, with receipts thereon, are declared to be sufficient vouchers for them: And the President or Commander in Chief, or such persons as he, with the approbation of any two of the Privy Council, may appoint for paying away the said monies, shall account with a Committee of the General Assembly.

C H A P.  
XV.

1777.

## C H A P. XVI. b.

*An ACT directing the choice of Assessors for the present year in the county of New-Castle, and for reviving the Levy Court and Court of Appeal in the said county, and the process of the Supreme Court in the several counties in this state; and for occasional adjournments or removals of the courts from the county towns.*—Passed December 20, 1777.—This provision for adjournments from the county towns to continue during the war.

1777.

## C H A P. XVII. b.

*An ACT to enable the Sheriff of the county of Sussex to hold an election in said county, to elect Members of the General Assembly, Sheriffs, and Coroners, for the said county for the ensuing year.*—Passed February 21, 1778.

1778.

## C H A P. XVIII. b.

*An ACT against desertion, and harbouring deserters, or dealing with them in certain cases.*—Obsolete.

1778.

CHAP.

C H A P.  
XIV.  
1777.

fo as aforefaid taken and detained, until the fame feals  
fhall be obtained again, or others provided by the di-  
rection of the General Affembly of the ftate.

*Passed December 20, 1777.*

C H A P. XV. b.

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C H A P.  
XV.

1777.

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1777.

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1778.

## C H A P. XVIII. b.

*An ACT against desertion, and harbouring deserters, or dealing with them in certain cases.—Obsolete.*

1778.

CHAP.

C H A P.  
XIX.

1778.

C H A P. XIX. b.

*An ACT to increase the number of the Justices of the Peace in each of the counties of this state.*

Preamble.

**W**HEREAS by the constitution of this state, (a) it is declared, that the Justices of the Peace shall be nominated by the House of Assembly, *That is to say,* They shall name twenty-four persons for each county, of whom the President, with the approbation of the Privy Council, shall appoint twelve, who shall be commissioned by the President under the Great Seal, and continue in office during seven years, if they behave themselves well; and, in case of vacancies, or if the Legislature shall think proper to increase the number, they shall be nominated and appointed in like manner. *And whereas* from the present situation of affairs, it becomes necessary to increase the number of justices in each county in this state for the better administration of justice in the same, and that the laws may be duly executed.

Additional number of twelve persons in each county to be named by the House of Assembly and certified to the President;

who with the Privy Council are to appoint six thereof to be commissioned as Justices of the Peace in each county.

*BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the House of Assembly of this state, to name an additional number of twelve persons in each county thereof for the office of Justices of the Peace, and certify the same to the President, who, with the approbation of the Privy Council, shall appoint six of each twelve so named, to be Justices of the Peace for the county in which they reside; and they shall be commissioned in the manner, and for the term, as in and by the constitution or system of government is directed; any thing therein contained to the contrary notwithstanding.

*Passed May 12, 1778.*

CHAP.

(a) Framed in September 1776. sect. 12.

C H A P. XX. b.

C H A P.  
XX.  
1778.

An ACT for establishing a militia within this state. Repealed by chap. 86. b.

C H A P. XXI. b.

Rules and articles for the better regulating of the militia of this state, whilst under arms or embodied.—Expired with the war. 1778.

C H A P. XXII. b.

An ACT for raising One Hundred and Twenty Thousand Dollars, in the Delaware State, for the service of the Year One Thousand Seven Hundred and Seventy-eight, by a general tax. 1778.

**W**HEREAS the honorable Continental Congress since the commencement of the present war with Great Britain, have emitted large sums in bills of credit for the defence of America, for redemption whereof the United States, by their Representatives in Congress, have pledged themselves. *And whereas* a requisition is made on this state to raise Sixty Thousand Dollars by way of tax in the present year for its computed quota of Five Millions of Dollars, part of the sums emitted as aforesaid, in order for the sinking of the same. *And whereas* for the more speedy furnishing this State's quota of troops, to serve in the army of the United States, the General Assembly have added to the bounty to be given to each recruit, and have voted a premium to the officer enlisting him, for the payment whereof the Commander in Chief of the state is authorized to borrow the sum of Forty Thousand Dollars, and the public faith of the state is pledged for the re-payment of the same.

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XXII.

1778.

*And whereas* it is absolutely necessary, that the further sum of Twenty Thousand Dollars, at the least, should be provided for defraying the contingent charges that have arisen, or may arise, against the state: We the Representatives of the freemen of this state in Assembly, taking into our serious consideration the requisition made by Congress as aforesaid, and the other expences necessary for the defence of our just rights and liberties and the support of our present government in a suitable manner, have agreed to give the sum of One Hundred and Twenty Thousand Dollars for the uses aforesaid, to be raised by way of tax as hereafter mentioned and desire that it may be enacted.

SECTION 2. *And be it enacted by the General Assembly of Delaware and it is hereby enacted by the authority of the same,* That the sum of One Hundred and Twenty Thousand Dollars shall be raised, levied and paid unto the State Treasurer for the purposes aforesaid, within the present year One Thousand Seven Hundred and Seventy-eight, and shall be assessed and taxed in the several counties of this state according to the following proportions, *That is to say,* For the county of New Castle the sum of Forty Thousand Dollars, for the county of Kent the like sum of Forty Thousand Dollars, and for the county of Suffex the remaining sum of Forty Thousand Dollars.

One Hundred  
and Twenty  
Thousand Dol-  
lars to be raised.

Proportion  
thereof for each  
county.

In what manner  
the said county  
proportions  
shall be assessed.

Warrants to is-  
sue for the col-  
lection thereof.

SECT. 3. *And be it enacted by the authority aforesaid,* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the several counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court on or before the tenth day of June next at the places in the respective counties of the state where the last Levy Courts were held, and then and there with the assistance of the Clerk of the Peace, to ascertain the sum in the pound upon the whole rate of the county according to the last assessment necessary to raise clear of all charges of collection the aforesaid sum of Forty Thousand Dollars in such county within the present year; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each hundred authorising and requiring him forthwith to demand

demand and receive from the persons rated in his assessment list for the last year the sum per pound which they shall ascertain as necessary to raise the Forty Thousand Dollars as aforesaid; and the said Collectors respectively shall proceed without delay to collect, and, in case of neglect or refusal to pay, to levy and recover the same in the manner as is directed by the act of Assembly, intituled, *An act for raising county rates and levies.* And that the said Clerks of the Peace shall within ten days next after the day of holding the Special Court aforesaid, deliver to the Treasurers of the said respective counties a true account of the sums total which every Collector shall be charged with pursuant to this act.

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XXII.

1778.

Clerks of the Peace to furnish the Treasurers with an account of the sum total.

SECT. 4. *And whereas* in some of the hundreds in Kent county real estates belonging to minors have not been assessed; *Be it therefore enacted,* That the said justices, at the Special Court to be held for Kent county as aforesaid, shall call before them the Assessors of the hundreds where such omissions are, and the said Assessors are hereby authorized and required then and there impartially to assess the said lands so omitted and certify the same to the said court, who shall appoint some day in the following August Sessions to hear and determine the appeals of any parent, guardian, or tutor of a minor whose lands shall be then assessed and in their opinion overrated; of which rate and time of appeal the said justices shall direct either public or personal notice to be given. And on the said day of appeal the Justices then present, with three or more of the Grand Jury then attending, shall hear the complaints and redress the grievances of such as may be unequally or over rated. And the Clerk of the Peace, immediately after such day of appeal, shall cause duplicates of the additional assessments of each hundred where omissions shall be supplied as aforesaid, to be delivered to the Collector thereof, with a warrant from the justices aforesaid, or any two of them, empowering such Collector in his proper district to demand and receive the sums assessed on such estates.

In Kent county, justices and Assessors authorized to assess Minors lands heretofore omitted.

and to appoint a day for hearing of appeals thereon.

SECT. 5. *And whereas* also some owners of lands whereon improvements are made may not reside in the same district or county where such land lies, or may

Provision for securing the payment of the tax in certain cases,

be

C H A P.  
XXII.

1778.

be under the age of twenty-one years whereby it may be difficult to recover or collect the tax assessed on the said land; *Be it therefore enacted by the authority aforesaid,* That the tenant or other person residing on, and having the care of, such lands, their goods and chattels, and the goods and chattels of the landlords if there found, on refusal or neglect to pay shall be liable to be distrained for the payment of the said tax; and in case the tenant or person having the care thereof shall pay or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for, or for the tenant or person having care of the said lands to recover the same from the owner by an action or suit in any court where the same shall be cognizable together with costs of suit; and all parents, guardians or tutors making payment as aforesaid shall be allowed the sums so paid for such infants upon his or their accounts. *Provided* that nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

Collectors to pay  
the tax to the  
Treasurers de-  
ducting their  
commissions;

who shall pay  
the same over  
to the State  
Treasurer,

The sum here-  
by directed to  
be raised how  
so be applied.

SECT. 6. *And be it enacted by the authority aforesaid,* That the said Collectors respectively shall on or before the twenty-fourth day of November next, render a just and true account of and pay unto the Treasurer of their county, all and every the sum and sums of money they may or ought to have levied by virtue of this act, deducting six-pence in the pound for the trouble of collection; and that the said County Treasurer shall within Twenty days after transmit and pay over the money by him so received to Samuel Patterson of the County of New-Castle, esquire, who is hereby appointed State Treasurer.

SECT. 7. *And be it enacted by the authority aforesaid,* That the said sum of One Hundred and Twenty Thousand Dollars, and every part thereof, in the hands of the State Treasurer, shall be subject to the joint draughts of the Speaker of the Council and Assembly made by order of their respective Houses, or the draughts of the President and Commander in Chief for the time being, in the manner that shall be directed by joint resolutions of the Council and Assembly from time to time.

SECT,

SECT. 8. *And be it enacted by the authority aforesaid,* That the several Collectors and the Treasurers of the aforesaid counties respectively shall each of them give bond, in the name of the Delaware State, to the Justices of the Peace, on the second day of the Court of Quarter Sessions to be held in August next in the respective counties of this state, with such sureties as they shall approve of, *That is to say,* The several County Treasurers in the sum of Fifteen Thousand Pounds, and the several Collectors in such sum as the said justices shall direct, conditioned for the true and faithful performance and discharge of their duty respectively in the execution of this act. And in case of their or any of their neglect or refusal so to do, the said justices, or any three of them, shall forthwith appoint others in his or their stead, who shall give security as aforesaid.

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1778.

Each Collector and Treasurer to give bond.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the State Treasurer shall and he is hereby impowered and required to order and direct the County Treasurers respectively, so often as he shall think necessary, to lay before him the books and accounts of the rates and assessments and to pay the money that shall be in their hands by virtue of this act. And the said County Treasurers shall also adjust and settle their said accounts with a Committee of the Levy Court in the manner as by the said act for raising county rates and levies is directed; and if the said County Treasurers, or any of them, shall neglect or refuse to produce his or their said books and accounts, or to pay the money in his or their hands, or adjust and settle his or their accounts with the Committee of the Levy Court according to the direction of this act, the said State Treasurer may and shall proceed against such Treasurer so refusing or neglecting by way of action or suit, in which there shall be but one imparlance, in the name of the Delaware State, to recover the monies due to the state treasury from such delinquent. And the said Levy Court or Court of Appeal may remove him from the said office and appoint another in his stead. And if any Collector shall refuse or neglect to render a just and true account of, and pay unto the Treasurer of his county, the sums of

Authority of State Treasurer as to County Treasurers. &c.

How to be proceeded against for neglect of duty.

Collectors how to be proceeded against.

CHAP.

XXII.

1778.

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The sum here-  
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SECT. 7. *And be it enacted by the authority aforesaid,* That the said sum of One Hundred and Twenty Thousand Dollars, and every part thereof, in the hands of the State Treasurer, shall be subject to the joint draughts of the Speaker of the Council and Assembly made by order of their respective Houses, or the draughts of the President and Commander in Chief for the time being, in the manner that shall be directed by joint resolutions of the Council and Assembly from time to time.

SECT,

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1778.

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Each Collector  
and Treasurer  
to give bond.

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Authority of  
State Treasurer  
as to County  
Treasurers. &c.

How to be pro-  
ceeded against  
for neglect of  
duty.

Collectors how  
to be proceeded  
against.

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1778.

of money he may or ought to have levied by virtue of this act, such County Treasurer shall proceed in like manner to recover the monies unpaid by such delinquent Collector, and the said courts, or the Justices in their Court of Quarter Sessions after, may remove him from his office and appoint another in his stead.

Gifts, grants and sales by delinquent Collectors or Treasurers fraudulent unless, &c.

SECT. 10. *And be it enacted by the authority aforesaid,* That all gifts, grants and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates; after the time they should have paid the monies arising from the said assessments, (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

State Treasurer to give bond;

SECT. 11. *And be it enacted by the authority aforesaid,* That the said State Treasurer before the twentieth day of August next shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Forty-five Thousand Pounds, conditioned for the true observation of this act and the duty which to the said office doth appertain. And in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

his place, how supplied in case of delinquency, &c.

Commissions allowed to State Treasurer,

SECT. 12. *And be it enacted by the authority aforesaid,* That the said State Treasurer for all the monies which shall come to his hands in pursuance of his office aforesaid by virtue of this act or otherwise, shall be allowed commissions for the same at the rate of Fifteen Shillings for every Hundred Pounds and no more. And each County Treasurer, for his trouble in receiving and paying the monies and performing the duties by this act required, shall have and receive.

and to County Treasurers,

ceive Twenty Shillings for every Hundred Pounds and no more.

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1778.

*Passed May 18, 1778.*

C H A P. XXIII. b.

An ACT for the further security of the government. Repealed by chap. 179. b. 1778.

C H A P. XXIV. b.

An ACT to prevent the inhabitants of this state from dealing and furnishing the enemies thereof with supplies, and for other purposes therein mentioned. Expired at the peace by its own limitation. 1788.

C H A P. XXV. b.

An ACT for regulating and establishing the fees of divers civil officers of this state, and for other purposes therein mentioned. Expired, having a temporary continuance. 1778.

C H A P. XXVI. b.

An act for aiding the discontinuance of the process in the Supreme Court of this state. 1778.

**W**HEREAS the process and proceedings in the Supreme Court for this state are now discontinued and put without day, by occasion of the non-coming of the justices thereof at the days appointed by Preamble.

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XXVI.  
1778.

by law for holding the said court in the several counties within the said state :

*BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That every indictment, presentment, action, suit, plea, process or other matter whatsoever, that were depending in the Supreme Court within any or either of the counties of this state, and are now become discontinued, abated, and put without day, by reason of the non-coming of the justices thereof as aforesaid, shall be and are hereby revived and continued, and shall and may be heard, tried and determined, before the justices of the said court for the time being, on the days and times, and at the places appointed and directed in and by an act of General Assembly, intituled, An act for aiding the discontinuance of the process in the Supreme Court, and for altering the times of holding the said court, and also the Courts of General Quarter Sessions of the Peace and Gaol Delivery, and Courts of Common Pleas, passed at New-Castle on the twenty-second day of February, in the year of our Lord One Thousand Seven Hundred and Seventy-seven. (a)*

*Passed June 26, 1778.*

C H A P. XXVII. b.

1778.

*An ACT to prevent the exportation of provisions from this state beyond the seas.—Expired.*

CHAP.

(a) See chap. 5. b. and the notes there.

CHAPTER XXVIII. b.

CHAPTER XXVIII.

1778.

An ACT to enable Charles Pope, of the county of Kent, his heirs, executors, or administrators, to erect a bridge over Duck-creek.

**W**HEREAS it may be beneficial to many of the Preamble. inhabitants of the counties of New-Castle and Kent to have a bridge across Duck-creek aforesaid. And whereas the said Charles Pope, by his petition to this present General Assembly, setting forth the premises, and that he is owner of a tract of land, situate on the north side of the said creek in New-Castle county, and opposite to the upper landing on the said creek, commonly called Duck-creek landing, hath prayed the aid of the Legislature to enable him to erect a bridge over the said creek, at or near the said landing,

**SECTION 2.** BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That the said Charles Pope, his heirs, executors, or administrators, he, and he or they are hereby authorized and empowered, at his or their own proper charge and expence, to build, erect, and support, a bridge over Duck-creek aforesaid, above the public wharf, near Holliday's landing on the said creek, the lower side of which said bridge shall be at the distance of twenty feet above the upper side of the said public wharf; and also to erect, build, make, and support, all proper and necessary abutments, wings, and other works, for the use, support, and preservation of the said intended bridge:

Charles Pope authorized to erect a bridge over Duck-creek above the public wharf there, &c. at his own expence.

**SECT. 3.** *Provided always,* That there shall be left clear, in the place between the abutments of the said bridge, the space of thirty-five feet, at all times, for the waters of the said creek to pass through, excepting the piles necessary for supporting the said bridge; and that there shall be left, between the rows of said piles, the clear space of eighteen feet at least, over which shall be erected and placed a draw or platform of the breadth of seventeen feet or more, with good and sufficient chains for raising up the same, for the accommodation of all such persons as have occasion

leaving a space of thirty-five feet for the waters to pass through,

and the clear space of eighteen feet for any vessel to pass, with a draw or platform over the same;

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1778.

Penalty for da-  
maging the said  
bridge, &c.

to pass and repass with any vessel through the said bridge, who are hereby obliged carefully to raise and lower the said draw or platform, so as the same receive no damage thereby, under the penalty of Twenty Shillings for every neglect or offence therein, together with the expence of repairing and amending the said bridge, to be recovered with costs, in the name of the said Charles Pope, his heirs, executors, administrators, or assigns, before any two Justices of the Peace of the said county, and applied to the use of the said bridge, where it may be necessary.

Passed June 26, 1778.

C H A P. XXIX. b.

1778.

An ACT of free pardon and oblivion, and for other purposes therein mentioned.

Preamble.

**W**HEREAS persuasion and influence, the example of the deluded or wicked, the fear of danger or the calamities of war, may have induced some of the subjects of this state to join, aid or abet the British forces in America, and who, though now desirous of returning to their duty, and anxiously wishing to be received and re-united to their country, may be deterred by the fear of punishment: *And whereas* the Legislature of this state, ever more ready to reclaim than to abandon, to mitigate than to increase the horrors of war, to pardon than to punish, are desirous that no means should be left untried to give such offenders an opportunity of returning to their allegiance, and again be restored to the blessings of freedom;

Inhabitants of  
this state that  
have levied war,  
&c. except, &c.  
who surrender  
themselves in or  
before the first  
of August:

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for any person or persons, inhabitants of this state, who have levied war against this or any of the United States, or adhered to, aided or abetted the enemies thereof, except the following persons, late and heretofore

tofore inhabitants of this state, viz. Jacob Derickson  
 and Joshua North; late Captains in the militia; Wil-  
 liam Almond and John Almond, husbandmen; James  
 Welch, yeoman, all now or late of Brandy-  
 wine hundred; John Watton, practitioner in physic;  
 Christian Smith, labourer; Hackett,  
 weaver; John Drake, late inn-keeper; Isaac Conner,  
 cooper; John Greenwood, cooper; Thomas Nodes,  
 cordwainer, all now or late of New-Castle hundred;  
 Atwood, practitioner in physic and  
 comb-maker; Isaac Simmons, labourer, both now  
 or late of Christiana hundred; William Buchanan,  
 late innkeeper; Wilson, copper-smith,  
 both now or late of the borough of Wilmington;  
 Charles Gordon, now or late of St. George's hundred,  
 attorney at law; Joseph Judson, mariner; Abraham  
 Anderson, mariner, both now or late of Appoquini-  
 mink hundred; Alexander Foreman, now or late of  
 Pencader hundred, taylor, within the county of New-  
 Castle; Cheney Clow, James Barcas, Stephen Bar-  
 cas and William Burrows, all now or late of Little-  
 creek hundred, husbandmen; Prestly Allee, hus-  
 bandman; Simeon Vanwinkle, saddler; William  
 Wartonby, bricklayer; James Massey, hatter; Abra-  
 ham Conner, husbandman, all now or late of Duck-  
 Creek hundred; Samuel Hatfield, husbandman;  
 Samuel Worden, shallopman, both now or late of  
 Murderkill hundred; William Thompson, now or  
 late of Mispillion hundred, shallopman; John Brinckle,  
 now or late of Dover hundred, shallopman, within  
 the county of Kent.---Joshua Hill, esq. late one of  
 the Members of the General Assembly of this state;  
 James Rench, practitioner in physic, and one of the  
 Members of the Convention of this state; Thomas  
 Robinson and Boaz Manlove, esqrs. Dormand Lof-  
 land, formerly Sheriff of the county of Suffex; Abra-  
 ham Wiltbank, late a Lieutenant in the service of  
 this state; Luke Shields, junior, Samuel Edwards,  
 William Rowland and Nehemiah Field, pilots; Si-  
 mon Kollock, junior, cooper; Solomon Truitt, ju-  
 nior, and William Milby, yeoman, now or late of  
 the county of Suffex, on or before the first day of  
 August next ensuing, voluntarily to appear and sur-  
 render

And take the  
 oath of fidelity,  
 &c. shall be par-  
 doned.

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render themselves before any Justice of the Supreme Court, or Justice of the Peace within this state, and take and subscribe the oath or affirmation following, *to wit,*

*I, A. B. do solemnly swear (or affirm as the case may be) that I do not hold myself bound to yield any allegiance or obedience to the King of Great Britain, his heirs or successors, and that I will be true and faithful to the Delaware State, and will support and maintain the Freedom, Independence and Constitution thereof, against all open enemies and secret and traitorous conspiracies, and will disclose and make known to the Commander in Chief for the time being, or some Judge or Justice of this state, all treasons or traitorous conspiracies, attempts or combinations against the same, or the government thereof, which shall come to my knowledge.*

Which oath or affirmation, the said officers respectively are hereby required and directed to administer to all such of the said offenders who shall so apply and claim the benefit of this act, and to give to such deponent or affirmant a certificate thereof in the words or to the effect following, *to wit;*

*I, C. D. (one of the Justices, &c. as the case may be) do hereby certify, that A. B. being one of the offenders described in an act of Assembly of the Delaware State, intitled, "An act of free pardon and oblivion, and for other purposes therein mentioned," made and passed the day of 1778, having voluntarily appeared before me and claimed the benefit of the said act, hath this day taken and subscribed the oath (or affirmation, as the case may be) prescribed in the said act. Given under my hand and seal this day of 1778.*

For which service such judge or justice shall be intitled to receive of such offender the sum of Five Shillings; And every such offender having so applied, taken the oath or affirmation, and procured a certificate as aforesaid under the hand and seal of any of the officers aforesaid, and delivering the same to the President or Commander in Chief, who is hereby required to file and safely keep the same, and to deliver a copy thereof

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thereof under his hand and seal to the party presenting the same, for which service he shall be intitled to receive of such offender the sum of Thirty Shillings, shall be and is hereby declared to be fully, freely and absolutely pardoned, released and discharged of and from all treasons and other offences, specified in an act of Assembly of this state, passed on the twenty-second day of February, in the year of our Lord One Thousand Seven Hundred and Seventy-seven, intituled, *An act to punish treasons and disaffected persons, and for the security of the government*, by him before done or committed, and shall thereupon be restored to his estate; but shall be for ever hereafter incapable of holding any office of profit or trust either civil or military within this state, and of enjoying or exercising the rights of suffrage at any election within the same. (a).

But be incapable of holding any office, &c.

SECT. 3. *Provided always*, That this act or any thing therein contained shall not extend to discharge such offenders who have recognized for their appearance at the Court of Oyer and Terminer for their respective counties, or who are otherwise secured within this state on any charge under the act, intituled, *An act to punish treasons and disaffected persons, and for the security of the government*, from the payment of the legal fees and charges which already have or may arise or become due to any officer of this state by means of apprehending and securing such person.

Offender under recognizance not discharged from the payment of fees.

SECT. 4. *And whereas* some of the offenders above described may, nevertheless, be so far lost to every sense of duty to their country, as to decline accepting the clemency hereby proffered;

*Be it further enacted by the authority aforesaid*, That all and singular the real and personal estate whatsoever of every the said offenders who shall not, on or before the said first day of August next, voluntarily surrender himself and appear before some one of the officers aforesaid in this state, and take the oath or affirmation as herein before directed, and also all the estate both real and personal of the said Jacob Derickson, Joshua North, William Almond, John Almond,  
James

Estate of persons not surrendering themselves forfeited.

(a) See after chap. 205. b. passed January 27, 1790. this incapacity removed.

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James Welsh, John Watson, Christian Smith, Hacket, John Drake, Isaac Conner, John Greenwood, Thomas Nodes, Atwood, Isaac Simmons, William Buchanan, Wilson, Charles Gordon, Joseph Judson, Abraham Anderson, Alexander Foreman, Cheney Clow, James Barcas, Stephen Barcas, William Burrows, Prestly Allee, Simon Vanwinckle, William Wartonby, James Maffey, Abraham Conner, Samuel Hatfield, Samuel Worden, William Thompson, John Brinkle, Joshua Hill, James Rench, Thomas Robinson, Boaz Manlove, Dormand Lofland, Abraham Wiltbank, Luke Shield, junior, Samuel Edwards, William Rowland, Nehemiah Field, Simon Kollock, Solomon Truitt, junior, and William Milby, if they surrender not themselves to some Judge or Justice of the Peace on or before the first day of August next, and abide their legal trial for such their treason and offences, shall from thenceforth be and is hereby declared to be absolutely forfeited to this state, subject nevertheless to the payment of the said offenders just debts; and all the sales and alienations thereof, and of all or any of the real estate of such offender made after the sixteenth day of May last, by him or any of his agents or attornies, are hereby declared to be null and void to all intents and purposes whatsoever.

Alienations thereof void.

Commissioners to make inventories, &c. of, and sell such estates.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the Commissioners for the respective counties of this state herein after appointed, or any or either of them, shall and may with all convenient speed, after the said first day of August next, make a true and perfect inventory of all and singular the personal estate and effects of every such offender, and secure the same; and also set down in such inventory an account of the lands and tenements whereof such offender was seized or entitled to on the said sixteenth day of May last; which said list the Commissioner taking the same is directed to return into the office of the Clerk of the county where the said goods and chattels, lands and tenements are, to be by him recorded; for which service the said Clerk of the Peace shall receive out of the monies arising from the sale of the said estates, such sum as the Court of Quarter Sessions

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Sessions of his county shall direct; and the said Commissioners respectively are hereby directed to make public sale of the goods and chattels, lands and tenements, so as aforesaid inventoried, having first publicly advertised the same ten days, and return a just and true account of the same to the General Assembly of this state at their next sitting after such sale, and pay the monies arising thereby to their order or appointment, after deducting thereout for the trouble, reasonable charges and expences, in performing the duty by this act required of him, the sum of ten per cent. (b)

Monies arising  
how disposed of.

SECT. 6. *Provided always, and be it further enacted,* That the Commissioner herein after appointed in each county, who shall make sale of any lands or tenements, goods or chattels, by virtue of this act, shall pay into the hands of the wife of the person forfeiting the same, for the maintenance of herself and children, such sum or sums of money arising from the sale of such estate as three Justices of the Peace by the Court of Quarter Sessions for such county to be chosen for that purpose, shall order and direct. And in case any lands or tenements, goods or chattels shall be sold by virtue of this act, belonging to any person not having a wife, the Commissioner aforesaid shall pay the monies allowed by the three justices aforesaid into the hands of such person as the said justices shall appoint, to be by him applied to the purpose of maintaining the children of the person forfeiting the same. (c)

Offender's wife,  
&c. to be main-  
tained thereout.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the persons herein after named shall be, and they are hereby for the counties in which they respectively reside, appointed Commissioners for the purposes aforesaid, *to wit*; for the county of New-Castle,

Commissioners.  
appointed.

(b) See after chap. 43. b. passed June 5, 1779, authorizing the Justices of the Courts of Common Pleas in each county of this state "to receive the claims and order the trials respecting the titles of any messuages, lands or tenements sold as aforesaid, and claimed by others, and to adjust, settle and allow demands against any of the persons whose estates became forfeited under this act."

(c) See said chap. 43. b. sects. 12, 13, further provision made as to the appropriation of monies allowed for maintenance of the children above said.

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Castle, William M'Clay, gentleman; for the county of Kent, the honorable Samuel West, esquire; for the county of Suffex, Levin Derrickson, esquire.

Who shall give  
bond.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the Commissioner of each county before he enters on the execution of his office, shall give bond to the Treasurer of his county, in the name of the Delaware State, with two sufficient sureties, in the sum of One Thousand Pounds, conditioned for the faithful performance of the duties required of him by this act.

Refusing to act,  
others shall be  
appointed.

SECT. 9. *And be it further enacted by the authority aforesaid,* That if the said Commissioners or any of them shall refuse or be disabled from performing the duties enjoined them by this act, then and in such case the President or Commander in Chief shall be, and is hereby authorized and required to appoint other proper persons in the room of such Commissioner or Commissioners, and the person or persons so appointed shall be and they are hereby vested with the same powers and authorities, and shall receive the same compensation, and be subject to the same duties which by this act are vested in, allowed to, and enjoined upon the said Commissioners hereby appointed.

Impowered to  
convey lands,  
&c.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the Commissioner for each county shall have full power and authority by deed of sale, under his hand and seal duly executed, to convey any lands or tenements hereafter to be sold by virtue of this act, and deliver possession thereof to the person or persons who shall purchase the same; and if any person or persons, who may be in possession of any lands, messuages or tenements hereafter to be sold in pursuance of this act, shall, for ten days after such sale and conveyance, refuse or neglect to deliver up the same to the purchaser or purchasers thereof, the Commissioner who sold such lands, messuages or tenements, shall proceed to recover the possession thereof in the manner and way by law directed in cases of forcible entry and detainer; on the trial whereof, if it shall appear to the Jury of Enquiry that the lands, messuages or tenements were sold by virtue of this act, and the purchase money paid for the same, and  
legal

legal conveyance made agreeable to the directions thereof, they shall cause possession to be delivered to the person or persons purchasing the same, and the person or persons, his or their heirs or assigns, to whom any lands, messuages or tenements shall be sold and conveyed, and possession thereof delivered, agreeable to the direction of this act, shall hold and for ever enjoy the same in as full, free and ample manner as if the said lands, messuages or tenements had been conveyed by the person forfeiting the same, before the commission of the treason for which the same became forfeited.

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SECT. 11. *And be it further enacted by the authority aforesaid,* That the several persons in this act, by name excepted and excluded from the benefit of the pardon in and by the same proffered, are hereby disabled and for ever rendered incapable to hold and enjoy any post or place of profit or trust, civil or military, within this state, and of exercising and enjoying the right and privilege of voting at any election within the same. (d)

Persons herei<sup>d</sup>  
excluded are  
disabled from  
holding any  
office, &c.

SECT. 12. *And it is further provided and enacted by the authority aforesaid,* That every person or persons hereby pardoned, may plead the general issue, without special pleading of this pardon, and give this act of pardon in evidence for his discharge, and that the same shall be thereupon allowed, and the advantage thereof had as fully to all intents and purposes as if the same had been fully and well pleaded.

Persons pardon-  
ed may plead  
the general  
issue.

Passed June 26, 1778.

C H A P. XXX. b.

An ACT to prohibit the exportation of provisions from this state beyond the seas, for a limited time.—Expired. 1778.

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CHAP.

(d) See said chap. 205. b. passed Jan: 27, 1790, this incapacity, as to all such persons then residing within this state, removed.

C H A P.  
XXXI.

C H A P. XXXI. b.

1778.

*An ACT for aiding the discontinuance of the procefs in the Supreme Court.*

Preamble.

**W**HEREAS the procefs and proceedings in the Supreme Court for this state are now discontinued and put without day, by occasion of the non-coming of the justices thereof, at the days appointed by law for holding the said court, in the several counties within the said state;

*BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That every indictment, presentment, action, suit, plea, procefs or other matter whatsoever, that were depending in the Supreme Court, within any, or either of the counties of this state, and are now become discontinued, abated, and put without day, by reason of the non-coming of the justices thereof as aforesaid, shall be, and are hereby revived and continued, and shall and may be heard, tried and determined, before the justices of the said court for the time being, on the days and times, and at the places appointed and directed in and by an act of General Assembly, intituled, An act for aiding the discontinuance of the procefs in the Supreme Court, and for altering the times of holding the said court, and also the Courts of General Quarter Sessions of the Peace and Gavel Delivery, and Courts of Common Pleas, passed at New-Castle on the twenty-second day of February, in the year of our Lord One Thousand Seven Hundred and Seventy-seven. (a) in as full and ample manner to all intents and purposes whatsoever, as they might or could have been, if such action or other matter had not been determined by the means aforesaid.*

*Passed December 9, 1778.*

CHAP.

*(a) Ante chap. 5. b. see also chap. 13. b. sect. 5.—chap. 16. b.—chap. 26. b.*

## C H A P . XXXII. b.

CHAP  
XXXII.*An ACT for the quartering of soldiers.—Obsolete.*

1778.

## C H A P . XXXIII. b.

*An ACT to authorise and empower the Delegates of the Delaware State to subscribe and ratify the articles of Confederation and perpetual union between the several states.*

1778.

**W**HEREAS articles of confederation and perpetual union between the states of New-Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, signed in the General Congress of the said states, by the honorable Henry Laurens, esquire, their then President, have been laid before the Legislature of this state to be ratified by the same, if approved, *And whereas* notwithstanding the terms of the articles of confederation and perpetual union are considered as in divers respects unequal and disadvantageous to this state, and the objections stated on the part of this state, are viewed as just and reasonable, and of great moment to the welfare and happiness of the good people thereof; yet under the full conviction of the present necessity of acceding to the confederacy proposed, and that the interest of particular states ought to be postponed to the general good of the union: And moreover, in firm reliance that the candour and justice of the several states, will, in due time, remove as far as possible the objectionable parts thereof,

SECTION 2. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the honorable John Dickinson, Nicholas Vandyke, and Thomas M'Kean, esquires, delegates appointed to represent this state in Congress, or any one, or more of them, be, and they hereby

Delegates from this state authorized to subscribe articles of confederation, &c.

are,

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1779.

And when so  
subscribed, &c.  
to be binding on  
this state.

are, authorized, impowered and directed, on behalf of this state, to subscribe and ratify the said articles of confederation and perpetual union between the several states aforesaid.

SECT. 3. *And be it further enacted by the authority aforesaid, That the said articles of confederation and perpetual union, so as aforesaid subscribed and ratified, shall thenceforth become obligatory on this state.*

*Passed February 1, 1779.*

C H A P. XXXIV. b.

1779.

*A Supplementary act to an act, entitled, "An act to enable the owners and possessors of the meadow, marsh, and cripple, on the south side of Christiana-creek, called Fearnbook marsh, and of the marsh meadow on the south side of the same creek, called Bosman's-creek marsh, in the hundred and county of New-Castle, to keep the banks, dams, and sluices, in repair, and raise a fund to defray the expence thereof."*

*Passed February 1, 1779.—Private act.*

C H A P. XXXV. b.

1779.

*An ACT to appoint Commissioners to bear and determine the claims of the officers and soldiers of the Whig-battalion, stationed at Newark and Dover, in this state, in the year of our Lord One Thousand Seven Hundred and Seventy-seven, and of the inhabitants of the counties of New-Castle and Kent, and others, whose property was seized and taken by said battalion and others, officers and privates of the militia of this state, to prevent a trade with the enemy, &c. Supplied by "An act to prevent vexatious prosecutions and suits against such as acted in this state for the defence of the liberties of America," Chap. 108. b. Passed June 26, 1784.*

CHAP.

CHAP. XXXVI. b.

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1779.

An ACT to prohibit, for a limited time, the distilling of  
whiskey, and other spirits, from wheat, rye, or any  
other sort of grain, or from any meal or flour. — Tem-  
porary, and expired.

CHAP. XXXVII. b.

1779.

An ACT to prevent and punish the frauds and abuses in the  
Quarter-Masters and Commissaries departments, and for  
ascertaining the pay of impressed teams and their drivers.  
— Obsolete.

CHAP. XXXVIII. b.

1779.

An ACT for raising One Hundred and Ninety-eight  
Thousand Dollars in the Delaware State, for the ser-  
vice of the year One Thousand Seven Hundred and  
Seventy-nine, by a general tax.

**W**HEREAS, in the course of the present war  
with Great Britain, the honorable Continen-  
tal Congress have been under the necessity of emitting  
large sums in bills of credit for carrying on the same,  
for the sinking of which the United States, by their  
Representatives in Congress, have pledged themselves;  
whereof the computed proportion for this state, for  
the present year, will amount to One Hundred and  
Fifty Thousand Dollars. And whereas it is necessary  
for the clothing of the officers and troops of this state,  
and for defraying of other expences of the state that  
have arisen, and may arise, that the further sum of  
Forty-eight Thousand Dollars be raised for the public  
service; We the Representatives of the freemen of  
this state in Assembly met, taking into serious confi-  
deration the public necessities aforesaid, have agreed  
to give the sum of One Hundred and Ninety-eight  
Thou-

Preamble.

C H A P.  
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1779.

And when so  
subscribed, &c.  
to be binding on  
this state.

are, authorized, impowered and directed, on behalf of this state; to subscribe and ratify the said articles of confederation and perpetual union between the several states aforesaid.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the said articles of confederation and perpetual union, so as aforesaid subscribed and ratified, shall thenceforth become obligatory on this state.

*Passed February 1, 1779.*

C H A P. XXXIV. b.

1779.

*A Supplementary act to an act, entitled, "An act to enable the owners and possessors of the meadow, marsh, and cripple, on the south side of Christiana-creek, called Fearn-book marsh, and of the marsh meadow on the south side of the same creek, called Bosman's-creek marsh, in the hundred and county of New-Castle, to keep the banks, dams, and sluices, in repair, and raise a fund to defray the expence thereof."*

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CHAP.

CHAP. XXXVI.

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1779.

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deration the public necessities aforesaid, have agreed  
to give the sum of One Hundred and Ninety-eight  
Thou-

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Thousand Dollars for the uses aforesaid, to be raised by way of tax as hereafter mentioned, and desire that it may be enacted :

One Hundred and Ninety-eight Thousand Dollars to be raised, and equally apportioned on the counties in this state.

SECTION 2. *And be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the sum of One Hundred and Ninety-eight Thousand Dollars shall be raised, levied and paid unto the State Treasurer, for the purposes aforesaid, within the year One Thousand Seven Hundred and Seventy-nine, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say,* For the county of New-Castle the sum of Sixty-six Thousand Dollars, for the county of Kent the sum of Sixty-six Thousand Dollars, and for the county of Sussex the remaining sum of Sixty-six Thousand Dollars.

A special court to be held, &c. to ascertain the sum in the pound to be raised ;

SECT. 3. *And be it enacted by the authority aforesaid,* That, for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the several counties aforesaid, the Justices of the Peace of each county, or any three of them, together with the other members of the Levy Court, or such of them as will attend, are hereby authorized and required to hold a special court, on or before the third Tuesday in the month of February, instant, in the counties aforesaid respectively, at the places in the aforesaid counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised and levied in the counties aforesaid respectively, within the year One Thousand Seven Hundred and Seventy-nine, and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each hundred, authorising and requiring him forthwith to demand and receive, from the persons rated in his assessment list, the sum per pound which they shall ascertain as necessary to raise the several sums as aforesaid. And the said Collectors respectively shall proceed without delay to collect, and (in case of neglect or refusal to pay)

Justices to issue their warrant to Collectors to receive the same ;

who are to collect without delay.

pay) to levy and recover the same in the manner as is directed by the act of Assembly, intituled, *An act for raising county rates and levies*; and that the said Clerks of the Peace shall, within ten days next after the day of holding the special court aforesaid, deliver to the Treasurer of the said respective counties; a true account of the sums total, which every Collector shall be charged with pursuant to this act.

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SECT. 4. *And whereas* in some of the hundreds in Kent county, real estates belonging to minors have not been assessed; *Be it therefore enacted*, That the said justices, at the special court to be held for Kent county as aforesaid, shall call before them the Assessors of the hundreds where such omissions are, and the Assessors are hereby authorized and required then and there impartially to assess the said lands so omitted, and certify the same to the said court, who shall appoint some day in the following May Sessions to hear and determine the appeals of any parent, guardian or tutor of a minor, whose lands shall be then assessed and in their opinion over rated, of which rate and time of appeal the said justices shall direct either public or personal notice to be given. And on the said day of appeal the justices then present, with three or more of the Grand Jury, there attending, shall hear the complaints and redress the grievances of such as may be unequally or over rated; and the Clerk of the Peace immediately after such day of appeal shall cause duplicates of the additional assessments of each hundred, where omissions are supplied as aforesaid, to be delivered to the Collector thereof with a warrant from the justices aforesaid, or any two of them, empowering such Collector in his proper districts to demand and receive the sums assessed on such estates.

Special provision for supplying a deficiency of assessment in the county of Kent.

SECT. 5. *And whereas also*, some owners of lands whereon improvements are made, may not reside in the same county or district where such land lies, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on the said land; *Be it therefore enacted by the authority aforesaid*, That the tenant or other persons residing on and having the care of such lands, their goods and chattels, and the goods and chattels of the landlords,

Provision in aid of tenants, &c.

C. H. A. P.  
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landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax. And in case the tenants or person having the care thereof shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant, to deduct the tax so paid out of the rent agreed for; or for the tenant or person having the care of the said lands to recover the same from the owners by an action or suit in any court where the same shall be cognizable, together with cost of suit; and all parents, guardians or tutors making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts. *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord or tenant.

Collectors to pay half the tax to the Treasurer before the 20th of May next, and the remainder the 30th of November following, who are to deduct, for trouble, &c. Nine-pence in the Pound.

SECT. 6. *And be it enacted by the authority aforesaid*, That the said Collectors respectively shall, on or before the twentieth day of May next, pay to the Treasurer of their county at least one moiety or half of the tax, by this act to be raised, and shall, on or before the thirtieth day of November next, render a just and true account of, and pay unto the said Treasurer the residue of the said tax, and all and every the sum and sums of money they may or ought to have levied by virtue of this act, deducting Nine-pence in the Pound for the trouble of collection; and that the said County Treasurer shall, within twenty days after the said twentieth day of May, and thirtieth day of November, pay over the money by him so received, to Samuel Patterson, of the county of New-Castle, esquire, hereby appointed State Treasurer.

How the sum to be raised may be drawn for.

SECT. 7. *And be it enacted by the authority aforesaid*, That the said sum of One Hundred and Ninety-eight Thousand Dollars, and every part thereof in the hands of the State Treasurer, shall be subject to the joint draughts of the Speakers of the Council and Assembly, made by order of their respective Houses, or the draughts of the President or Commander in Chief for the time being, in the manner that shall be directed by joint resolutions of the Council and Assembly from time to time.

SECT.

SECT. 8. *And be it enacted by the authority aforesaid,* That the several Collectors and the Treasurers of the aforesaid counties respectively shall, each of them, give bond, in the name of the Delaware State; to the Justices of the Peace, on or before the second day of the Court of Quarter Sessions to be held in May next, with such sureties as they shall approve of; *That is to say,* The several County Treasurers in the sum of Fifteen Thousand Pounds; and the several Collectors in such sum as the said justices shall direct, conditioned for the true and faithful performance and discharge of their duty respectively, in the execution of this act: And in case of their, or any of their neglect or refusal so to do, the said justices, or any three of them, shall forthwith appoint others in his or their stead, who shall give security as aforesaid.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the State Treasurer shall, and he is hereby impowered and required to order and direct the County Treasurers respectively, so often as he shall think necessary, to lay before him the books and accounts of the rates and assessments, and to pay the money that shall be in their hands by virtue of this act. And the said County Treasurers shall also adjust and settle their said accounts with a Committee of the Levy Court, in the manner as by the said act for raising county rates and levies is directed: And if the said County Treasurers, or any of them, shall neglect or refuse to produce his or their said books and accounts, or to pay the money in his or their hands, or adjust and settle his or their accounts with a Committee of the Levy Court, according to the direction of this act, the said State Treasurer may and shall proceed against such Treasurer so refusing or neglecting, by way of action or suit, in the name of the Delaware State, in which there shall be but one imparlance, to recover the monies due to the State Treasury from such delinquent, and the said Levy Court, or Court of Appeal, may remove him from the said office, and appoint another in his stead. And if any Collector shall refuse or neglect to render a just and true account of, and pay unto the Treasurer of the county, the sums of money he may or ought to have levied by

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Treasurers to give bond, &c. for performance of duty, as also Collectors, &c.

State Treasurer may direct the County Treasurers to lay their accounts, &c. before him, and demand the money in their hands, &c.

who, upon neglect, &c. are to be proceeded against by way of action, &c.

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Collectors refusing to render their accounts, how to be proceeded against.

What gifts, grants, and sales of real estates of any delinquent Collector or Treasurer are to be deemed fraudulent.

State Treasurer to be bound, &c. for the true observation of his duty, &c.

His commissions.

County Treasurers allowance.

virtue of this act, such County Treasurer shall proceed in like manner to recover the monies unpaid by such delinquent Collector, and the said courts, or the Justices in their Court of Quarter Sessions after, may remove him from his office, and appoint another in his stead.

SECT. 10. *And be it enacted by the authority aforesaid,* That all gifts, grants and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessments (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

SECT. 11. *And be it enacted by the authority aforesaid,* That the said State Treasurer, before the tenth day of April next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Sixty Five Thousand Pounds, conditioned for the true observation of this act, and the duty which to the said office doth appertain: And in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

SECT. 12. *And be it enacted by the authority aforesaid,* That the said State Treasurer, for all the monies which shall come to his hands in pursuance of his office aforesaid by virtue of this act, or otherwise, shall be allowed commissions for the same at the rate of Ten Shillings for every Hundred Pounds, and no more. And each County Treasurer, for his trouble in receiving and paying the monies and performing the duties by this act required, shall have and receive Fifteen Shillings for every Hundred Pounds, and no more.

*Whereas*

*Whereas* some doubts have arisen whether the equal proportion of the One Hundred and Ninety Eight Thousand Dollars, herein before directed to be raised within each of the counties of this state, is the just and proper quota of each county according to the present ability of its inhabitants to pay the same; for the discovery whereof, and in case inequality therein shall appear, that a remedy may be provided for the inhabitants of the county or counties that may be overburthened by the equal proportioning of the whole sum to be raised as aforesaid;

SECT. 13. *Be it enacted by the authority aforesaid,* That William M<sup>c</sup>Clay, of the county of New-Castle, merchant, that William Manlove, of the county of Kent, merchant, and that colonel Caleb Cirwithin, of the county of Suffex, be and they are hereby appointed Commissioners to go to and through the several and respective hundreds and counties of this state, and to make an estimate and valuation of all the real estates within the same, having regard to quantity, quality and circumstances attending the same, at the time of such valuation, under and subject to the following rule, *to wit,* estimating the best land with the improvements thereon at Three Pounds per acre and no more, except in towns and villages, then the lands and improvements there in a like proportion, having regard to circumstances; and all other real estates in proportion to the foregoing limitation, and to make report of their proceedings in the premises to the General Assembly at their meeting in October next; distinguishing in their report their estimate of the real estates as well of the respective hundreds as of the counties in the state.

SECT. 14. *And be it enacted by the authority aforesaid,* That if, upon such report being made as aforesaid by the Commissioners herein named, it shall or may appear, that any county of this state hath paid more than its just and proper quota of the whole sum to be raised by virtue of this act, then and in such case such county shall pay less in the next general tax, and the county which paid less than its just and proper quota shall pay more in the said next general tax, until each county shall have paid up its arrears, so as to bring the whole sum to be raised by this act

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Suggestion of inequality in the quotas before assigned to be raised in each county.

Commissioners appointed to value the real estates in the respective hundreds and counties of this state,

and make report to the General Assembly, &c.

If any county shall thereupon appear to have been over-quoted to be reimbursed, &c.

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In case of death  
of any of said  
Commissioners,  
others named to  
supply vacancies.

to a just quota for each county, agreeable to the estimate and valuation to be made as aforesaid.

SECT. 15. *Provided always, and be it enacted by the authority aforesaid,* That, in case of the death or inability of the said William M<sup>c</sup>Clay, to attend and perform the duties herein assigned to him, captain John James, of the county of New-Castle, shall and may act in his stead; and, in case of the death or inability of the said William Manlove to attend and perform the duties herein assigned to him, that John Gordon, of the county of Kent, esquire, shall and may act in his stead; and, in case of the death or inability of the said Caleb Cirwithin to attend and perform the duties herein assigned to him, that Robert Houston, of the county of Sussex, esquire, shall and may act in his stead, in as full and ample a manner as the person dying or disabled to attend might or could have done in the premises.

SECT. 16. *And be it enacted by the authority aforesaid,* That each and every of the said Commissioners, before he enters upon the duties herein assigned to him, shall take the following oath or affirmation before some one Justice of the Peace, or Judge of the Court of Common Pleas or Supreme Court of the State or County thereof, *to wit*;

*I do swear (or affirm) that I will according to the best of my judgment and ability, make a just and equal estimate and valuation of all the real estates within the Delaware State, having regard to quantity, quality and circumstances attending the same, at the time of such valuation, under and subject to the following rule, to wit, estimating the best land with the improvements thereon at Three Pounds per acre and no more, except in towns and villages; then the lands and improvements there in a like proportion, having regard to circumstances, and all other real estates in proportion to the foregoing limitation,—and obtain a certificate thereof from the person administering the same, setting forth the said oath at large, to be shewn to each Commissioner at their first meeting*

Oath, &c. prescribed to be taken by each Commissioner, &c.

Note—No proceedings were had by the Commissioners aforesaid under this act,

ing, and after to be returned with the report to the General Assembly.

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1779.

SECT. 17. *And be it enacted by the authority aforesaid,* That for the doing and performing the duties required by this act, the said Commissioners shall have and receive the sum of Three Pounds each per day for every day they are in actual service and no more.

Allowance to  
them.

SECT. 18. *And be it enacted by the authority aforesaid,* That so much of this act as relates to the valuation of the real property within the state, the ascertaining the just and proper quota of each county of the whole sum to be raised by this act, and the refund to be made by the county or counties, that by the report to be returned as aforesaid shall or may appear not to have paid a just and proper quota of the whole sum aforesaid, shall be and remain in full force until such refund, agreeable to the true intent and meaning of this act, be made. (a)

Continuance of  
this act so far as  
the same relates  
to the valuation  
of the real pro-  
perty as aforesaid.

Passed February 2, 1779.

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C H A P. XXXIX. b.

An ACT to increase the salaries and allowances to the Justices of the Supreme Court. Altered and supplied in chap. 55. b. passed Dec. 29, 1779.

1779.

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C H A P. XL. b.

A Supplement to an act, intitled, "An act for keeping in good repair the causey and bridge over the Broadkill creek in Sussex county, and for regulating the toll for passing the same." Expired, having a temporary continuance.

1779.

CHAP.

(a) See also in chap. 46, b. sect. 2. Post.

C H A P.  
XLI.

C H A P. XLI. b.

1779,

*An ACT for the recovery of public monies from the late Trustees of the Loan Office in Suffex county, and others therein named.*

Preamble.

**W**HEREAS it appears from the minutes and proceedings of the General Assembly of the counties of New-Castle, Kent and Suffex, on Delaware, at a Sessions of Assembly held at the town of New-Castle, on the thirteenth day of March, One Thousand Seven Hundred and Seventy-six, that the late Trustees of the General Loan Office, in the county of Suffex, were in arrear at the death of Jacob Kollock, late of the county of Suffex aforesaid, esq. then one of the said Trustees, the sum of Four Thousand Four Hundred and Forty-six Pounds and Nine-pence Three-farthings, for public monies by them received as Trustees of the Loan Office aforesaid, and as Commissioners for the disposing of money emitted in the year One Thousand Seven Hundred and Fifty-six: *And whereas* it appears from the minutes and proceedings of the said General Assembly, that David Hall and Jacob Kollock, the younger, esquires, late Commissioners for disposing of sundry sums of money emitted the first day of March, One Thousand Seven Hundred and Fifty-eight, the first day of June, One Thousand Seven Hundred and Fifty-nine, and thirty-first day of May, One Thousand Seven Hundred and Sixty, agreeable to the directions of divers acts of Assembly of the counties aforesaid, are in arrear the sum of Four Hundred and Eighty eight Pounds, Twelve Shillings and Three-pence, for public monies by them received in virtue of the same acts, for the purposes aforesaid; which said sums remain yet unpaid: *To the end therefore*, That the said sum of Four Thousand Four Hundred and Forty-six Pounds and Nine-pence Three-farthings, and also the said sum of Four Hundred and Eighty-eight Pounds, Twelve Shillings and Three-pence, may be speedily recovered, with interest.

BE

*BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That Levin Derickson and Joseph Hazard, of the county of Suffex, esquires, are hereby directed and impowered, as soon as conveniently may be, in the name and for the use of the Delaware State, to sue for and recover the said sum of Four Thousand Four Hundred and Forty-six Pounds and Nine-pence, Three-farthings, together with the legal interest thereon arising from the thirteenth day of March One Thousand Seven Hundred and Seventy-six, from the executors or administrators of the said late Trustees, or any of them or their sureties, or the executors or administrators of such sureties, in any Court of Common Pleas or Supreme Court in this state; and also to sue for and recover the said sum of Four Hundred and Eighty-eight Pounds, Twelve Shillings and Three-pence, with the legal interest thereon arising from the said thirteenth day of March One Thousand Seven Hundred and Seventy-six, from the said David Hall and Jacob Kollock, their executors or administrators, in manner aforesaid; and when the said sum of Four Thousand Four Hundred and Forty-six Pounds and Nine-pence Three-farthings, and the said sum of Four Hundred and Eighty-eight Pounds, Twelve Shillings and Three-pence, with the legal interest thereon arising, are so as aforesaid recovered and received, or any part of the same, to pay and deliver over into the hands of the Trustee of the General Loan Office for Suffex county aforesaid for the time being, taking his receipt, and reporting the same to the General Assembly at their next Sessions.*

C H A P.  
XLI.

1779.

Persons appointed to sue for and recover the public monies due from the late Trustees of the Loan Office in Suffex county, and certain late Commissioners there.

*Passed June 5, 1779.*

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C H A P. XLII. b.

*An ACT for relieving the distresses of the inhabitants of the island of Bermudas.—Obsolete.*

1779.

CHAP.

C H A P.

XLIII.

1779.

## C H A P. XLIII. b.

*A Supplement to an act, intituled, An act of free pardon and oblivion, and for other purposes therein mentioned. (a)*

Preamble.

**W**HEREAS no provision hath been made in the said act for the determining any disputes that have arisen, or may arise, respecting the title of any messuages, lands or tenements, that have been or hereafter may be sold by virtue of the said act, or for adjusting and settling any accounts, debts, dues or demands, against any or either of the persons whose estates have become forfeited by the operation thereof, or for the recovery of any sum or sums of money due to any or either of the persons whose estates have become forfeited as aforesaid, or for the discovery of any goods or chattels, rights and credits, belonging to any or either of the said persons and concealed in the possession of any person or persons within this state, for the use of, or in trust for, any or either of them: For remedy whereof,

SECTION 1. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the Justices of the Court of Common Pleas in each county of this state be and are hereby authorized and impowered to receive the claims and order the trials respecting the title of any messuages, lands or tenements, which have been or hereafter may be sold by virtue of the said act, and claimed by any person or persons whatsoever within this state or elsewhere; which said Justices shall sit at the Court-Houses in their respective counties on such days and times as they shall appoint, having first advertised the same at least twenty days before their first sitting, and shall proceed to receive all such claims, and order the trial thereof in manner herein after directed.

SECT. 2. *And be it enacted by the authority aforesaid,*  
That

(a) See before chap. 29. b.

Justices of the  
Courts of Com-  
mon Pleas to re-  
ceive claims to  
any estate sold,  
&c.

That if any person or persons whatsoever, within this state or elsewhere, shall claim any right or title to, interest in, or profits arising out of, any messuages, lands or tenements, that have been or hereafter may be sold by virtue of the said recited act, it shall and may be lawful for such claimants, his or her agent, attorney or guardian, to file such claim to any messuages, lands or tenements; already sold at any time within three months after the publication of this act, and to any messuages, lands or tenements that may be sold at any time hereafter within three months after such sale, before the justices aforesaid of the county in which such messuages, lands or tenements lie; and the entries and proceedings thereon shall be made and kept among the records of the said Courts of Common Pleas.

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XLIII.

1779.

In what time  
claims are to be  
made.

SECT. 3. *And be it enacted by the authority aforesaid,* That it shall and may be lawful for the justices aforesaid, of the respective counties, upon any such claim or claims being filed and entered as herein before directed, to issue their precept in the nature of a *venire facias*, directed to the Sheriff of their county, commanding him to summon twenty-four substantial and reputable freeholders of the same, to be and appear before them at the time and place in the said precept specified, any twelve of whom shall be a jury, to hear, try and determine upon all and every claim or claims respecting the title to, interest in, or profits arising out of any messuages, lands or tenements, that have been or hereafter may be sold by virtue of the said recited act, that shall be laid before them by the justices aforesaid of their county, which claims the said justices are hereby directed to lay before such jury, and the verdict or determination of such jury thereon shall be final and conclusive to all parties without further appeal; and the said justices are hereby empowered and required to issue a *subpœna* for the summoning of witnesses at the request of any of the parties concerned.

Upon entering  
any claim a jury  
to be summoned  
for trial thereof;

whose verdict  
shall be final.

SECT. 4. *And be it enacted by the authority aforesaid,* That if any person summoned as a juror by virtue of this act shall refuse or neglect to give his attendance

Juror neglecting  
to give his at-  
tendance to be  
fined.

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Witness neglect-  
ing to attend,  
&c. how punish-  
ed.

at the time and place in the precept for summoning him specified, he shall be fined for every such offence by the aforesaid justices in any sum not exceeding Five Pounds. And if any person summoned as a witness shall refuse or neglect to obey such summons, or appearing, shall refuse to give evidence on oath or affirmation as the case may be, respecting the matter then in dispute, he, she, or they, so offending, shall for every such offence be fined by the said justices in any sum not exceeding Fifty Pounds, and be committed to the gaol of the county, there to remain until he or she agree to give in his or her evidence, agreeable to the directions of this act; all and every of which fines and forfeitures shall be recovered by warrant under the hands and seals of the said justices, directed to the Sheriff of the county, commanding him to levy the same on the goods and chattels of the offender, and make sale of so much as will discharge such fine and the legal costs arising thereon; and all fines and forfeitures so as aforesaid levied and recovered shall be applied towards defraying the expence arising by reason of the execution of this act.

SECT. 5. *And be it enacted by the authority aforesaid,* That each and every juror, before he enters on the duties of him by this act required, shall take an oath or affirmation as the case may be, to be administered by the said justices,—*That he will faithfully and impartially hear, try and determine, upon the matter then in dispute, and a true verdict give, according to the intent and meaning of this act, and the said recited act whereto this is a supplement, and the very right of the cause.*

Persons not pur-  
suing their  
claims accord-  
ing to the di-  
rections in this  
act to be barred,  
&c.

SECT. 6. *And be it enacted by the authority aforesaid,* That if any person or persons within this state, or elsewhere, claiming any title to, interest in, or profits arising out of, any messuages, lands or tenements, that have been or hereafter may be sold by virtue of the said recited act, persons beyond the seas, *non compos mentis*, under coverture, or the age of twenty-one years, only excepted, shall refuse or neglect to file his, her or their claim or claims to the said messuages, lands or tenements, and enter into the trial thereof agreeable to the directions of this act, such person or persons so refusing or neglecting, his, her or their heirs

heirs and assigns, shall be for ever hereafter utterly excluded from any benefit accruing to him, her, them or any of them, by reason of any such claim or claims; and the person or persons having purchased such messuages, lands or tenements, and being put in possession thereof, agreeable to the directions of the said recited act, his, her or their heirs and assigns, shall fully, freely and absolutely, for ever hereafter, have, hold, occupy, possess and enjoy the same.

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1779.

SECT. 7. *And be it enacted by the authority aforesaid,* That every person or persons within this state or elsewhere, having any demands against any or either of the persons whose estates have or hereafter may become forfeited by the operation of the said recited act, either by judgment, bond, bill, note, book account, or any other manner or way whatsoever, such person or persons shall lay such demand before the justices aforesaid, for the county in which he or she having any such demand resides; which said justices are hereby impowered and required to settle and adjust all such accounts, debts or demands, of whatsoever nature they may be, and upon hearing and considering the proofs and allegations of the party making such demands, and such other testimony as may appear before them, they shall give their judgment agreeable to the very right of the case; which judgment shall be final and conclusive without further appeal; and the person or persons to whom any sum shall be so as aforesaid adjudged to be due, shall be paid the amount of such sum out of the monies arising from the sales of the estate of the person owing the same, by the Commissioner in the said recited act appointed to make sale and dispose of forfeited estates for the county in which such sum was adjudged to be due, upon his or her producing to such Commissioner a copy of such judgment, certified under the hand and seal of the Prothonotary of the said court; which sum shall be allowed the Commissioner who sold such estate on the settlement of his accounts with the General Assembly or their Committee for that purpose to be appointed.

Demands against persons forfeiting their estates to be laid before the justices,

whose judgment thereon shall be final.

SECT. 8. *And be it enacted by the authority aforesaid,* That the Commissioners for the respective counties

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Commissioners  
of forfeited  
estates autho-  
rized to demand  
and receive all  
sums of money  
owing to the per-  
sons whose  
estates become  
forfeited, &c.

and on payment  
to give releases,  
&c.

and in case of  
refusal or neglect  
in any debtor so  
to pay, Com-  
missioner to  
proceed to re-  
cover in his  
own name.

ties in the said recited act appointed to make sale and dispose of forfeited estates, are hereby fully authorized and empowered to ask for, demand and receive, of and from all and every person or persons whatsoever, all such sum or sums of money as were by them owing to any or either of the persons whose estates have been or hereafter may become forfeited by virtue of the said recited act, on the sixteenth day of May One Thousand Seven Hundred and Seventy-eight, and upon payment thereof by the person or persons owing the same into the hands of the Commissioners appointed for the county in which such debtor resides, the said Commissioner shall sign such releases, receipts, or other discharges for the same, as is usual to be given for the discharging of debts of the same nature of those so owing and paid into the hands of such Commissioner; which releases, receipts, or other discharges, shall be of the same force, efficacy and validity in law as if they had been signed by the person to whom the money for which they were given was owing before the said sixteenth day of May.

SECT. 9. *And be it enacted by the authority aforesaid,* That if any person or persons who were on the said sixteenth day of May indebted to any or either of the persons whose estates have been or hereafter may become so as aforesaid forfeited, shall refuse or neglect to pay into the hands of the Commissioner appointed to receive the same for the county in which such debtor resides, all such sum or sums of money as were by them so as aforesaid owing by the space of thirty days after demand made, it shall and may be lawful for such Commissioner in his own name to commence and prosecute such action or actions against such debtor for the recovery of the same, as is, or are, usual by the laws and customs of this state to be commenced and prosecuted for the recovery of debts of the same dignity with those so owing, and refused or neglected to be paid; and if the amount of such debt cannot be otherwise ascertained, such Commissioner is hereby empowered in his own name to sue out writs of attachment, and summon the garnishee or garnishees thereupon in the manner and way directed by an act  
of

of Assembly of this state, intituled, *An act directing the manner of suing out attachments within this government.*

SECT. 10. *And be it enacted by the authority aforesaid,* That if any of the Commissioners of the respective counties, appointed to make sale and dispose of forfeited estates, shall have reason to believe any goods or chattels, rights and credits, are concealed in the possession of any person or persons whatsoever within this state, belonging to, in trust for, or for the use of any or either of the persons whose estates have or hereafter may become, forfeited as aforesaid, such Commissioner shall give information thereof to some Justice of the Peace of his county; which justice is hereby required to issue a summons directed to any Constable of the said county, commanding him to summon the person or persons in whose custody such goods or chattels, rights and credits are supposed to be concealed, to be and appear before some justice of the said county at the time in the said summons specified, and all and every person or persons so summoned, shall deliver to the justice before whom he or she appears, an inventory on oath or affirmation, as the case may be, of all and singular the goods and chattels, rights and credits, (if any) he or she hath in his or her possession, or at any time since the said sixteenth day of May, have had, belonging to, in trust for, or for the use of any or either of the persons whose estates have, or hereafter may become forfeited as aforesaid; which inventory such justice shall deliver to the said Commissioner, and shall order the person or persons who made the same to deliver the goods and chattels, rights and credits therein contained, and then in his or her possession, into the hands of such Commissioner, who shall sell, dispose of the same, and be accountable for the monies arising from such sales, in the manner directed by the act of General Assembly of this state to which this act is a supplement; and if any person or persons in whose custody any such goods and chattels, rights and credits are suspected to be concealed, shall refuse or neglect to obey such summons, or appearing shall refuse to make such inventory, or refuse to deliver the goods and chattels in such inventory contained, agreeable to the order of  
the

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Power given to Justice of the Peace upon information of such Commissioner to issue process against such persons as are supposed to conceal forfeited property.

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Commissioners  
of forfeited  
estates autho-  
rised to demand  
and receive all  
sums of money  
owing to the per-  
sons whose  
estates become  
forfeited, &c.

and on payment  
to give releases,  
&c.

and in case of  
refusal or neglect  
in any debtor so  
to pay, Com-  
missioner to  
proceed to re-  
cover in his  
own name.

ties in the said recited act appointed to make sale and dispose of forfeited estates, are hereby fully authorised and impowered to ask for, demand and receive, of and from all and every person or persons whatsoever, all such sum or sums of money as were by them owing to any or either of the persons whose estates have been or hereafter may become forfeited by virtue of the said recited act, on the sixteenth day of May One Thousand Seven Hundred and Seventy-eight, and upon payment thereof by the person or persons owing the same into the hands of the Commissioners appointed for the county in which such debtor resides, the said Commissioner shall sign such releases, receipts, or other discharges for the same, as is usual to be given for the discharging of debts of the same nature of those so owing and paid into the hands of such Commissioner; which releases, receipts, or other discharges, shall be of the same force, efficacy and validity in law as if they had been signed by the person to whom the money for which they were given was owing before the said sixteenth day of May.

SECT. 9. *And be it enacted by the authority aforesaid,* That if any person or persons who were on the said sixteenth day of May indebted to any or either of the persons whose estates have been or hereafter may become so as aforesaid forfeited, shall refuse or neglect to pay into the hands of the Commissioner appointed to receive the same for the county in which such debtor resides, all such sum or sums of money as were by them so as aforesaid owing by the space of thirty days after demand made, it shall and may be lawful for such Commissioner in his own name to commence and prosecute such action or actions against such debtor for the recovery of the same, as is, or are, usual by the laws and customs of this state to be commenced and prosecuted for the recovery of debts of the same dignity with those so owing, and refused or neglected to be paid; and if the amount of such debt cannot be otherwise ascertained, such Commissioner is hereby impowered in his own name to sue out writs of attachment, and summon the garnishee or garnishees thereupon in the manner and way directed by an act  
of

of Assembly of this state, intituled, *An act directing the manner of suing out attachments within this government.*

SECT. 10. *And be it enacted by the authority aforesaid,* That if any of the Commissioners of the respective counties, appointed to make sale and dispose of forfeited estates, shall have reason to believe any goods or chattels, rights and credits, are concealed in the possession of any person or persons whatsoever within this state, belonging to, in trust for, or for the use of any or either of the persons whose estates have or hereafter may become, forfeited as aforesaid, such Commissioner shall give information thereof to some Justice of the Peace of his county; which justice is hereby required to issue a summons directed to any Constable of the said county, commanding him to summon the person or persons in whose custody such goods or chattels, rights and credits are supposed to be concealed, to be and appear before some justice of the said county at the time in the said summons specified, and all and every person or persons so summoned, shall deliver to the justice before whom he or she appears, an inventory on oath or affirmation, as the case may be, of all and singular the goods and chattels, rights and credits, (if any) he or she hath in his or her possession, or at any time since the said sixteenth day of May, have had, belonging to, in trust for, or for the use of any or either of the persons whose estates have, or hereafter may become forfeited as aforesaid; which inventory such justice shall deliver to the said Commissioner, and shall order the person or persons who made the same to deliver the goods and chattels, rights and credits therein contained, and then in his or her possession, into the hands of such Commissioner, who shall sell, dispose of the same, and be accountable for the monies arising from such sales, in the manner directed by the act of General Assembly of this state to which this act is a supplement; and if any person or persons in whose custody any such goods and chattels, rights and credits are suspected to be concealed, shall refuse or neglect to obey such summons, or appearing shall refuse to make such inventory, or refuse to deliver the goods and chattels in such inventory contained, agreeable to the order of the  
the

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Power given to Justice of the Peace upon information of such Commissioner to issue process against such persons as are supposed to conceal forfeited property.

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the justice, the person or persons so neglecting or refusing shall be committed to the gaol of the county by such justice, there to remain until such order is fully complied with.

Fees allowed to the said justices for hearing claims, &c.

To Justices of the Peace, Sheriff, &c.

how paid.

SECT. 11. *And be it enacted by the authority aforesaid,* That every of the justices aforesaid, in hearing every claim to any messuages, lands or tenements, as herein before directed, shall have and receive such fees and allowances as are usual in the Court of Common Pleas, and for every day they attend under this act as Auditors of demands against any person whose estate hath been or hereafter may be forfeited, the same fees as are allowed to the Justices of the Orphans Court in this state. And every Justice of the Peace, Sheriff, Constable, Jury Man or Witness, for the discharge of the duty required of him or them by this act, shall be allowed such sum or sums as are allowed by the laws of this state for services of the like nature, to be paid out of the monies arising from the sales of forfeited estates, except in cases where claims entered to messuages, lands or tenements, that cannot be supported by the person or persons filing the same; in which case the party filing such claim, or discontinuing the same, or having a verdict passed against him or her on the trial thereof, shall pay all costs and charges thereon arising, any thing herein contained to the contrary notwithstanding.

*And whereas* the monies allowed by the said recited act for the maintenance of the children of persons forfeiting their estates, are ordered to be paid into the hands of the wife of the person forfeiting the same, whereby the monies allowed for that purpose according to the directions of the said act may be wasted and such children thereby become a public charge; (b)

Money allowed for the maintenance of the children of persons forfeiting their estates, to be paid agreeable to the directions of the Orphans Court.

SECT. 12. *Be it therefore enacted by the authority aforesaid,* That all and every sum or sums of money allowed for the maintenance of any child or children in manner as by the said act is directed, shall be paid into the hands of such person or persons as the justices of the Orphans Court of the county in which such child or children resides shall appoint, who shall give such

(L) See before chap. 29. b. sect. 6.

such security for the payment of the monies so allowed, by annual payments, to the person or persons having the care of such child or children, as the said court shall order and direct :

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1779.

SECT. 13. *Provided nevertheless,* That it shall and may be lawful for the Justices of the Orphans Court of the county where such child or children reside, on application made to them by such child or children, or either of them; when at lawful age, to pay the remainder of such sum of money, if any, to such child or children, or an equal part thereof to such child, being of full age, who may apply for the same, to and for the proper use and benefit of such child or children.

The surplus whereof, if any, to be paid to such children when at age.

Passed June 5, 1779.

2d. C H A P. XLIII. b.

An ACT for the speedy recovery of public debts.—Obsolete.—Supplied in the constitution of the United States and subsequent acts of Congress.

1779.

C H A P. XLIV. b.

An ACT for the better securing elections, within this state.

1779.

**W**HEREAS the several laws now in this state for regulating elections, have not sufficiently provided for the security thereof: (a) *And whereas* the freedom of election is the basis of the liberty of the people, which cannot exist when that is destroyed; and the same, from the particular situation of this state, is liable to be violated: For prevention whereof,

Preamble.

SECTION

(a) For preceding acts relating to elections, see before chap. 21, a.—chap. 61, a.—chap. 187, a.—chap. 207, a.—chap. 228, a.

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1779.

What persons  
impowered to  
hold elections.

Upon any at-  
tempt to inter-  
rupt an election,  
the presiding  
officer to demand  
the instant aid  
of all officers,  
civil and mili-  
tary, and other  
the subjects of  
the state within  
such county, to  
suppress the  
same, &c.

Persons neglect-  
ing to afford such  
assistances to be  
fined, &c.

SECTION 1. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the Sheriff of each of the counties within this state, or in his absence the Coroner, or in his absence the Under Sheriff, or in his absence any two of the Overseers of the Poor, or in their absence, neglect or refusal, any three good and substantial freeholders of such county, together with the Inspectors, shall and may hold the elections for Representatives in General Assembly for such county, at such times and places as heretofore have been established by law for holding such elections; And if on the day of the election in either of the said counties, any riotous or unlawful attempt to interrupt or prevent the said election shall be made by any person or persons whatsoever, the Sheriff or other officer or officers or freeholders presiding at the election, are hereby authorised, impowered and required to adjourn the said election from day to day, if he or they find it necessary, and to demand the instant aid and assistance of all officers both civil and military, and all other the subjects of this state within such county, to suppress and quell the said rioters and persons unlawfully attempting to interrupt the same. And if any officer, or officers, either civil or military, or other subject aforesaid, when required by the Sheriff or other presiding officers or freeholders, shall refuse or neglect to assist him or them in suppressing and quelling any irregular, disorderly or riotous proceedings, in any manner tending to interrupt the same election, such officer or officers, or other subject aforesaid, so refusing or neglecting, shall, upon due conviction thereof, before the Court of General Quarter Sessions, to be held for the county where the offence is committed, be fined in any sum not exceeding Five Hundred Pounds, nor less than Fifty Pounds, in the discretion of the court one half thereof to the informer or prosecutor, and the other moiety to the Treasurer for the use of the county, and shall also from thenceforth be rendered incapable of holding any office either civil or military within the state for and during the term of three years.

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

*aforsaid*, That if the said election in any of the counties aforesaid shall be prevented by force, or by any other means whatsoever, it shall and may be lawful for the late sitting members of the county or counties where such election is prevented, to re-assume their seats in the General Assembly, for the purpose of ordering writs for the holding a new election in the county or counties where the same has been prevented, and enabling the returning officers to execute the same agreeable to law; but they are hereby disabled from doing any other act of legislation whatsoever.

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1779.

If an election be prevented by force, &c. writs for a new election how ordered.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the Sheriff, or other presiding officer or officers of each of the counties aforesaid, shall, at every general or other election for representatives in General Assembly, under the penalty of Two Hundred Pounds, to be recovered and applied as aforesaid, read this act, or cause the same to be read, with a loud and distinct voice, at the door of the house, where such election is held, after the same has been legally opened, and before any votes are received by the Inspectors, or any of them.

At every election the presiding officer to read this act publicly under the penalty of 200*l*.

*Passed June 5, 1779.*

C H A P. XLV. b.

*An ACT for the better proportioning the punishment to the crime of slave and horse-stealing, and conjuration, and for other purposes.*

1779.

**W**HEREAS it becomes the wisdom and policy Prea nb:z. of every state in the penal laws thereof, to proportion punishments to crimes, as nearly as possible; to do justice in mercy, and to reclaim rather than destroy: *And whereas* the laws in this state heretofore made for the punishment of slave- and horse-stealing have, from their excessive severity, been seldom or never executed; by means whereof such offences have greatly increased of late years within this

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Every person  
stealing any  
slave, horse,  
&c.

or assisting, &c.  
such person,

and being duly  
convicted shall  
restore double  
the value there-  
of &c.

Value of such  
slave, &c. how  
ascertained.

Insolvent of-  
fenders to make  
restitution by  
servitude.

state, to the great damage of the inhabitants. For the more effectual remedy thereof,

SECTION 1. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That every person who shall hereafter steal, take or carry away any Negro, or Mulatto slave, horse, gelding, mare or colt, ass or mule, or aid or assist any person or persons in committing such offence, or who shall receive or buy of any such felon or felons any Negro or Mulatto slave, horse, gelding, mare or colt, ass or mule, knowing the same to be stolen; or shall knowingly harbour or conceal any felon or felons before mentioned, or be assisting to the escape of such felon or felons, knowing him, her or them to be such, and shall be thereof legally convicted in any court of General Quarter Sessions in this state, in the county where the offence may be committed, he, she or they so offending, shall restore such slave, horse, gelding, mare or colt, ass or mule, to the right owner thereof, and pay to the said owner double the value of the same; or if the same slave, horse, gelding, mare or colt, ass or mule cannot be found, then the fourfold value thereof with the full costs of prosecution: And shall be whipped at the public whipping-post of the county, on his, her or their bare back with thirty-nine lashes well laid on; and shall be set in the pillory for one hour, and shall have the soft part of one of his, her or their ears cut off. (a)

SECT. 2. *And be it further enacted,* That the value of the slave, horse, gelding, mare or colt, ass or mule stolen, taken, received or bought by the offenders in this act described, shall be assessed by the jury who pass upon the trial of such offender or offenders.

SECT. 3. *And be it further enacted,* That if any of the offenders before described shall be unable to pay the fines, forfeitures or costs before ordered and directed,

(a) See chap. 145, b. sect. 9. passed Feb. 3, 1787, that provides in case of a manumitted Negro or Mulatto convicted of horse-stealing, that he be transported and sold for a term not exceeding fourteen years.

rected, upon conviction, he, she or they, for the payment thereof, shall by order of court to the Sheriff, be sold as a servant for any space of time not exceeding seven years.

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*And whereas* it is of ill consequence to society to suffer designing and wicked persons, by pretending to skill in witchcraft or conjuration, to impose on the folly and credulity of weak and ignorant people: To prevent such imposition therefore,

SECT. 4. *Be it enacted by the authority aforesaid,* That if any person hereafter shall pretend to skill in witchcraft, conjuration or fortune-telling or dealing with evil spirits, and under such pretence shall persuade or cheat any person out of any money, goods or chattels, and be thereof legally convicted before any court of General Quarter Sessions of the Peace where such offence shall be committed, he, she or they so offending and convicted as aforesaid, shall return to the person so cheated, the goods or chattels of which he or she was defrauded, and the value thereof in money, or double the money of which he or she was defrauded; and if unable to pay the forfeitures hereby imposed, and the costs of prosecution, he or she shall be publicly sold for the same by the Sheriff, by order of the court before whom the conviction shall happen, for any term not exceeding seven years.

Persons pre-  
tending to skill  
in witchcraft,  
conjuration, &c.  
how punished.

SECT. 5. *And be it further enacted,* That so much of an act of Assembly, intituled, *An act for the more effectual preventing and punishing the evil and wicked practices of horse-stealing and other felonies and offences committed within this government,* (b) as is hereby altered, and that part of an act of Assembly, intituled, *An act for the advancement of justice, and more certain administration thereof,* (c) which extends to this state, a statute made in the first year of the reign of King James the First, chapter the twelfth, intituled, *An act against conjuration, witchcraft and dealing with evil and wicked spirits,* is hereby repealed and made null and void.

Parts of former  
acts repugnant  
to this, declared  
to be repealed.

SECT. 6. *And be it further enacted by the authority aforesaid,*

(b) Chap. 90. a. sects. 2. 6. 15 Geo. II.

(c) Chap. 22. a. sect. 9. 6 Geo. I.

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1779.  
Clause in a former act punishing capitally the concealment of the death of a bastard child, repealed.

foresaid, That the clause in the act of Assembly, intitled, *An act for the advancement of justice and more certain administration thereof,* (d) which makes the concealing of the death of a bastard child felony of death, is hereby repealed, made null and void.

Passed June 5, 1779.

C H A P. XLVI. B.

1779.

*An ACT for raising an additional sum of Four Hundred and Ninety-five Thousand Dollars in the Delaware State, for the service of the year One Thousand Seven Hundred and Seventy-nine, by a general tax:*

Preamble.

**W**HEREAS the honorable Congress have called upon the United States; in addition to the sum required by a resolution of Congress of the second day of January last, for their respective quotas of Forty-five Millions of dollars; whereof the computed proportion for this state is Four Hundred and Fifty Thousand Dollars. *And whereas* it is necessary for the recruiting and cloathing of the troops of this state, and to make just and adequate provision for the officers, and for defraying other expences that have arisen, or may arise within the present year, that the further sum of Forty-five Thousand dollars be granted for the public service of this state, for the year Seventeen Hundred and Seventy-nine: We the Representatives of the freemen of this state in Assembly met, taking into serious consideration the public necessities aforesaid, have agreed to give and grant the additional sum of Four Hundred and Ninety-five Thousand Dollars, for the uses aforesaid, to be raised by way of tax as hereafter mentioned, and desire that it may be enacted;

SECTION 1. *And be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the*

(d) Said chap. 22. a. sect. 6.

*the same*; That the sum of Four Hundred and Ninety-five Thousand Dollars shall be raised; levied and paid into the State Treasury before the Twenty-fifth day of March, which will be in the year Seventeen Hundred and Eighty; for the purposes aforesaid, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say*; For the county of New-Castle, the sum of One Hundred and Eighty Thousand Dollars; for the county of Kent, the sum of One Hundred and Sixty Five Thousand Dollars; and for the county of Suffex, the remaining sum of One Hundred and Fifty Thousand Dollars.

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Four Hundred and Ninety-five Thousand Dollars to be raised before the 25th of March, 1780. Proportion thereof for each county.

SECT. 2. *Provided always, and be it enacted by the authority aforesaid*; That this act shall not be construed to repeal so much of an act of General Assembly of this state, intituled, *An act for raising One Hundred and Ninety-eight Thousand Dollars in the Delaware State, for the service of the year One Thousand Seven Hundred and Seventy-nine, by a general tax*, as is by the said act continued in force; but that the same be and remain in full force until refund be made in the manner therein directed to be made by the county or counties, that by the report therein directed to be made to the General Assembly at their meeting in October next shall or may appear not to have paid a just and proper quota of the whole sum levied by this and the said recited act, according to the true intent and meaning thereof; any want of the said report being made by the time before mentioned, or any matter or thing contained in this act to the contrary notwithstanding. (a)

This act not to repeal such parts of the act for raising One Hundred and Ninety-eight Thousand Dollars as is thereby continued in force, until refund be made, &c.

*And whereas* the present assessment of the persons and estates within this state is not so equal and just as the same might be made;

SECT. 3. *Be it therefore enacted by the authority aforesaid*, That the Assessors of the respective hundreds of this state, together with two or more Assessors for each hundred within the same, to be chosen on the twenty-sixth day of June, instant, by the freeholders

and

The present Assessors, with two more to be chosen in each hundred, on the 26th of June, to meet and make their assessments and return a true list thereof to the Quarter Sessions in August, &c.

(a) For this see before in chap. 38, b. sects. 13 to 18 inclusive.

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and other electors within each hundred, agreeable to the laws now in force, directing the mode of choosing Assessors, or any two of them, shall as soon as conveniently may be after their election, meet, assess, and rate equally and justly, all the persons and estates in their hundreds respectively, excepting inlisted soldiers, and return a true list thereof to the next Court of Quarter Sessions of the Peace and Gaol Delivery of each county respectively, to be held in the month of August next; in which assessment, they, or a majority of them, are hereby required to raise the rate of all such of the inhabitants as may be lessees, for a time not expired, in tillable land, who leased or rented before the twenty-fifth day of March, in the year One Thousand Seven Hundred and Seventy-seven, and contracted to pay their rents in current money; likewise all such as may have been fortunate in trade, or concerned in speculation or engrossing since the commencement of the present war, and to have due regard to such as are poor and have a charge of many children, widows and minors estates; likewise the lessors of tillable land, who leased before the day and year last aforesaid, for considerations in current money; and generally assess the persons and estates agreeable to the profits arising thereon, and according to the best of their skill and judgment, the laws of this state now in force, and the true intent and meaning of this act; and that the Clerks of the Levy Courts respectively, shall make out duplicates of the said assessments, together with notice of the day appointed for holding a Court of Appeals, and put up the same in the most public places in each hundred at least ten days before the said court.

Clerks of the  
Levy Courts to  
set up duplicates  
of the assess-  
ments.

Expences of the  
Assessors to be  
defrayed by the  
county.

Justices, &c.  
to hold a Court  
of Appeals, to  
which persons  
aggrieved may  
apply for redress.

SECT. 4. *And be it enacted by the authority aforesaid,* That each of the said Assessors shall have their reasonable expences for their trouble herein, to be allowed by the Levy Court for their county respectively, and by them levied, by the authority of this act, on the taxable inhabitants thereof.

SECT. 5. *And be it enacted by the authority aforesaid,* That the Justices of the Peace of the respective counties within this state, or any three of them, together with eight Grand Jury men, to be chosen by that  
body

body at the next August Sessions, or such of them as will attend, shall meet at the Court Houses within the said counties on the twentieth day of September next, and shall then and there hold a Court of Appeals, to which all persons who may think themselves aggrieved in the rate or assessment aforesaid may apply, and where all such appeals shall be heard and finally determined; at which time and place one or more of the Assessors aforesaid out of each hundred in the county shall attend.

SECT. 6. *And be it enacted by the authority aforesaid,* That for the better assessing, ordering, levying and collecting the aforesaid sums of money in the several counties aforesaid, the members of the said Court of Appeals, or such of them as attend, are hereby authorised and required at the time of holding the said court in the counties aforesaid respectively, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the aforesaid assessment, necessary to raise, clear of all charge, the several sums herein before directed to be assessed, raised and levied in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each hundred, authorising and requiring him forthwith to demand and receive from the persons rated in his assessment list the sum in the Pound which they shall ascertain as necessary to raise the several sums as aforesaid: And the Collectors respectively, shall proceed without delay to collect, and (in case of refusal to pay) to levy and recover the same in the manner as is directed by the act, intituled, *An act for raising county rates and levies*, and that the said Clerks of the Peace shall within ten days next after the day of holding the special court aforesaid, deliver to the Treasurers of the said respective counties, a true account of the sums total which every Collector shall be charged with pursuant to this act.

Which said court shall ascertain the sum in the Pound to be raised.

Justices to issue their warrant to Collectors to receive the same.

Who are to proceed therein without delay,

*And whereas* some owners of lands whereon improvements are made, may not reside in the same county or district where such land lies, or may be under the age of twenty-one years, whereby it may  
be

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XLVI:

1779.

Provision for securing the payment of the tax in divers cases.

be difficult to recover or collect the tax aforesaid on the said land;

SECT 7. *Be it therefore enacted*, That the tenant or other persons residing on and having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenants, or persons having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant or person having the care of the said lands, to recover the same from the owners by an action or suit in any court where the same shall be cognizable, together with costs of suit; and all guardians or tutors making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord or tenant.

Collectors after deduction of their commissions, to pay the tax to the Treasurers as herein directed; who shall pay over the same to the State Treasurers;

Four Hundred and Fifty Thousand Dollars whereof to be paid to the Treasurer of Loans for the United States.

SECT. 8. *And be it enacted by the authority aforesaid*, That the said Collectors respectively shall, on or before the twenty-fourth day of December next, pay to the Treasurer of their county at least one moiety or half of the tax by this act to be raised, and shall on or before the twenty-fourth day of March following, render a just and true account of, and pay unto the said Treasurer the residue of the said tax, and all and every the sum or sums of money they may or ought to have levied by virtue of this act, deducting Six-pence in the Pound for the trouble of collection; and the said Treasurers within twenty days after the said twenty-fourth day of December and twenty-fourth day of March next, shall pay over the money by him so received to Samuel Patterson, of the county of New-Castle, esq. the Treasurer of this state, who is hereby directed upon the receipt thereof to pay over the sum of Four Hundred and Fifty Thousand Dollars thereof to the Treasurer of the loans for the United States of America, taking his receipt for the same.

SECT. 9. *And be it enacted by the authority aforesaid*, That the residue of the said sum of Four Hundred

dred and Ninety Thousand Dollars, and every part thereof, in the hands of the State Treasurer, shall be subject to the joint draught of the Speakers of the Council and Assembly, made by order of their respective Houses, or the draughts of the President and Commander in Chief, for the time being, in the manner that shall be directed by joint resolutions of the Council and Assembly.

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Residue of the Four Hundred and Ninety-five Thousand Dollars how drawn for.

SECT. 10. *And be it enacted by the authority aforesaid,* That the several Collectors and the Treasurers of the aforesaid counties respectively, shall, each of them, give bond, in the name of the Delaware State, to the Justices of the Peace, on or before the twentieth day of September next, with such sureties as they shall approve of, *That is to say;* The several County Treasurers in the sums of One Hundred and Fifty Thousand Dollars, and the several Collectors in such sum as the said justices shall direct, conditioned for the true and faithful performance and discharge of their duty respectively in the execution of this act; and in case of their or any of their neglect or refusal so to do, the said justices, or any three of them, shall forthwith appoint others in his or their stead, who shall give surety as aforesaid.

Collectors and Treasurers to give bond for the discharge of their duty.

SECT. 11. *And be it further enacted by the authority aforesaid,* That the State Treasurer shall, and he is hereby impowered and required to order and direct the County Treasurers respectively, so often as he shall think necessary, to lay before him the books and accounts of the rates and assessments, and to pay the money that shall be in their hands by virtue of this act; and the said County Treasurers shall also adjust and settle their said accounts with a Committee of the Levy Court, in the manner as by the said act for raising county rates and levies is directed; and if the said County Treasurers, or any of them, shall neglect or refuse to produce his or their said books and accounts, or to pay the money in his or their hands, or adjust and settle his or their accounts with a Committee of the Levy Court, according to the direction of this act, the said State Treasurer may and shall proceed against such Treasurer so refusing or neglecting, by way of action or suit, in the name of the Delaware State, in which there

Treasurers how to be proceeded against for neglecting the duties herein required of them.

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Delinquent Col-  
lectors how pro-  
ceeded against.

shall be but one imparlance, to recover the monies due to the state treasury from such delinquent; and the said Levy Court, or Court of Appeal, may remove him from the said office, and appoint another in his stead: And if any Collector shall refuse or neglect to render a just and true account of, and pay unto the Treasurer of the county the sums of money he may or ought to have levied by virtue of this act, such County Treasurer shall proceed in like manner to recover the monies unpaid by such delinquent Collector, and the said courts, or the Justices in their Court of Quarter Sessions after may remove him from his office, and appoint another in his stead.

Gifts, grants,  
&c. by any de-  
linquent Col-  
lector or Treas-  
urer of their  
real estates,  
void, unless,  
&c.

SECT. 12. *And be it enacted by the authority aforesaid,* That all gifts, grants and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessment (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

State Treasurer  
to give bond for  
the discharge of  
his duty,

SECT. 13. *And be it enacted by the authority aforesaid,* That the said Treasurer, before the first day of January next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved by the President or Commander in Chief, for the time being, in an obligation of Five Hundred Thousand Dollars, conditioned for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or his death in the recess of the General Assembly, it shall and may be lawful for the President and Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

and in default  
thereof, &c. how  
removed.

State Treas-  
urer's commis-  
sions:

SECT. 14. *And be it enacted by the authority aforesaid,* That the said State Treasurer, for all the monies which shall come to his hands in pursuance of his office aforesaid by virtue of this act, or otherwise, shall be allowed

allowed commissions for the same at the rate of Ten Shillings for every Hundred Pounds, and no more; and each County Treasurer, for his trouble in receiving and paying the monies and performing the duties by this act required, shall have and receive Twelve Shillings and Six-pence for every Hundred Pounds, and no more.

C H A P.  
XLVI.  
1779.  
County Treasurer's.

Passed June 6, 1779.

C H A P. XLVII. b.

An ACT empowering the General Assembly of this state to adjourn to, and sit at, any town or place within the same.

**W**HEREAS the act of the General Assembly of this state, passed at New-Castle, in the year of our Lord One Thousand Seven Hundred and Seventy-seven, for the removal of the seat of government to the town of Dover, (a) has fallen into the hands of the British troops, and hitherto hath not, and probably will not, be recovered;

Preamble.

SECTION 2. BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That the General Assembly of Delaware shall hereafter meet and sit on the twentieth day of October yearly, for ever, at the town of Dover, unless after such meeting, the said Assembly may see cause to adjourn from the said town of Dover, to some other town or place within the state, in such case it shall and may be lawful for the General Assembly of this state, by their resolution, to adjourn to, and sit at, any town or place within the same.

Time and place of meeting of the General Assembly prescribed;

SECT. 3. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the General Assembly, now sitting, from and after the passing this act, to adjourn to, and sit at, at any town or place within this state.

with power to adjourn to other place.

SECT.

(a) For this act see before chap. 11. b.

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XLVI.

1779.

Delinquent Col-  
lectors how pro-  
ceeded against.

shall be but one imparlance, to recover the monies due to the state treasury from such delinquent; and the said Levy Court, or Court of Appeal, may remove him from the said office, and appoint another in his stead: And if any Collector shall refuse or neglect to render a just and true account of, and pay unto the Treasurer of the county the sums of money he may or ought to have levied by virtue of this act, such County Treasurer shall proceed in like manner to recover the monies unpaid by such delinquent Collector, and the said courts, or the Justices in their Court of Quarter Sessions after may remove him from his office, and appoint another in his stead.

Gifts, grants,  
&c. by any de-  
linquent Col-  
lector or Treas-  
urer of their  
real estates,  
void, unless,  
&c.

SECT. 12. *And be it enacted by the authority aforesaid,* That all gifts, grants and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessment (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

State Treasurer  
to give bond for  
the discharge of  
his duty,

SECT. 13. *And be it enacted by the authority aforesaid,* That the said Treasurer, before the first day of January next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved by the President or Commander in Chief, for the time being, in an obligation of Five Hundred Thousand Dollars, conditioned for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or his death in the recess, of the General Assembly, it shall and may be lawful for the President and Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

and in default  
thereof, &c. how  
removed.State Treas-  
urer's commis-  
sions:

SECT. 14. *And be it enacted by the authority aforesaid,* That the said State Treasurer, for all the monies which shall come to his hands in pursuance of his office aforesaid by virtue of this act, or otherwise, shall be allowed

allowed commissions for the same at the rate of Ten Shillings for every Hundred Pounds, and no more; and each County Treasurer, for his trouble in receiving and paying the monies and performing the duties by this act required, shall have and receive Twelve Shillings and Six-pence for every Hundred Pounds, and no more.

C H A P.  
XLVI.

1779.

County Treasurers.

Passed June 6, 1779.

C H A P. XLVII. b.

An ACT empowering the General Assembly of this state to adjourn to, and sit at, any town or place within the same.

**W**HEREAS the act of the General Assembly of this state, passed at New-Castle, in the year of our Lord One Thousand Seven Hundred and Seventy-seven, for the removal of the seat of government to the town of Dover, (a) has fallen into the hands of the British troops, and hitherto hath not, and probably will not, be recovered;

Preamble.

SECTION 2. BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That the General Assembly of Delaware shall hereafter meet and sit on the twentieth day of October yearly, for ever, at the town of Dover, unless after such meeting, the said Assembly may see cause to adjourn from the said town of Dover, to some other town or place within the state, in such case it shall and may be lawful for the General Assembly of this state, by their resolution, to adjourn to, and sit at, any town or place within the same.

Time and place of meeting of the General Assembly prescribed;

SECT. 3. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the General Assembly, now sitting, from and after the passing this act, to adjourn to, and sit at, at any town or place within this state.

with power to adjourn to other place.

SECT.

(a) For this act see before chap. 11. b.

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1779.

SECT. 4. *And whereas* by the constitution or system of government of this state, (b) it is provided and directed, that the President or Commander in Chief of the state, with the advice of the Privy Council thereof, or on the application of a majority of either House of the General Assembly, may call the General Assembly before the time they stand adjourned.

Place of meeting when called by the Commander in Chief of the state.

SECT. 5. *Be it therefore enacted by the authority aforesaid,* That in such case the President or Commander in Chief is hereby directed, by and with the advice of the Privy Council, or on the application of a majority of either House of the General Assembly, to call the General Assembly to meet at the place pointed out by their adjournment, or if no adjournment be made, at the place where the sessions were last held; (c) any law, usage, or custom to the contrary notwithstanding.

Passed October 28, 1779.

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C H A P. XLVIII. b.

1779. *A Supplement to an act, intituled, "An act for the more easy and speedy recovery of small debts."*—Temporary and expired.

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C H A P. XLIX. b.

1779. *An ACT to prohibit the exportation of provisions from this state beyond the seas for a limited time.*—Repealed in chap. 56. b. sect. 18.

CHAP.

(b) Adopted in September 1776, art. 10.

(c) See art. 3. sect. 12, of the constitution of the state of Delaware, adopted in June, 1792, giving power to "the Governor on extraordinary occasions to convene the General Assembly, and in case of disagreement between the two Houses with respect to the time of adjournment, to adjourn them to such time as he shall think proper, not exceeding three months."

See also chap. 5. c. sect. 14, passed Feb. 2, 1793, vesting the former powers of the President, or of the President and Privy Council, under the constitution of 1776, and the laws passed during its existence, in the Governor.

C H A P. L. b.

CHAP.

L.

1779.

An ACT to prevent forestalling and engrossing, and for other purposes therein mentioned.—Repealed in chap. 56. b. sect. 18.

C H A P. LI. b.

An ACT for the appointment of Trustees of the General Loan Offices in the respective counties of this state.

**W**HEREAS the time limited by an act of Assembly, intituled, *An act for emitting the sum of Thirty Thousand Pounds in bills of credit on loan, and providing a fund for the payment of public debts,* (a) for the continuance of the present Trustees of the General Loan Offices in the several counties of this state in their said offices respectively is expired; and it is necessary that a new appointment of Trustees to execute the said office in the said counties respectively should now be made; Preamble.

SECTION I. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That Gunning Bedford, of the county of New-Castle, esquire, is hereby constituted and appointed Trustee of the General Loan Office for the said county of New-Castle; and that James Sykes, of the county of Kent, esquire, is hereby constituted and appointed Trustee of the General Loan Office for the said county of Kent; (b) and that David Hall, of the county of Sussex, esquire, is hereby constituted and appointed Trustee of the General Loan Office for the said county of Sussex: Which said Trustees shall, severally, before they enter upon the execution of their trust, give and duly execute a bond to the President of Trustees of the Loan Offices appointed,

who are to give bond, &c.

(a) Chap. 230. a.

(b) See chap. 74. b. sect. 3, passed Feb. 12, 1781, where so much of this act as relates to the appointment of the said new Trustees in the counties of New-Castle and Kent was repealed.—Note, Neither of them accepted the trust.

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of this state, with two or more sufficient sureties, such as he shall approve of, in the sum of Twenty Thousand Pounds, conditioned for the faithful execution of the trust and performance of the several acts, matters and things enjoined and required of the Trustees of the General Loan Offices within this state by an act of Assembly, intituled, *An act for emitting the sum of Thirty Thousand Pounds, in bills of credit, on loan, and providing a fund for the payment of public debts*, and shall also take the oath or affirmation required by the above recited act to be taken by the Trustees of the General Loan Offices within this state respectively; which said oath or affirmation, so to be taken by the said Trustees, shall be endorsed on their respective bonds, and the said bonds with the endorsements aforesaid, shall be delivered to the respective Prothonotaries for the aforesaid counties, to be by them recorded; and in case the said bonds, or any of them, shall in any wise be forfeited, the same shall be sued and prosecuted, and the penalties thereof recovered, for the benefit, advantage and use of the state.

which are to be returned to the Prothonotaries and recorded.

Power of the Trustees.

SECT. 2. *And be it enacted by the authority aforesaid*, That the said Trustees, and each of them, respectively, after having given bond as aforesaid and taken the said oath or affirmation, are hereby authorized and empowered, forthwith to enter on the trust to which they are severally hereby appointed in each of the counties of this state, and shall severally do and perform all matters and things enjoined and required to be done and performed by the Trustees of the General Loan Offices in the respective counties of this state, by the above recited act, during their and each of their continuance in the said offices, as fully and amply to all intents and purposes whatsoever as the present Trustees of the several Loan Offices within this state now do, or heretofore have done, by virtue of the same.

SECT. 3. *And be it enacted by the authority aforesaid*, That the present Trustees of the Loan Offices in the several counties of this state, and each of them, respectively, are hereby enjoined and required forthwith to deliver up to the Trustees in this act appointed for the respective counties aforesaid, all mortgage deeds,

deeds, bonds and warrants of attorney, plate, bills of credit, and other money remaining in the said offices, together with the books and papers which to the same respectively do belong.

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SECT. 4. *And be it enacted by the authority aforesaid,* That none of the said Trustees, appointed in and by virtue of this act, shall continue in the exercise of their said offices longer than the space of four years from the time of the commencement of their said trust, and from thence until a new nomination and appointment shall be made by the General Assembly: (c) *Provided,* That if any of the said Trustees shall happen to die, or remove out of the county, in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief of this state, with the advice of the Privy Council, to appoint some other fit person as Trustee in his place and stead until the next meeting of the General Assembly, who shall then appoint some fit person to fill the said office, and being so appointed, shall have the same powers as if appointed by this act, and shall also give bond as aforesaid.

Trustees to continue four years.

Vacancy in the recess of the Assembly how supplied.

*Passed December 25, 1779.*

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C H A P. LII. b.

*A Supplement to an act, intitled, "An act for establishing a militia within this state."*—Repealed by chap. 86. b. passed Feb. 5, 1782.

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CHAP.

(c) For after appointments see chap. 113. b. sect. 14.—chap. 192. b.—chap. 217. b.—chap. 41. c.—chap. 75. c.

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1779.

C H A P. LIII. b.

*An ACT for raising One Million Three Hundred and Sixty Thousand Dollars, in the Delaware State, between the first day of February and the first day of October, in the year One Thousand Seven Hundred and Eighty, and for other purposes therein mentioned.*

Preamble.

**W**HEREAS the honorable Congress, by a resolution dated the fourth day of October last, have called upon the United States for their respective quotas of Fifteen Millions of Dollars, monthly, from the first day of February next, until the first day of October, inclusive; whereof the monthly computed proportion of this state is One hundred and Seventy Thousand, amounting in the whole to One Million Three Hundred and Sixty Thousand Dollars: We the Representatives of the freemen of this state in Assembly met, taking into serious consideration the necessity of supplying the Treasury of the said United States with money, for the purpose of enabling them to carry on the just and necessary war in which they are now engaged, have agreed to give and grant the aforesaid sum of One Million Three Hundred and Sixty Thousand Dollars for the use aforesaid, to be raised by way of tax as hereafter mentioned, and desire that it may be enacted,

SECTION 2. *And be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That the sum of One Million Three Hundred and Sixty Thousand Dollars shall be raised, levied and paid into the state treasury before the first day of October in the year One Thousand Seven Hundred and Eighty, for the purpose aforesaid, and shall be assessed and taxed in the several counties of this state in the following proportions, That is to say, For the county of New-Castle, the sum of Five Hundred and Eighteen Thousand and Ninety Five Dollars, for the county of Kent, the sum of Four Hundred and Fifty Three Thousand, Three Hundred and Thirty Three Dollars, and for the county of Suffex the remaining*  
sum

One Million,  
Three Hundred  
and Sixty Thou-  
sand Dollars to  
be raised before  
the 1st of Octo-  
ber, 1780.

Proportion  
thereof for each  
county.

sum of Three Hundred and Eighty-eight Thousand Five Hundred and Seventy-two Dollars.

And whereas the present assessment of the persons and estates within this state is not so equal and just as the same might be made,

SECT. 3. *Be it therefore enacted by the authority aforesaid,* That the Assessors of the respective hundreds in each of the counties of this state, together with two more Assessors for each hundred within the same, to be chosen on the twenty-fourth day of January next, by the freeholders and other electors within each hundred, agreeable to the laws now in force directing the mode of choosing Assessors, shall on the seventh day of February next, meet at the Court House of their respective county, and unite together in assessing and rating equally and justly all the persons and estates in the hundreds of their county respectively, excepting themselves and enlisted soldiers, and return a true list thereof to the Clerk of the Peace in each county, respectively, forthwith; in which assessment they, of a majority of them, are hereby required to raise the rate of all such of the inhabitants as may be lessees for a term not expired, in tillable land, who leased or rented before the twenty-fifth day of August, One Thousand Seven Hundred and Seventy-eight, and contracted to pay the rents in current money, and who still hold and possess the lands so leased under the same contract; likewise all such who have been fortunate in trade, or concerned in speculation or engrossing since the commencement of the present war, and to have due regard to such as are poor and have a charge of small children, widows and minors estates, likewise the lessors of tillable land, who leased before the day and year last aforesaid, for considerations in current money: And generally, assess the persons and estates agreeable to the profit arising thereon, and according to the best of their skill and judgment, the laws of this state now in force, and the true intent and meaning of this act.

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The present Assessors with two more to be chosen in each hundred to meet and make their assessments and return true lists thereof to the Clerks of the Peace in each county forthwith.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if the Assessors aforesaid, or any of them, shall refuse or neglect to meet at the time and place above mentioned for the purposes aforesaid, or

Penalty on Assessors for neglect of duty.

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shall refuse to attend at the Court of Appeal in their respective counties, then and there to give information to the Justices and Grand Jurymen respecting the rate or assessment by them made as aforesaid, every Assessor shall for every such refusal or neglect, forfeit and pay the sum of Two Hundred Pounds, to be recovered by warrant under the hands and seals of the Justices of the Peace at the Court of Quarter Sessions of the Peace for the county in which such refusal or neglect shall happen, or any three of them, and be applied for the use of such county.

Court of Appeal to fix the rate of the Assessors.

SECT. 5. *And whereas* the present mode of Assessors rating themselves is found not to be so equal and just as the same might be made, *Be it therefore enacted by the authority aforesaid,* That the Courts of Appeal respectively are hereby impowered and directed to fix the rate or assessment of the Assessors in their respective counties, and order the said rates or assessment to be added to the list of the rates of the other taxables in the hundreds for which they were respectively chosen Assessors.

Clerks of the Peace to set up duplicates of the assessments, and notify the day of appeal.

SECT. 6. *And be it enacted by the authority aforesaid,* That the Clerks of the Peace respectively shall make out duplicates of the said assessments, together with notice of the day appointed for holding the Court of Appeals, and shall cause the same to be put up in the most public places in each hundred of their county respectively, at least ten days before the said court.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the Assessors of the several hundreds in each of the counties of this state, before he enters on the duties of him by this act required, shall take an oath or affirmation in the following words:

Oath, &c. to be taken by each Assessor, &c.

*I, A. B. do swear or affirm, that I will well and truly lay or cause the sums of money by virtue of an act of Assembly, intituled, "An act for raising One Million Three Hundred and Sixty Thousand Dollars in the Delaware State, between the first day of February and the first day of October, in the year One Thousand Seven Hundred and Eighty, and for other purposes therein mentioned," to be raised, duly and equally to be assessed and laid according to the best of my skill and knowledge, agreeable to the directions, true intent and meaning of the said act.*

And

And each Assessor shall have and receive for his trouble and expence by him incurred, while performing the duties of him by this act required, such sum or sums of money as the Levy Court of his county shall order and direct.

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Levy Court to allow for their trouble and expence.

SECT. 8. *And be it enacted by the authority aforesaid,* That the Justices of the Peace of the respective counties within this state, or any three of them, together with eight Grand Jurymen, to be chosen by that body at the next February Sessions, or such of them as will attend, shall meet at the Court Houses within the respective counties on the sixth day of March next; and shall then and there hold a Court of Appeals to which all persons who may think themselves aggrieved in the rate of assessment aforesaid, may apply, and where all such appeals shall be heard and finally determined.

Justices, &c. to hold a Court of Appeals, at the ensuing February Sessions;

SECT. 9. *And be it enacted by the authority aforesaid,* That for the better assessing, ordering, levying and collecting the aforesaid sums of money in the several counties of this state, the Members of the said Court of Appeals, or such of them as attend, are hereby authorized and required at the time of holding the said court in each county respectively, to ascertain the sum in the Pound upon the whole rate of the county, according to the aforesaid assessment, necessary to raise clear of all charges the several sums herein before directed to be assessed; raised and levied in each of the counties of this state respectively; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each hundred, authorising and requiring him forthwith to demand, and receive of the persons rated in his assessment list the sum in the Pound which they shall ascertain as necessary to raise the several sums aforesaid; and the Collectors respectively shall proceed without delay to collect and (in case of refusal to pay) to levy and recover the same in the manner as is directed by an act, intituled, *An act for raising county rates and levies*, and the Clerks of the Peace shall within ten days next after the holding the said Courts of Appeal deliver to the Treasurers of the said counties respectively, a true account of the sums total

which Court shall ascertain the sum in the Pound upon the rate made so as to raise the sum aforesaid.

Justices to issue their warrant for collecting the same.

which

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Provision for securing payment of the tax in particular cases.

which every Collector shall be charged with pursuant to this act.

SECT. 10. *And whereas* some owners of lands may not reside in the same county or district where such land lies, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax aforesaid on the said land, *Be it therefore enacted by the authority aforesaid,* That the tenant or other person residing on and having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenants or persons having the care thereof shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant or person having the care of the said lands, to recover the same from the owners by an action or suit in any court where the same shall be cognizable, together with costs of suit; and all guardians or tutors making payment as aforesaid, shall be allowed the sums so paid, for such infants upon his or their accounts: *Provided,* That nothing in this act shall in any manner alter any contract heretofore made between any landlord or tenant.

Times prescribed for payment by Collectors to the County Treasurers, with an allowance of nine-pence in the Pound,

and by the County Treasurers to the State Treasurer.

SECT. 11. *And be it enacted by the authority aforesaid,* That the said Collectors respectively shall, on or before the first day of May next, pay unto the Treasurer of their county at least one third part of the tax by this act to be raised; and shall, on or before the tenth day of September following, render a just and true account of, and pay unto the said Treasurer the residue of the said tax, and all and every sum or sums of money they ought to have levied by virtue of this act, deducting Nine-pence in the Pound for the trouble of collecting; and the said Treasurers within twenty days after the said first day of May and tenth day of September shall pay over the money by them so received to Samuel Patterson of the county of New-Castle, esquire, the Treasurer of this state, who is hereby directed upon the receipt thereof to pay the same into the Continental Treasury, or to the order of Congress, taking proper receipts for the same.

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SECT. 12. *And be it enacted by the authority aforesaid,* That the several Collectors and the Treasurers of the aforesaid counties respectively, shall each of them give bond in the name of the Delaware State to the Justices of the Peace, on or before the first day of April next, with such sureties as they shall approve of. *That is to say,* The several County Treasurers in the sum of One Hundred and Fifty Thousand Pounds, and the several Collectors in such sum as the said justices shall direct, conditioned for the true and faithful performance and discharge of their duty respectively, in the execution of this act; and in case of their or any of their neglect or refusal so to do, the said justices, or any three of them, shall forthwith appoint others in his or their stead, who shall give security as aforesaid.

Collectors and County Treasurers to give bond, &c. for the discharge of their duty.

SECT. 13. *And be it further enacted by the authority aforesaid,* That the State Treasurer shall, and he is hereby impowered and required to order and direct the County Treasurers respectively, so often as he shall think necessary, to lay before him the books and accounts of the rates and assessments, and to pay the money in their hands by virtue of this act; and the said County Treasurers shall also adjust and settle their said accounts with a Committee of the Levy Court in the same manner as by the said act for raising county rates and levies is directed; and if the said County Treasurers, or any of them, shall neglect or refuse to produce his or their said books and accounts, or to pay the money in his or their hands, or adjust and settle his or their accounts, with a Committee of the Levy Court according to the directions of this act, the said State Treasurer may and shall proceed against such Treasurer so refusing by way of action or suit, in the name of the Delaware State, in which there shall be but one imparlance, to recover the monies due to the state treasury from such delinquent; and the said Levy Court or Court of Appeal may remove him from the said office, and appoint another in his stead; And if any Collector shall refuse or neglect to render a just and true account of, and pay unto the Treasurer of the county, the sums of money he may or ought to have levied by virtue of this act, such County Treasurer shall proceed in like manner to recover the monies unpaid

County Treasurers how to be proceeded against for neglect of the duties herein required.

Delinquent Collectors how proceeded against.

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unpaid by such delinquent Collector, and the said courts, or the Justices in their Court of Quarter Sessions after, may remove him from his office, and appoint another in his stead.

State Treasurer  
to give bond for  
the discharge of  
his duty.

SECT. 14. *And be it enacted by the authority aforesaid;* That the said State Treasurer, before the first day of May next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved by the President or Commander in Chief for the time being, in the sum of Five Hundred Thousand Pounds, conditioned for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President and Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

State Treasurer's  
commissions:

SECT. 15. *And be it enacted by the authority aforesaid;* That the said State Treasurer, for all the monies which shall come into his hands in pursuance of his office aforesaid, by virtue of this act, or otherwise, shall be allowed commissions for the same at the rate of Ten Shillings for every Hundred Pounds, and no more; and the County Treasurer for his trouble in receiving and paying the monies and performing the duties by this act required, shall have and receive the sum of Fifteen Shillings for every Hundred Pounds, and no more.

County Treasur-  
er's.

SECT. 16. *And whereas* it may be an advantage to the United States of America, and in particular to the inhabitants of this State to enable them to pay in advance into the hands of the Treasurers of the respective counties of the same, any sums of money, they, or any of them, may conveniently spare, to be applied in discharge of their tax in future, as the same shall hereafter become due, *Be it therefore enacted by the authority aforesaid;* That it shall and may be lawful for the taxables of this State, or any of them, after the publication of this act, to pay into the hands of the Treasurer of the county where such persons reside, for the use of the State,

Any person advancing to the Treasurer of his county any sum of money over and above his tax to be allow-

state, any sum of money over and above the amount of their tax for raising the abovementioned sum of One Million Three Hundred and Sixty Thousand Dollars; for the payment of which sum the receipts of the Treasurers respectively shall be sufficient vouchers, and entitle the person paying the same to receive from the state the yearly interest of six *per centum* on the sum so paid; which said sums of money and interest shall be by the General Assembly of this state applied in discharge of the Continental or State Tax of the person paying the same, as such tax may become payable and due; which sum or sums of money paid into the hands of the respective County Treasurers in pursuance of this act, shall be paid over by the said Treasurers respectively into the hands of the State Treasurer for the time being, in the same manner as they are directed by this act, to pay the monies to be levied by virtue hereof.

SECT. 17. *And be it further enacted by the authority aforesaid,* That if any person who may pay money into the hands of the Treasurer of the county where such person resides, in pursuance of this act, shall happen to die, or remove out of this state, before the whole of the sum so paid and interest be applied as aforesaid, the balance thereof and the interest shall be payable to the person so removing, or to the executors or administrators of such deceased person, if they think proper to call for the same.

SECT. 18. *And whereas* the Justices of the Peace, for the county of Kent, at the General Quarter Sessions holden at Dover in and for said county in November last, did divide the ancient hundred of Murderkilm, in said county, into three hundreds, after the Electors thereof had chosen an Assessor, and before an assessment was made, which Assessor nevertheless did afterwards proceed to assess all the inhabitants of said three new made hundreds, although he was chosen an Assessor for the aforesaid hundred of Murderkilm only; which may occasion perplexity and uneasiness among the inhabitants, and probably much difficulty in collecting the taxes in said hundred: For remedy whereof, and to prevent the inconveniencies aforesaid,

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LIII.

1779.

ed six per cent.  
with a discount  
in his future  
tax, &c.

Provision for  
repayment in  
case of death or  
removal before  
such discount.

SECT.

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1779.

Omission of a  
choice of additional  
Assessors  
in Murderkilm  
hundred provided  
for.

SECT. 19. *Be it enacted by the authority aforesaid,* That the division of the said ancient hundred of Murderkilm, made in the Sessions at November, as aforesaid, be, and is hereby made null and void; and the said hundred of Murderkilm shall be held and deemed to extend to its ancient limits; and if the Court of Appeal shall have appointed Collectors for the aforesaid three new hundreds, the same appointment shall be void, and the said Court of Appeal shall on the second Tuesday of February next appoint one Collector only for the said hundred of Murderkilm; and that the Collector of the said Murderkilm hundred for the last year shall, and he is hereby authorized and empowered to hold an election in said hundred on the twenty-fourth day of January next, for the electing of two more Assessors for said hundred, agreeable to the directions of this act.

*Passed December 25, 1779.*

## C H A P. LIV. b.

1779.

*An ACT for the amendment of an act, intituled, A supplementary act to the act, intituled, An act for the more effectual ascertaining and fixing the limits of the several counties within this government, and for removing some inconveniencies that may arise by the late establishment of the boundaries and divisional lines between the same and Maryland. (a)*

Preamble.

**W**HEREAS it appears, that George Adams, of the county of Suffex, esq. had on the eighth day of April, in the year of our Lord One Thousand Seven Hundred and Seventy-five, obtained an interlocutory judgment in the Provincial Court for the then province of Maryland, against Walter Franklin, Abraham Mitchell and Thomas Lightfoot, whose real estate then lay in Maryland, but now lies in the said

(a) For these acts see chaps. 229. a. and 231. a.

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XLIV.  
1779.

said county of Suffex, and had also taken out and sped a writ of inquiry of damages on the said judgment, which was afterwards returned to the said court, on the eleventh day of the said month, and a final judgment given thereon in his favour, but that as the said final judgment was given after the date of the proclamation of the aforesaid eighth day of April, for the changing the jurisdiction of that tract of country, formerly governed by Maryland, lying on the east-side of the line lately run and agreed to between the then proprietors of Delaware and Maryland, and no provision is made by the act of Assembly, intituled, *A supplementary act to the act, intituled, An act for the more effectual ascertaining and fixing the limits of the several counties within this government, and for removing some inconveniencies that may arise by the late establishment of the boundaries and divisional lines between the same and Maryland,* for securing to the said George Adams the benefit of his said writ of inquiry, and the inquisition and proceedings thereupon had previous to the alteration of the jurisdiction as aforesaid: For which he hath sought a proper remedy.

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the said George Adams, his executors, or administrators, may and shall procure a transcript of the before mentioned interlocutory judgment, and of the writ of inquiry, inquisition, and proceedings thereupon, which were had, made, and done, on or before the before mentioned eighth day of April, from the Clerk of the General Court of the State of Maryland, and file the same in the Office of the Prothonotary or Clerk of the Supreme Court of this state, in the aforesaid county of Suffex; which interlocutory judgment, the award of the writ of inquiry, the said writ and the return thereof, he shall enter shortly upon the docket of the same court, and the same shall from thenceforth be deemed and taken as good and valid, as if they had been originally entered and had in the said court; and the said George Adams, his executors, or administrators, may at the next court after filing such proceedings, or some succeeding court, move for final judgment, which the

Authorising George Adams to file a transcript of certain proceedings, had in the General Court of Maryland, in the Supreme Court, in Suffex county & c.

and to move there for final judgment thereon.

C H A P.

LIV.

1779.

but to give pre-  
vious notice of  
such motion,  
&c.

said court is hereby authorised, impowered, and required to grant, or otherwise, on sufficient cause shewn, to set aside the said writ of inquiry and the proceedings thereon, and to award a new writ, as to them shall appear just and agreeable to law :

SECT. 3. *Provided always*, That before the said George Adams, his executors or administrators, shall obtain a final judgment in the said Supreme Court, he or they shall give notice of such intended motion or application to the same court, at least twenty days before the said court is held, to the defendants or one of them, or to their attorney, in order that they may be heard, if any objections they have, against the same,

*Passed December 25, 1779.*

## C H A P. LV. b.

1779.

*An ACT for the amendment of the laws for establishing the salaries and allowances to the President, Justices of the Supreme Court, and Justices of the Courts of Common Pleas and Orphans Courts of this state, and the fees of the other Civil Officers herein after mentioned, and the allowance to jurors and witnesses.—Temporary and expired.*

## C H A P. LVI. b.

1780.

*An ACT for furnishing supplies within this state for the army of the United States for the ensuing campaign. (a)*

Preamble.

**W**HEREAS the honorable Congress, by their resolution of the twenty-fifth of February last, have called upon the United States for their respective

(a) See after chap. 61. b. providing for further and more immediate supplies.

spective quotas of supplies for the continental army, for the ensuing campaign; of which supplies this state's computed quota is three thousand and fifty-five barrels of flour, five hundred tons of hay, and eighteen thousand six hundred and sixty-two bushels of Indian-corn: We the Representatives of the freemen of this state, taking into our serious consideration the necessity of supplying the army of the United States, have agreed, that the aforesaid quantities of flour, hay and Indian-corn, shall be furnished by and collected in this state for the purpose aforesaid, and desire that it may be enacted;

CHAP.  
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1780.

SECTION. 1. *And be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the aforesaid quantities of three thousand and fifty-five barrels of flour, five hundred tons of hay, and eighteen thousand six hundred and sixty-two bushels of Indian-corn, shall be furnished by, and collected in, the several counties of this state, before the thirty-first day of December next, in the following proportions, *That is to say,* By the county of New-Castle shall be furnished one thousand three hundred and five barrels of merchantable flour, each barrel containing two hundred and twenty-four pounds of flour, and four hundred and fifty-seven tons and an half of hay; by the county of Kent shall be furnished one thousand six hundred barrels of merchantable flour, each barrel containing two hundred and twenty-four pounds of flour, forty-two tons and an half of hay, and one thousand four hundred and thirteen bushels and an half of Indian-corn; and by the county of Sussex, shall be furnished one hundred and fifty barrels of merchantable flour, each barrel containing two hundred and twenty-four pounds of flour, and seventeen thousand two hundred and forty-eight bushels and an half of Indian-corn, and shall be assessed, collected and deposited as is herein after directed.

The quantity and kind of supplies to be furnished before the 31st day of December next.

SECT. 2. *And be it enacted by the authority aforesaid,* That, for the more equally assessing, ordering, levying and collecting the aforesaid quantities of flour, hay and Indian-corn, in the several counties of this state, the Justices of the Peace, in each of the counties

The Justices of the Peace to meet and assess the sum on the Pound-rate ne-

ties

C H A P.  
LVI.

1780.

cessary to purchase the supplies to be furnished by each county, &c.

tics thereof, or any five of them, shall meet at the Court Houses in their respective counties on the Monday of the Court of Quarter Sessions of the Peace, to be holden in each of the counties of this state in May next, and are hereby authorized and empowered to ascertain what sum of money, in Spanish milled Dollars, will be sufficient to purchase the quantity of each of the aforesaid articles, directed by this act to be furnished by the respective county, allowing four and an half Spanish milled Dollars per hundred weight, to be given for flour, Fifteen Spanish milled Dollars to be given, per ton, for hay, and three fourths of a Spanish milled Dollar, per bushel, to be given for Indian-corn; and the sum by them ascertained as sufficient and necessary to purchase the aforesaid quantities of flour, hay and Indian-corn to be furnished by their respective counties to lay upon the last assessment made in each of their counties respectively, and at the same time to ascertain what sum on the Pound-rate in the said assessment will be sufficient to raise the same, clear of all deficiencies, costs and charges that may attend the collection thereof, and what quantity of flour, hay or Indian-corn will be sufficient to discharge the same at the prices aforesaid; which said rate or assessment, shall, by the said justices, be delivered to the Clerks of the Peace of their respective counties forthwith:

A freeholder to be appointed in each county by the name of a Receiver of Supplies;

his duty;

shall give bond for the performance thereof;

SECT. 3. *And be it enacted by the authority aforesaid,* That, for the more easy and speedy collecting and furnishing the aforesaid quantity of supplies, directed by this act to be furnished by each of the counties of this state, there shall be three reputable freeholders in each county recommended by the justices of the Peace, one of whom shall be appointed by the President or Commander in Chief of this state, in each county, by the name of *A Receiver of Supplies for the Army of the United States*, whose business shall be to superintend the receiving, ordering and depositing such quantity of the said supplies as shall be furnished by his county; which said Receivers of Supplies shall respectively give bond to the President or Commander in Chief aforesaid, in the name of the Delaware State, with such sureties and in such sums as he shall

shall approve of, conditioned for the faithful performance of the duties by this act enjoined them; and they are hereby respectively impowered to appoint such number of Deputy Receivers under them in each county respectively as they shall think necessary, for whose care and fidelity they shall be accountable.

CHAP.  
LVI.  
1789.

may appoint  
deputies;

SECT. 4. *And be it enacted by the authority aforesaid,* That the Receiver of Supplies in each of the counties of this state, shall, before the first day of June next, procure store-houses and hay-yards in his county, at the expence of this state, to be charged to the United States, so conveniently situated on some navigable water within the same, for the reception of all such of the aforesaid supplies as is herein before directed to be furnished by his county, as to avoid the expence of any land carriage on the same, if possible; at each of which store-houses the said receiver of supplies, or one of his deputies, shall attend at least two days in every week; after the same shall be so as aforesaid procured, in order to receive the quota of the aforesaid supplies that shall be assessed on each of the taxable inhabitants in his county respectively.

shall procure  
store-houses, &c.

and attend at  
least two days in  
each week to  
receive supplies.

SECT. 5. *And be it enacted by the authority aforesaid,* That the Clerks of the Peace in each county, shall, on or before the said first day of June next, make out duplicates of the aforesaid assessments, and annex to the sum each taxable shall be assessed at in the same the quantity of flour, hay or corn, which will discharge the same at the prices aforesaid; which duplicates he shall deliver to the receiver of his county forthwith.

Clerks of the  
Peace to make  
out and deliver  
duplicates of the  
assessments to  
the Receivers;

SECT. 6. *And be it enacted by the authority aforesaid,* That the receiver, on the receipt of the aforesaid assessments, shall notify the taxable inhabitants of his county by advertisements set up in ten of the most public places in each hundred of the same, to bring to the store-houses or hay-yards, or some of them, provided for the reception thereof, all such quantities of the aforesaid supplies as shall be annexed to their names respectively in the assessments aforesaid; and upon notice being given by the receivers in manner aforesaid, every taxable inhabitant in each of the counties within this state, shall forthwith bring

who shall notify  
the taxable inha-  
bitants to bring  
in the supplies  
to such store-  
houses, &c.

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1780.

bring to such store-house or hay-yard, as by the aforesaid advertisements they shall be directed; the quantity of the aforesaid supplies to their names in the aforesaid assessments respectively annexed, and deliver the same to the said receiver, or his deputy, taking his receipt therefor; which receipt shall be a sufficient discharge to such taxable for the delivery thereof.

SECT. 7. *And be it enacted by the authority aforesaid,* That the said receivers shall cause to be fair and regularly entered in books, to be provided by them for that purpose, an account of all such quantities of the said supplies as shall be by them, respectively; or any of their respective deputies received, of whom, and at what time the same were by them so received; which books shall be by them safely kept and laid before the General Assembly of this state whenever they shall demand the same.

Taxable inhabitants neglecting to deliver the supplies on them assessed, how to be proceeded against.

SECT. 8. *And be it enacted by the authority aforesaid,* That if any of the taxable inhabitants in either of the counties of this state, shall refuse or neglect to bring to the store-house or hay-yard, to which they shall be directed by the aforesaid advertisements, or some of them, such quantity of the aforesaid supplies as to his or her name respectively shall be annexed in the aforesaid assessment-lists, within the following times; *That is to say,* One half thereof on or before the tenth day of August next, and the other half thereof on or before the thirtieth day of December next, the receiver in each county shall make return of the names of all the taxables in his county so refusing or neglecting to any two Justices of the Peace for the same; which said justices shall thereupon issue their warrant directed to some Constable of the hundred, commanding him to levy, by distress and sale of so much of the goods and chattels of each of the taxable inhabitants so refusing or neglecting, such sum or sums of paper money as will, in their opinion, be sufficient to purchase the quantity of the aforesaid supplies which such taxable ought to have delivered within the time herein before directed, together with the legal costs of the said Constable in making the said distress and sale: And if the person or persons whose goods and chattels shall be so

as aforesaid distrained, shall not, within five days after such distress made, deliver to the receiver, or his deputy, for the county in which such taxable so refusing or neglecting resides, the quantity of such supplies to his name annexed in the aforesaid assessment-lists, the Constable shall make sale of so much as will amount to a sufficient sum of money to purchase the same, clear of all costs and charges for carriage thereof to the place where the same ought to have been delivered, and return the overplus, if any there be, to the owner; which sum the Constable shall immediately pay into the hands of the receiver, to be by him applied to the purpose of purchasing such quantities of the aforesaid supplies as ought to have been paid by the taxable whose goods were distrained for such neglect or refusal, and defraying the cost and expence of conveying such supplies to the place where the same ought to have been delivered. *Provided nevertheless,* That every such taxable who shall appear before any Justice of the Peace and take an oath or affirmation to the following effect.—*That he or she hath not a sufficient quantity of the specific articles to his or her name annexed in the aforesaid assessment-lists, over and above what will be necessary for the support of his or her family for one year.*—That then and in that case, every person making such oath or affirmation, and delivering a certificate thereof from such justice (which the said justice is hereby required to do *ex officio*) to the receiver of supplies for the county in which such taxable resides, shall be at liberty to pay the value of the article to his or her name in the said assessment-lists annexed in any other of the articles here enumerated, of good and sufficient quality, at the following prices in Spanish milled Dollars; *to wit,* beef per net hundred weight, Five Dollars and an Half; pork per net hundred weight, Seven Dollars; wheat per bushel, weighing sixty pounds, One Dollar and an Half; Indian-corn per bushel, Three Fourths of a Dollar; oats per bushel, Half a Dollar; rye per bushel, One Dollar; beans or pease per bushel, One Dollar and an Half; buckwheat per bushel, Three Fifths of a Dollar; hay or corn-blades per ton,

Fifteen

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LVI.

1780.

Taxables taking an oath, &c. may furnish the articles herein enumerated in lieu of the specific supplies assessed.

C H A P.  
LVI.  
1780.

Fifteen Dollars ; and, salt at the rate of Three Dollars for eighty pounds weight. (a.)

Provision for  
securing the de-  
livery of supplies  
in certain cases.

SECT. 9. *And whereas* some owners of lands may not reside in the same county or district where such land lies, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect that part of the said supplies that shall be assessed on such

land ; *Be it therefore enacted by the authority aforesaid,* That the tenant or other person residing on, or having the care of such land, their goods and chattels, and the goods and chattels of the landlord, if there found, shall be liable to be distrained, in manner herein before directed, if the tenant, or other person having the care of such land, refuse or neglect to deliver the quantity of said supplies assessed on the same within the time and in the manner herein before directed ; and in case the tenant or person having the care of such land shall deliver the quantity of the said supplies assessed on the same, agreeable to the directions of this act, or his or their goods be distrained for the same, it shall and may be lawful to and for the said tenant, or person having the care of said lands, to recover the value of the supplies so as aforesaid delivered, or the monies so as aforesaid distrained for, from the owners, by warrant under the hand and seal of any Justice of the Peace of the hundred where such landlord resides, together with costs, or retain the same in his own hands out of the rent as the same arises and becomes due ; and all guardians making payment, or having their goods distrained as aforesaid, shall be allowed the sum so paid for such minors on the settlement of the accounts of their guardianship : *Provided,* That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

Constable ne-  
glecting to pay  
to the receiver  
such monies as  
may come to his  
hands by virtue  
of this act, how  
proceeded  
against.

SECT. 10. *And be it enacted by the authority aforesaid,* That if any Constable shall refuse or neglect to pay into the hands of the receiver of his county, all such sum or sums of money as may come into his hands, by virtue of this act, he shall be proceeded against

(a) See after chap. 109. b. passed June 26, 1784, delinquent taxables permitted to exonerate themselves at other rates of value.

against by the said receiver before any Justice of the Peace of the county where the sum does not exceed Fifty Pounds, and before three Justices when the demand is above Fifty Pounds, in the same manner that other debts under Forty Shillings are recoverable by the laws of this state.

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1780.

SECT. 11. *And be it enacted by the authority aforesaid,* That the receiver in each of the counties of this state, shall make monthly returns to the President or Commander in Chief of this state of the quantities of the aforesaid supplies that are delivered into the store-houses or hay-yards in his county, in order that like returns be transmitted by the President to the Board of War; and the said supplies, in the stores and yards aforesaid, shall be subject to, and delivered by the receiver in each county on, the draught or order of the said board, the Commander in Chief of the American Army, or the President or Commander of this state, for the supply of the troops of the United States, or any of them.

Receivers to make monthly returns, &c.

SECT. 12 *And be it enacted by the authority aforesaid,* That it shall and may be lawful for the President or Commander of the state, and he is hereby authorized and impowered, so soon as the said receivers shall be appointed and respectively give the security hereby directed, to issue his proclamation prohibiting all and every person whatsoever from purchasing any of the articles of supplies herein before mentioned, within this state, for the use of the army; and if any person after such proclamation issued shall presume to purchase or contract for any quantity of the aforesaid articles within this state, for the use of the army, or by virtue of any authority or appointment from or under Congress, or any person or persons by them appointed, the person so offending shall, on conviction thereof, in any Court of Quarter Sessions of the Peace of this state, forfeit and pay any sum of money not exceeding One Thousand Pounds, and stand committed till the said fine and the costs of prosecution be paid.

The President to issue his proclamation prohibiting all purchases or contracts for any of the articles of supplies aforesaid. Persons acting contrary thereto how punished.

SECT. 13. *And be it enacted by the authority aforesaid,* That the President or Commander in Chief of the state is hereby authorized and impowered to superintend the

Receivers to be removed for neglect of duty.

C H. A. P.

LVI.

1780.

Commissions allowed the receivers.

said Receivers of Supplies, and to remove them, or any of them, for misbehaviour or neglect of duty in their office respectively, and on such removal to supply the vacancy by a new appointment.

SECT. 14. *And be it enacted by the authority aforesaid,* That each of the Receivers of Supplies shall, for the performance of the duties by this act required of them, be entitled to and receive from the state the sum of two Pounds *per centum* on the value of all such of the aforesaid supplies as shall be by him and his deputies received; which sum shall be paid to the said receivers respectively on settlement of their accounts with the General Assembly, or their Committee for that purpose to be appointed.

Taxables may furnish wheat in lieu of flour.

SECT. 15. *And whereas* it may be inconvenient for many of the taxable inhabitants of this state to deliver their quota of supplies required of them in flour; *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for the receivers respectively, and they are hereby impowered, to receive at convenient mills within the state one hundred and eighty pounds of good wheat in lieu of one hundred and twelve pounds of flour, and so in proportion for any greater or smaller quantity; and the said receiver is hereby impowered to have the same manufactured into flour and stored and deposited at the places by him procured for that purpose by virtue of this act.

One half of the 1st tax of One Million, Three Hundred and Sixty Thousand Dollars remitted.

Chap. 53. b.

SECT. 16. *And be it enacted by the authority aforesaid,* That one half of the tax ordered and directed to be raised and levied by an act, intituled, *An act for raising One Million Three Hundred and Sixty Thousand Dollars, in the Delaware State, between the first day of February and the first day of October, in the year One Thousand Seven Hundred and Eighty, and for other purposes therein mentioned,* passed at Wilmington, the twenty-fifth day of December One Thousand Seven Hundred and Seventy-nine, shall be, and is hereby released and remitted to the taxables, and shall not be collected or received by the Collectors; and if the Collectors shall already have received of any person or persons more than one half of the tax in the before mentioned

mentioned act directed to be raised, such overplus shall be immediately refunded.

C H A P.  
LVI.

1780.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the State Treasurer, upon the receipt of the half of the tax aforesaid, shall pay over two thirds thereof into the Continental Treasury, or to the order of Congress, taking proper receipts for the same, and the other one third thereof shall be subject to the joint draughts of the Speakers of both Houses of the General Assembly.

The other half  
of the said tax  
how to be dis-  
posed of.

SECT. 18. *And be it enacted by the authority aforesaid,* That the act, intituled, *An act to prevent forestalling and engrossing, and for other purposes therein mentioned,* (b) and also the act, intituled, *An act to prohibit the exportation of provisions from this state beyond the seas, for a limited time,* (c) passed, at Wilmington, the twenty-fifth day of December last, shall be, and are hereby repealed and made null and void.

Passed April 15, 1780.

C H A P. LVII. b.

*An ACT for conferring certain privileges and immunities on the subjects of his most Christian Majesty the King of France, within this state.*

1780:

**W**HEREAS by the treaty of amity and com-  
merce established between his most Christi-  
an Majesty the King of France and the United States  
of America, on the sixth day of February, One Thou-  
sand Seven Hundred and Seventy-eight, in the thir-  
teenth article thereof, it is provided, that the sub-  
jects and inhabitants of the said United States, or  
any one of them, shall not be reputed *Aubains* in  
France, and consequently shall be exempted from the  
*Droit d' Aubaine*, or other similar duty, under what  
name

Preamble.

(b) Chap. 50. b.

(c) Chap. 49. b.

C H A P.  
LVII.  
1780.

name soever, they may by testament, donation or otherwise dispose of their goods, moveable and immoveable, in favour of such persons as to them shall seem good, and their heirs, subjects of the said United States, residing whether in France or elsewhere, may succeed them, *ab intestat*, without being obliged to obtain letters of naturalization, and without having the effect of this concession contested or impeded under pretext of any rights or prerogatives of provinces, cities or private persons; and the said heirs, whether such by particular title, or *ab intestat*, shall be exempt from all duty called *Droit de Detraction*, or other duty of the same kind; saving nevertheless the local rights or duties as much and as long as similar ones are not established by the United States, or any of them. The subjects of the most Christian King shall enjoy on their part, in all the dominions of the said states, an entire and perfect reciprocity relative to the stipulations contained in the present article: But it is at the same time agreed, that its contents shall not effect the laws made, or that may be made hereafter in France, against emigrations, which shall remain in all their force and vigour; and the United States on their part, or any of them, shall be at liberty to enact such laws, relative to that matter, as to them shall seem proper. *And whereas* his most Christian Majesty the king of France as soon as the treaty aforesaid became known, established an edict conformable to the article aforesaid in all its parts. *And whereas* it is just and necessary, that the subjects of his said most Christian Majesty should enjoy, on their part in this state, an entire and perfect reciprocity relative to the stipulations in the article aforesaid;

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the subjects of his said most Christian Majesty may by testament, donation or otherwise, dispose of their goods and estates, moveable and immoveable, within this state, in favour of such person or persons as to them shall seem good; and their heirs, subjects of his said most Christian Majesty, residing in this state or elsewhere, may succeed to estates real and personal, of intestates, in the same manner

Subjects of  
France empowered to dispose of, or succeed to estates, &c. within this state.

as subjects of this state may or can do, without being obliged to obtain letters of naturalization; and the said heirs and successors shall have the right of removing themselves, their goods and estates, to any place out of this state, without being liable to any duty whatsoever, except such customs, charges and imposts as now are, or hereafter may be, imposed upon the subjects of this state.

CHAP.  
LVII.  
1780.

SECT. 3. *And be it enacted*, That this act shall continue in force so long as the edict of his most Christian Majesty, relative to the aforesaid privileges, shall remain in force, and no longer.

*Passed April 15, 1780.*

CHAP. LVIII. b.

*An ACT for regulating prisoners of war brought into this state.—Obsolete.* 1780.

CHAP. LIX. b.

*An ACT for the more effectual draining and improving the marsh, cripple, and low land, on Morris's Branch, in Appoquinimink Hundred and county of New-Castle, and for other purposes therein mentioned.* 1780.

*Passed April 15, 1780.—Private act.*

CHAP. LX. b.

*An ACT for embodying a number of the militia of this state for the purpose of reinforcing the army of the United States.—Obsolete.* 1780.

CHAP.

CHAP.  
LXI.

1780.

C H A P. LXI. b.

*An ACT for procuring an immediate supply of provisions within this state for the Army of the United States of America, and for other purposes therein mentioned.*

Preamble.

**W**HEREAS by the act of Assembly, intituled, *An act for furnishing supplies within this state for the army of the United States, for the ensuing campaign,* (a) it is directed, That the one half part of the flour, Indian-corn and hay thereby required, be paid and delivered into the hands of the receivers in the respective counties of this state on or before the tenth day of August next, and the remainder thereof on or before the thirty-first day of December next: *And whereas* it appears by the letters of the Commander in Chief of the Continental Army and the Committee of Congress appointed to co-operate with the said Commander, that the operations intended to be carried on against the enemy in the course of this campaign render it necessary that this state should furnish, monthly, five hundred barrels of flour, seventy-one thousand six hundred and seventy-five pounds of beef, until the last day of November next, and five thousand pounds of bacon, in three equal parcels, monthly, to the last of September next, and the quantity of six thousand eight hundred and fifty-seven bushels of grain: *And whereas* the utmost exertions possible at this important period are necessary to be made to procure the supplies required for the use of the army;

Receivers of supplies to proceed to a more immediate collection,

SECTION 1. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That the receivers of supplies in the respective counties of this state are hereby directed and required to proceed immediately without delay in the collection and receipt of the quantities of supplies of flour and Indian-corn by the act of Assembly herein before recited is directed; and the said receivers hereby are respectively authorised and empowered to purchase, monthly, seventy-one thousand six hundred

(a) See before chap. 56. b.

dred and seventy-five pounds of beef, ready to be delivered on the said first day of July next, and the same quantity on the first day of every succeeding month until the month of November next inclusive, and also five thousand pounds of bacon, or salted pork in proportion, ready to be delivered as aforesaid in three equal parts until the last of September next, and also six thousand eight hundred and fifty-seven bushels of corn, or other short forage in proportion; for which the said receivers respectively are hereby directed to give receipts to the sellers, bearing an interest of six *per centum per annum* until the same shall be paid; which receipts the Treasurers of the respective counties are hereby directed to discharge, according to the dates thereof, as the public tax hereafter granted shall come into their hands, which are to be allowed by the State Treasurer on settlement with him.

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and make monthly purchases of beef, bacon, corn, &c.

SECT. 2. *Provided, nevertheless,* That if the receivers cannot conveniently obtain the whole monthly quantity of five hundred barrels of wheat flour, they may and are hereby impowred to procure four hundred hundred weight of Indian-flour instead of two hundred barrels of wheat-flour.

and procure a supply of Indian flour instead of wheat flour.

SECT. 3 *And whereas* it is necessary for the support of the army of these states, and to forward the operations aforesaid, that the said quantities of provisions be punctually raised, *Be it therefore enacted by the authority aforesaid,* That the said receivers shall, severally, in the county in which they reside, be authorized and required in case the said quantities of flour, Indian-corn, beef, bacon and pork cannot be procured by purchase as before directed, that then and in such case the said receivers, having knowledge or cause to apprehend that any flour, Indian-corn, beef, bacon, or pork are withheld from sale, may and are hereby required to apply to the next Justice of the Peace of such county, who, upon such information being made, is authorized and required to issue his warrant under his hand and seal, directed to some Constable of the hundred and two freeholders, who shall upon the receipt thereof proceed with the said receiver to the place where such flour, grain, beef, or fat cattle, pork or bacon is supposed to be, and there to demand

Receivers authorized to search for and seize any flour, &c. withheld from sale.

of

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of the owner or other person having the care thereof to permit such officer, receiver and freeholders, to view the same, and on neglect or refusal so to do, it shall and may be lawful for the said Constable, receiver and freeholders, with such assistance as may be necessary, to break open, in the day time, and enter into any buildings or place where such articles may be suspected to be, and to seize and take the same into their possession, leaving as much flour and fat cattle as may be necessary for the support of the family of the owner thereof for twelve months, and bacon or salted pork for six months, next after such seizure made; the quantity necessary for such family to be determined by the party and the receiver if they can agree, otherwise by the said freeholders; and the receivers are hereby directed to give a receipt for the quantity taken, to be paid and discharged in manner aforesaid—*Provided*, That the receivers do not presume to seize any of the articles aforesaid until they have made application to the President or Commander in Chief, and obtained from him in writing his opinion of the necessity of the measure, and direction to proceed in that manner; of which necessity he alone is to judge: And the President and Commander in Chief may forbid the receivers to proceed in seizing the articles aforesaid whenever he thinks it necessary so to do.

SECT. 4. *And whereas* the Commander in Chief of the Continental Army and the Committee of Congress at head-quarters, by their letters aforesaid, have requested this state to furnish fifty waggons, with harness complete, with four horses to each waggon, also three hundred draft horses, for the use of the army, *Be it enacted by the authority aforesaid*, That the said receivers are hereby respectively impowered and directed to hire and employ the above number of waggons, horses, and a driver to each team, to continue in service three months from the time of such hiring, unless sooner discharged by the Quarter-master General of the army, or some person properly authorized for that purpose; for which service the said receivers are directed to contract with the owners of such teams, to be paid in silver or gold, or paper currency at the rate of exchange when paid, with an interest of six *per centum per*

Receivers to  
hire waggons,  
horses and  
drivers, &c.

*per annum*, till paid: And the said receivers are hereby also impowered and directed, to purchase or hire three hundred horses for the purpose aforesaid, giving receipts for the same to the sellers, to be paid in silver or gold, or paper currency at the rate of exchange when paid, with an interest till paid at the rate of six *per centum per annum*, any thing in any law of this state to the contrary notwithstanding; and the said receivers are hereby impowered and directed, in case the said teams and horses cannot be procured by hire and purchase as aforesaid, to impress the same, if the President or Commander in Chief approve thereof, leaving a sufficient number of horses in the possession of every person for the purpose of carrying on his or her necessary business, the number sufficient for that purpose to be determined by the party and receiver; and if they cannot agree, by the two freeholders as aforesaid; for which teams and horses so impressed and taken, the receivers respectively are directed to give receipts as aforesaid, which are to be paid and discharged in manner aforesaid.

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and to purchase or hire three hundred horses, giving receipts, payable with interest, to sellers, or otherwise to impress such teams and horses.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the President or Commander in Chief is hereby requested and impowered, so often as he shall think necessary, by a special authority under his hand and seal, to impower the receivers to take to their assistance any sufficient number of persons to seize upon, impress and take, for the special purpose aforesaid, any number of horses, mares or geldings, within their respective counties, that shall or may be in keeping for racing, or at a race ground for the purpose of running, so as not to exceed the number by this act required.

President may authorize the impressment of horses, &c. kept for racing, &c.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the President and Commander in Chief of the state hereby is impowered and required to call on the said receivers monthly, or oftener, for returns of the supplies received, and to transmit the same to Congress or the Committee thereof, and to issue his orders to the said receivers to impress teams and vessels necessary to transport the said supplies to such place or places within the state as he may think necessary.

Other powers and duties under this act allotted to the President.

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cessary and convenient, and for the further purpose of transporting the same to and for the use of the army; and the said receivers are hereby directed to give receipts to the owners of the said vessels and teams, or the commanders or drivers thereof, for the use of the owners of the same, to be paid with interest by the Treasurers of the respective counties of this state out of the public tax in their hands, as herein before is directed in case of receipts given for supplies purchased or taken as aforesaid.

Receivers to give receipts for amount of articles purchased or seized as aforesaid, bearing an interest to owners, if it shall exceed their tax.

SECT. 7. *And be it enacted by the authority aforesaid,* That the receivers aforesaid are respectively impowered and directed, upon any purchase or seizure made of any of the articles of provisions herein before enumerated, to give the owners thereof receipts for the amount of the articles such owners are liable to deliver by virtue of the act of Assembly, intitled, *An act for furnishing supplies within this state for the Army of the United States for the ensuing campaign,* if the article so purchased or seized according to their respective prices, ascertained by the said act, amounts to the value of such tax; and if the same amounts to more, in that case the said receivers are likewise directed to give the owners receipts for the balance, to be paid with interest as herein before directed.

Constable or freeholder, refusing or neglecting duties enjoined, liable to be fined, &c.

SECT. 8. *And be it enacted by the authority aforesaid,* That if any Constable or freeholder shall refuse or neglect to do and perform the duties by this act enjoined him, every such Constable and freeholder so refusing or neglecting, and being thereof convicted before any two Justices of the Peace for the county in which he resides, shall forfeit and pay the sum of Fifty Pounds, to be recovered by warrant under the hands and seals of the said justices, and paid into the hands of the Treasurer of the county for the use of the same; and if any person or persons shall forcibly oppose any of the said receivers, Constable and freeholders, in the execution of this act, and shall be legally convicted thereof in any Court of Quarter Sessions in any of the counties of this state, he, she or they, so offending, shall forfeit and pay any sum not exceeding One Thousand Pounds nor less than Fifty Pounds for every such offence, one third part to the informer,

informer, and the other two thirds to and for the use of the state.

SECT. 9. *And be it enacted by the authority aforesaid,* That all vessels, teams and horses, hired or impressed under authority of this act, shall, before they enter into the service, be appraised in specie by two freeholders, upon their oaths, to be chosen, one by the owner of such vessels, teams or horses, and the other by the receiver who impressed or hired the same, and if they cannot agree, they are to choose a third person; and if the owner refuse to make such choice, then to be chosen by the receiver only; which appraisement shall be lodged with the Auditor General of Accounts; and if any such teams or horses shall be lost in the service, the appraised value thereof shall be paid to the owners thereof by this state, and charged to the United States.

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Vessels, teams,  
and horses,  
hired or im-  
pressed to be  
appraised, &c.

*Passed June 21, 1780.*

C H A P. LXII. b.

*An ACT to prohibit the exportation of provisions from this state beyond the seas for a limited time.—Expired.*

1780.

C H A P. LXIII. b.

*An ACT for furnishing the Continental Treasury with One Hundred and Thirty-two Thousand Eight Hundred Dollars by loan on the credit of the state.*

1780.

**W**HEREAS Congress by their resolution of the nineteenth of May last past have called upon the states of Virginia, Maryland, Delaware, Pennsylvania, New-Jerley, New-York, Connecticut, Rhode-Island, Massachusetts-Bay and New-Hampshire, to collect and pay into the Continental Treasury immediately, if possible, and at all events in thirty days from the date of the said resolution, Ten Millions of Dollars

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Dollars, for the special purpose of bringing the army into the field, and forwarding their supplies in such manner as the exigency and nature of the service may require. *And whereas* the time limited for the supply aforesaid being nearly expired, and the present condition of the treasury of this state renders the timely procuring One Hundred and Thirty-two Thousand Eight Hundred Dollars, this state's computed quota of the requisition aforesaid, by taxation, very uncertain, it is deemed necessary, in order to furnish the same in the most expeditious manner, that the said One Hundred and Thirty-two Thousand Eight Hundred Dollars be raised within this state by loan on the credit of the same;

Commissioners  
of loan appointed.

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That John Clark, esq. of the county of New-Castle, John Baning, esq. of the county of Kent, and Nathaniel Waples, esq. of the county of Suffex, are hereby authorized and empowered to borrow the sum of One Hundred and Thirty-two Thousand Eight Hundred Dollars, in equal proportions in each of the counties of this state, on the credit of the state, from any person or persons willing to lend the same, in any number of Dollars not less than Two Hundred.

To give certificates for the sums lent.

SECT. 2. *And be it enacted by the authority aforesaid,* That the aforesaid John Clark, John Baning and Nathaniel Waples, are hereby respectively empowered and directed to give certificates to the lenders of the said sum of One Hundred and Thirty-two Thousand Eight Hundred Dollars in the following words, to wit; *The Delaware State acknowledge the receipt of Dollars from*

Form thereof,

*said* *his executors,*  
*administrators or assigns, on or before the first day of January next, with interest at the rate of six per cent. per annum, the faith of the said state is hereby pledged according to the tenor of an act of the General Assembly of Delaware, passed at Dover the*  
*day of June, 1780. Witness my hand the*  
*day of*

Anno Domini 1780.

SECT

SECT. 3. *And be it enacted by the authority aforesaid,* That the aforesaid John Clark, John Baning and Nathaniel Waples are hereby respectively directed to transmit the money by them received for the purposes aforesaid to the Treasurer of the state, at the expence thereof, to be by him paid into the Continental Treasury, or to the order of Congress; and the said John Clark, John Baning and Nathaniel Waples, are hereby directed to lay an account of the money by them respectively transmitted and paid into the hands of the State Treasurer before the General Assembly at their next meeting.

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Money borrowed  
how to be dis-  
posed of.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the aforesaid John Clark, John Baning and Nathaniel Waples shall, and they are hereby directed to provide themselves respectively with a sufficient number of written or printed certificates in the form aforesaid, to be made or put into a book and properly numbered and marked in such manner that they may be cut out of the same indent-wise, in order to be a proper check or proof of the identity of the certificate delivered out; and the said John Clark, John Baning and Nathaniel Waples, are hereby directed and required, so soon as they have finished the business by this act assigned to them, to deliver their respective book to the Treasurer of their county, to be by him kept for the purpose of comparing the same with the certificates when produced for payment.

Further duty of  
the Commission-  
ers.

SECT. 5. *And whereas* it may be most convenient that the lenders of money for the purpose aforesaid receive the same in the county where they respectively reside; *Be it enacted by the authority aforesaid,* That the respective Treasurers of the counties of this state, are hereby directed to pay the sum of money when due, together with the interest thereon to the lender, his executors, administrators or assigns, taking a receipt for the same on the certificate given to such lender, out of any Continental taxes in his hands; which payment, made in form aforesaid, shall be allowed such Treasurer on the settlement of his accounts with the Treasurer of this state, or Levy Court of his county.

Payment to the  
lenders how  
made.

Passed June 16, 1780.

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LXIV.

1780.

C H A P. LXIV. b.

*An ACT for the supporting, maintaining and keeping in good repair, the bridge over the Broadkill creek, in Sussex county, and for other purposes therein mentioned.*

Preamble.

**W**HEREAS the causeway over the marsh adjoining to the Broadkill creek and the drawbridge over the same, on the public road leading from the Three Runs to the town of Lewes, are, and for some time past have been in bad repair, to the great injury of the public. *And whereas* from the present depreciation of the paper money within this state, the toll or allowance for passage over the said causeway and bridge is become totally inadequate to the trouble of receiving the same, and the labour, trouble and expence of keeping the said causeway and bridge in good order and repair; and as John Sheldon Dorman, of the said county of Sussex, who, by the laws of this state, is at this time compellable to keep and maintain the said causeway and bridge in good order and repair, hath petitioned the General Assembly of the state to take the same into their consideration, and to grant him relief in the premises, either by increasing the toll or allowance for passage over said causeway and bridge, or by repealing the act of Assembly obliging him to keep the same in good order and repair; and as it is most beneficial to the public, and agreeable to sundry of the inhabitants of said county, that the said act should be repealed, and the bridge aforesaid in future be repaired, supported and maintained by a tax to be levied, assessed and raised on the inhabitants and taxables of the said county of Sussex, in the same manner as other public taxes and levies are;

Broadkill bridge  
to be supported  
by the county of  
Sussex.

SECTION I. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That from and after the publication of this act the said bridge shall be repaired, supported and maintained by a tax to be levied, assessed and raised on the inhabitants and taxables of the said county of Sussex, in the same manner as other public taxes and levies are.

SECT. 4

SECT. 2. *And be it further enacted by the authority aforesaid,* That the Commissioners herein after named, shall, and they are hereby required to allot and lay off for the use of the said causeway, from one end thereof to the other, a space or piece of ground of the breadth of sixty feet, whereof twelve in wedth shall be well causewayed: And Hugh King; John Sheldon Dorman and Thomas Groves, and the survivors or survivor of them, are hereby nominated and appointed Commissioners to have the care and oversight of the repairing and amendment of the said bridge, until the same shall by them be put into good order and completely repaired; and for that end the said Hugh King, John Sheldon Dorman and Thomas Groves, and the survivors or survivor of them, are hereby impowered and required to purchase materials, and to employ labourers and other proper persons as often as need shall be and require; and after the said bridge shall be so repaired and amended, the same shall be put under the care and management of the present Overseers of the highways of Broadkill hundred, or such of them as the Justices of the Court of General Quarter Sessions of the Peace in the said county of Suffex may hereafter nominate and appoint.

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Appointment of  
Commissioners.

The bridge,  
when repaired,  
to be under the  
care of Over-  
seers.

SECT. 3. *And be it further enacted by the authority aforesaid,* That whenever and as often as the said bridge shall want any repairs or amendment, if the said Overseer or Overseers so appointed, or either of them, shall neglect to repair or amend the same, or remove such nuisances or obstructions as shall happen to be made or found therein for the space of ten days next after notice thereof to him or them given by any person or persons whatsoever, such Overseer or Overseers shall incur the like penalty, and to be recovered in the manner as by an act of the General Assembly of this state, intituled, *An act for erecting public bridges, causeways, and laying out and maintaining highways,* is provided and appointed against Overseers of the roads for refusing or neglecting the performance of their duty; which penalties, when levied, shall be paid to the Treasurer of Suffex county aforesaid, for the time being, for the use of the county.

Their duty.

Penalty for ne-  
glect.

SECT.

C H A P.

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Money for re-  
pairing the said  
bridge how  
drawn for in  
particular cases.

SECT. 4. *And be it further enacted by the authority aforesaid,* That in case of any breach in said bridge, or any repairs being necessary, between the times of holding the Levy Courts in the said county of Suffex, that then any two Justices of the Peace for said county, together with one Overseer of the Poor of Broad-kill hundred, aforesaid, upon knowledge thereof, by notice given them by the Overseers of said road, or otherwise, shall meet at the said bridge and view the same, and thereupon are hereby impowered, if they think necessary, to draw one or more orders on the Treasurer of the said county, in favour of the said Overseer or Overseers, for such sum or sums of money as they shall judge necessary for amending and repairing the said bridge, which the said Treasurer is hereby impowered and required to pay out of the public money in his hands, and the same shall be allowed him on settling his accounts with the Committee appointed by the Levy Court for that purpose.

Overseers to settle their accounts with the justices, &c.

SECT. 5. *And be it further enacted by the authority aforesaid;* That the Justices of the Peace of the county of Suffex aforesaid, or any two of them (except the justices who may draw such orders on the Treasurer as herein before directed) shall and may at any time or times when new Overseers are to be appointed, or oftener, as they shall think fit, examine and settle the accounts of the former Overseers, or any of them, and order them to pay the balance or surplus of the monies received by them, or any of them, according to the directions of this act, to the Treasurer of the said county for the time being; and in case the said Overseer or Overseers shall neglect or refuse to account for and pay such balance or surplus as by this act is directed, then it shall and may be lawful to and for the Treasurer for the time being, and he is hereby impowered and required to bring his action or actions of account render or *indebitatus assumpsit* for monies received for his use against such Overseer or Overseers so refusing or neglecting to account and pay as aforesaid, his or their executors or administrators, for the recovery thereof.

how proceeded against in case of neglect.

Former act repealed,

SECT. 6. *And be it further enacted by the authority aforesaid,* That the act of Assembly of this state, intitled

ted. *An act for keeping in good repair the causeway and bridge over the Broadkill creek in Sussex county, and for regulating the toll for passing the same,* passed at New-Castle, the twenty-seventh day of October, One Thousand Seven Hundred and Fifty-nine, (a) is hereby repealed and declared to be null and void, any thing therein contained to the contrary in any wise notwithstanding.

O. H. A. P.  
LXIV.  
1780.

Passed June 16, 1780.

C H A P. LXV. b.

*An ACT for regulating the Pilots within this state employed in piloting ships and other vessels through the Bay of Delaware.—Expired with the war.*

1780.

C H A P. LXVI. b.

*An ACT for the preservation of buildings erected upon the lands of inhabitants of this state for the use of the United States, and vesting such buildings and lands in the United States, during the present war, and to punish persons for waste or trespasses made or committed thereon, and for other purposes therein mentioned.—Obsolete.*

1780.

C H A P. LXVII. b.

*An ACT for payment and discharge of divers receipts, notes or certificates, in the hands of inhabitants of this state, issued by Francis Wade, esq. Deputy Quarter-Master General within this state for the Continental Army, and his agents or assistants, for forage and other articles furnished by them to the said department for the public service.*

1780.

**W**HEREAS large sums of money are due to the Preamble.  
inhabitants of this state, for forage and other  
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(a) Ante chap. 164. a.

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1780.

articles furnished by them to the department of the Quarter Master General within this state of the Continental Army for the public service, and for which they have obtained receipts, notes or certificates, signed by persons appointed to purchase the said articles, the payment whereof hath been delayed to the prejudice of the holders of the same. *And whereas* Congress, by their resolution of the twenty-sixth day of May last past, have recommended, that the Legislatures of the respective states, wherein such receipts, notes or certificates have been given and remain unpaid, empower the Collectors of Continental tax, due to the first of March last past, to receive such receipts, notes or certificates in payment thereof, and where any receipt, note or certificate amounts to more than the tax of the person holding the same, that the surplus be credited by the state to such person and allowed in future taxes; which said receipts, notes or certificates, by the said resolution, are required to be delivered, endorsed and attested, as by the said resolution is directed, to the principal of said department, or his agent, in the city of Philadelphia, &c. *And whereas* many of the holders of such receipts, notes or certificates, where the sum due thereby amounts to more than the public tax of such person, cannot, consistent with their circumstances, lend the balance to the state to be discharged in their future tax, and it would be very inconvenient and expensive to persons holding receipts, notes or certificates to be compelled to travel to the city of Philadelphia to obtain payment for the same from Francis Wade, esq. who issued the said receipts, notes or certificates, he being now removed out of this state: In order therefore to grant relief to the inhabitants of this state who hold such receipts, notes or certificates,

SECTION 1. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That, from and after the publication of this act, it shall and may be lawful for the Treasurers in each county of this state, and they are hereby required, upon the receipt of directions from the State Treasurer for that purpose, to receive the said receipts, notes or certificates, and discharge and pay the same out

County Treasurer to pay, out of the Continental tax, the certificates, &c. issued by Francis Wade, esq. Quarter Master, and his agents;

out of the Continental tax as it comes into their hands according to their respective dates, after oath or affirmation being administered, by some Justice of the Peace to the person holding the same, that the same hath not been purchased at a discount; that the sum therein mentioned is justly due and unpaid, and that no part thereof hath been discharged; which receipt, note or certificate so attested, with the receipt thereon endorsed for the sum paid, shall be by the County Treasurer aforesaid transmitted to Samuel Patterson, esq. State Treasurer, who is hereby directed to tender the same to Francis Wade in discharge of the warrants in favour of him drawn or granted by Congress, and to require a receipt on or against such warrants for the same from the said Francis Wade, and on refusal thereof for the amount of the receipts, notes or certificates so paid and tendered, the State Treasurer is hereby directed and required to lay the receipts, notes or certificates before the Board of Treasury of the United States, in order to obtain credit to this state with the continent for so much of their quota of tax; the receipt or certificate of the amount of such credit or payment the State Treasurer is also directed to lay before the General Assembly at their meeting next after such payment.

SECT. 2. *And whereas* it hath been represented to the General Assembly of Delaware, That some of the inhabitants of New-Castle county, in order to enable Francis Wade, esq. Quarter Master, to provide forage and other supplies of provisions for the troops lately on their march through this state to join the southern army, have pledged their credit for the payment of the money to the persons who might furnish the same, and it is reasonable that those individuals should be relieved from the obligation so generously undertaken for the public service; *Be it therefore enacted by the authority aforesaid,* That the State Treasurer aforesaid be, and hereby is directed to pay and discharge the sum or sums of money, or so much thereof as may be due, for the supplies aforesaid, as soon as he may be enabled, out of the public taxes in his hands, and discount the same out of the warrants herein before mentioned drawn on him as State Treasurer

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LXVII.

1789.

which certificates, &c. the State Treasurer shall tender to Francis Wade in discharge of the orders drawn in his favour by Congress.

And on his refusal to accept thereof, how to proceed.

State Treasurer to discharge debts contracted in New-Castle county for supplies for the troops.

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1780.

surer afore said, payable to the said Francis Wade, esq. any thing contained in the acts of Assembly of this state heretofore passed directing the mode of payment of the Continental Tax raised in this state into the treasury of the United States, or order of Congress, to the contrary notwithstanding.

*Passed June 21, 1780.*

C H A P. LXVIII. b.

1780.

*An ACT to suspend, for a limited time, the operation of the several acts of Assembly of this state for making the bills of credit of the United States, and of this state, a legal tender in the payment of debts, equal to gold and silver.*

Preamble,

**W**HEREAS certain of the bills of credit emitted by the honorable the Congress of the United States of America, and by the General Assembly of Delaware, have hitherto been, by the laws of this state, a legal tender in the payment of all debts, dues, and contracts, equal to gold and silver: (a) *And whereas* the continuance of said bills, as a legal tender, equal to gold and silver, may be inconvenient and highly injurious,

Former laws making bills of credit a legal tender, &c. suspended, &c.

SECTION 2. *Be it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That from and after the publication of this act, so much of the several acts of Assembly of this state as declare the said bills of credit to be a legal tender, equal to gold and silver, shall be, and they are hereby suspended for and during the space of one month, and from thence until the end of the next sitting of the General Assembly, and no longer. (b)

SECT. 3. *Provided always,* That this act, or any thing

(a) See before in chap. 4. b.—chap. 8. b. sect. 9.

(b) See after in chap. 71. b. sects. 28, 29, 37.

thing therein contained, shall not extend, or be construed to extend, to any debt or demand contracted since the first day of January last past; or whereupon any action or suit is now depending, or hereafter shall be commenced, in any court of law, or before any Justice of the Peace within this state, or to any Sheriff, Attorney at Law, or factor, executor, or guardian, or other person having received money by legal authority in right of another; but that it shall and may be lawful to tender payment, in all such cases, as might have been done before the passing this act.

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with certain exceptions.

Passed November 4, 1780.

C H A P. LXIX. b.

An ACT for the relief of divers persons concerned in the late insurrection in Sussex county.

1780.

C H A P. LXX. b.

An ACT to recruit the regiment of this state, now in the service of the United States.---Obsolete.

1781.

C H A P. LXXI. b.

An ACT for calling out of circulation and cancelling the quota of this state, according to the present apportionment, of all the bills of credit emitted by Congress; and for emitting and funding new bills, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes.

1781.

**W**HEREAS the just and necessary war into Preamble.  
which the United States have been driven,  
obliged

C H A P.  
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obliged the Congress to emit bills of credit, before the several states could establish regular civil governments, with sufficient vigour, to enforce the collection of taxes, or provide funds to support the credit of those bills, by which means the quantity increasing they have so far depreciated, that it is become necessary to reduce the quantity, and to establish and appropriate funds that shall ensure the punctual redemption of the bills. *And whereas* Congress, by their said resolutions of the eighteenth of March last, have called upon the several states to make provision for the purposes aforesaid,

This state's quota of all the bills of credit emitted by Congress, to be paid into the treasury, in three equal portions, in 1781: And to be raised by a tax, in the several counties, in the proportions here named.

SECTION I. *BE it therefore enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That the sum of Two Millions, Two Hundred and Sixty-six Thousand, Six Hundred and Sixty-six Dollars and Two-thirds of a Dollar, being this state's computed quota of all the bills of credit emitted by Congress, shall be raised, levied and paid into the state treasury, in three equal portions in the months of May, August, and November, in the present year One Thousand Seven Hundred and Eighty-one, and shall be assessed and taxed in the several counties of this state in the following proportions; That is to say, For the county of New-Castle, the sum of Eight Hundred and Sixty-three Thousand, Four Hundred and Ninety-one Dollars and Two-thirds of a Dollar: For the county of Kent, the sum of Seven Hundred and Fifty-five Thousand, Five Hundred and Fifty-five Dollars and One-third of a Dollar: And for the county of Suffex the remaining sum of Six Hundred and Forty-seven Thousand Six Hundred and Nineteen Dollars and Two-thirds of a Dollar. The Two first portions aforesaid, for May and August, to be paid only in the said bills; and the last portion aforesaid, for November, to be paid in the said bills, or in bills of credit emitted by this state, or by the government of New-Castle, Kent and Suffex, on Delaware, at equal value; or in gold or silver at the values herein after ascertained; or in the bills to be emitted on the credit of this state, in pursuance of the resolutions of Congress of the eighteenth of March last, at the rate of one Dollar in specie*

The two first portions to be paid in the said bills only; and the last portion in the same bills, or, &c.

cie; or of the last mentioned bills in lieu of seventy-five of the bills emitted by Congress, or bills of credit emitted by this state, or by the government of New-Castle, Kent and Suffex, on Delaware, and now in circulation.

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SECT. 2. *And be it enacted,* That for the better assessing, ordering, levying and collecting the aforesaid; several sums of money in the several counties aforesaid, the Justices of the Peace of each county, or any three of them, together with the other Members of the Levy Court, or such of them as will attend, are hereby authorized to hold a Special Court on the twentieth day of February instant, in the counties aforesaid, respectively, at the places in the said counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid sums herein before directed to be assessed and taxed in the counties aforesaid, respectively, in the present year One Thousand Seven Hundred and Eighty-one, and after to divide each taxable's portion thereof into three equal parts for collection on the first days of the said months of May, August, and November. And the said justices, or any two of them, shall thereupon issue their warrant, annexed to a duplicate of the said assessments certified by the Clerk of the Peace, to the Collector of each hundred, authorising and requiring him forthwith to demand and receive from the persons or estates rated in the said duplicate assessment list the sum *per* Pound which shall have been ascertained as necessary to raise the several sums as aforesaid; and the said Collectors, respectively, shall proceed without delay to collect, and (in case of neglect or refusal to pay by the respective days last aforesaid) to levy and recover the same in the manner as is directed by the act of Assembly, intituled, *An act for raising county rates and levies*: And that the said Clerk of the Peace shall, within fifteen days next after the day of holding the Special Court aforesaid, deliver to the Treasurer of the said respective counties a true account of the sum total, which every Collector shall be charged with pursuant to this act. SECT.

In what manner  
the said county  
proportions shall  
be assessed.

Warrants to issue for the collection thereof.

Clerks of the  
Peace to furnish  
the Treasurers  
with an account  
of the sum total.

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Provision for se-  
curing the pay-  
ment of the tax,  
in certain cases.

SECT. 3. *And whereas*, some owners of lands may not reside in the same county or district where such land lies, or not within this state, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on such land, *Be it therefore enacted*, That the tenant, or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords or owners, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax. And in case the tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for; or for the tenant, or person having the care of the said lands, to recover the same from the owners, by action or suit in any court where the same be cognizable, together with costs of suit: And all parents, guardians or tutors, making payment as aforesaid, shall be allowed the sum so paid for such infants, upon his or their accounts—*Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

Collectors, after  
deducting their  
commissions, to  
pay the tax to  
the Treasurers;

SECT. 4. *And be it enacted*, That the said Collectors, respectively, shall, on or before the tenth day of May next, pay to the Treasurer of their county one third part of the tax by this act to be raised; and shall, on or before the tenth day of August next, pay to the Treasurer of their county one other third part of the said tax; and shall, on or before the tenth day of November next, render a true and just account of, and pay unto the said Treasurer, the residue of the said tax and all and every the sum and sums of moneys they may, or ought to have levied by virtue of this act, deducting Nine-pence in the Pound for the trouble of collection; and that the said County Treasurers, within fifteen days after the said tenth days of May, August and November, respectively, shall pay over the monies by them so received to Samuel Patterson, of the county of New-Castle, esq. the Treasurer of the state.

who shall pay  
the same over to  
the State Treas-  
urer.

SECT. 5. *And be it enacted*, That the Collector of each

each hundred, on or before the fifteenth day of March next, and on or before the fifth day of June next, and on or before the fifth day of September next, respectively, shall fix up, in the most public places of his hundred, four advertisements, written in a fair and legible hand, and signed by him, thereby calling on the taxables of such hundred to pay to him the several sums of money assessed on them, as taxes by this act for raising one of the portions aforesaid, at some convenient place in his hundred, and on or before the days therein named; at which place the said Collector shall give six days due attendance, the days so named to be at least thirty days after the said fifteenth day of March, and fifth days of June and September, respectively; and shall also in such advertisements inform the said taxables, that if they neglect to pay to him the several sums of money so assessed, on or before the days so named for the payment thereof, the person so neglecting will be compelled to pay an additional tax of Six-pence in the Pound; and if any taxable after such notice shall not pay his share of such portion to the Collector on or before the days so named for the payment thereof, every person so neglecting, shall pay to the Collector the said additional tax of Six-pence in the Pound upon the sum so due from such taxable, which shall be levied and recovered by the said Collector, for his own use, in the same manner as the said tax is herein directed to be levied and recovered.

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Taxables neglecting payment, agreeable thereto, shall pay an additional tax of Six-pence in the Pound.

SECT. 6. *And be it enacted,* That the several Collectors and the Treasurers of the aforesaid counties, respectively, shall each of them give bond, in the name of the Delaware State, to the Clerk of the Peace of the county, on or before the tenth day of March next, with such sureties as the same Clerk and one Justice of the Peace there shall approve of; *That is to say,* The several County Treasurers in the sum of Nine Hundred Thousand Dollars, and the several Collectors in such sum as the said Justice and the Clerk of the Peace shall direct, conditioned, for the true and faithful performance and discharge of their duty, respectively, in the execution of this act; and in case of their, or any of their neglect or refusal so to do, any three Jus-

Collectors and Treasurers to give bond, &c.

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tices of the Peace of the county, either in or out of sessions, may and shall forthwith appoint others in his or their stead, who shall give security as aforesaid.

SECT. 7. *And be it enacted,* That the State Treasurer shall, and he is hereby impowered and required to order and direct the County Treasurers respectively, so often as he shall think necessary, to lay before him the account of the sum total of the rates and assessments, and to pay the money that shall be in their hands by virtue of this act: And the said County Treasurer shall also adjust and settle their said accounts with a Committee of the Levy Court or Court of Appeal, in the manner as by the said act for raising county rates and levies is directed; and if the said County Treasurers, or any of them, shall neglect or refuse to produce his or their said account, or to pay the money in his or their hands, or adjust and settle his or their accounts with a Committee of the Levy Court or Court of Appeal, according to the directions herein, the said State Treasurer shall and may proceed against such Treasurer so refusing, by way of action or suit, in the name of the Delaware State, in which there shall be but one imparlance, to recover the monies due to the state treasury from such delinquent, and the said Levy Court or Court of Appeal, may remove him from the said office, and appoint another in his stead: And if any Collector shall refuse or neglect to render a true and just account of, and pay unto the Treasurer of the county the sums he may or ought to have levied by virtue of this act, such County Treasurer shall proceed, in like manner, to recover the monies unpaid by such delinquent Collector, and the said courts, or the Justices in their Court of Quarter Sessions after, may remove him from his office, and appoint another in his stead.

Delinquent  
Collectors how  
proceeded  
against.

Sate Treasurer  
to give bond for  
the performance  
of his duty.

SECT. 8. *And be it enacted,* That the said State Treasurer, before the first day of May next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved by the President or Commander in Chief for the time being, in an obligation of the sum of Two Millions, Five Hundred Thousand Dollars, conditioned for the true observation

observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death or other incapacity in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint another fit person to supply his place, who shall give security as aforesaid.

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His place how supplied in case of delinquency.

SECT. 9. *And be it enacted*, That the said State Treasurer shall, from time to time, account with a Committee of the General Assembly, and discharge himself of all monies which shall come to his hands, in pursuance of his office aforesaid, by virtue of this act or otherwise, and shall be allowed commissions for the monies so received, and duly accounted for, at the rate of Seven Shillings and Six-pence for every Hundred Pounds, and no more; and each County Treasurer for his trouble, in receiving and paying the monies and performing the duties by this act required, shall have and receive at the rate of Ten Shillings for every Hundred Pounds, and no more; to be allowed to the said respective Treasurers at the settling of their accounts: And where any of the said Treasurers shall be removed from office, he shall deliver up to his successor all the books and papers relating to the public accounts of the said office whole, entire and undefaced: And upon the death of any of the said Treasurers, his executors or administrators shall deliver up in like manner all such books and papers to the succeeding Treasurer.

To account with a Committee of the General Assembly.

His commissions.

County Treasurers their allowances.

SECT. 10. *And be it enacted*, That all gifts, grants and sales which shall be made by any delinquent Collector or Treasurer of their real estates, after the time they should have paid the monies arising from the said assessments, (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates, on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

Gifts, grants and sales by a delinquent Collector or Treasurer of his real estate, declared fraudulent.

SECT. 11. *And whereas* some persons, liable to taxation, may have come into the respective hundreds in this

or

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Taxables not included in the last assessment lists to be added thereto.

this state since the making out of the last list of taxables, or may have since come of age, or have been omitted through ignorance or neglect; *Therefore be it enacted*, That the respective Assessors within the state shall make diligent inquiry, whether any persons under the circumstances aforesaid are within their hundreds, and, if any such there be, such Assessors, respectively, are hereby authorized and required, to fix an equal and impartial rate on every such person, and cause the same to be added to the last general assessment list, by the Clerk of the Peace of his county, on or before the tenth day of March next, to be by the said Clerk inserted in the duplicate list herein before directed to be delivered for the purpose of collection; therein expressing the three equal parts of such taxable's portion of tax under this act; and the Collectors respectively shall levy, recover, receive, pay and account for the monies arising from such additional list, as is before directed in other cases of collection.

The bills aforesaid, when brought into the treasury, not to be re-issued, but destroyed;

SECT. 12. *And be it further enacted*, That such part of the said sum of Two Millions, Two Hundred and Sixty-six Thousand, Six Hundred and Sixty-six Dollars and Two-thirds of a Dollar, so to be brought into the state treasury as aforesaid, as shall be paid in bills of credit emitted by Congress, and now in circulation, shall not, on any pretence whatsoever, be issued again, but shall remain there to be destroyed.

(a)

OBSOLETE.

and new bills, bearing an annual interest, to be emitted in lieu thereof,

SECT. 13. *And be it enacted*, That as fast as the said bills shall be so brought into the treasury to be destroyed, there be emitted in lieu thereof, on the funds herein after provided, and the faith of the United States, as pledged by the resolutions of Congress aforesaid, a sum not exceeding in the whole One Hundred and Thirteen Thousand, Three Hundred and Thirty-three Dollars and One-third of a Dollar, in bills of credit, bearing an annual interest of five *per cent.* and that the face of the said bills, and the indorsement

(a) See after chap. 85. b. sects. 1. 2, this sum directed to be paid over by the Treasurer of this state to the Treasurer of the United States, as this state's quota of all the bills of credit emitted by Congress.

ment thereon, shall be in the manner and words as is directed by the said resolutions : Said indorsement to be signed by such Commissioner as Congress shall appoint for that purpose.

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SECT. 14. *And be it enacted,* That the bills so to be emitted shall be redeemable, in specie, by the thirty-first day of December One Thousand Seven Hundred and Eighty-six, and the interest thereof paid at the redemption of the bills, or annually, at the election of the holder, according to the said resolutions of Congress, and the tenor of the said bills.

OBSOLETE.

which shall be redeemable in specie, by 31st. of Dec. 1786.

SECT. 15. *And be it enacted,* That the President or Commander in Chief, with the advice of the Privy Council, shall appoint four proper persons, any two of whom, together with the Commissioner appointed by Congress, shall complete the said bills, by signing and numbering the same before their emission, the said bills to be completed no faster than in the proportion of one thereof to twenty of the other bills brought in to be destroyed ; which destroying the said persons shall also superintend, whereupon for every Twenty Dollars so destroyed One Dollar may issue, according to the resolutions aforesaid ; and the persons so appointed shall receive as a compensation for their said services, at the rate of Ten Shillings for every thousand bills completed as aforesaid.

OBSOLETE.

Persons to be appointed to sign, number and issue said new bills.

SECT. 16. *And be it enacted,* That, as the said bills are completed, six tenths of them in value shall be received into the treasury of this state, to be thence issued for carrying on the war, or defraying other charges as may be ordered by the General Assembly, the other four tenths to be subject to the orders of Congress, and credited to this state.

OBSOLETE.

New bills, when completed, how disposed of.

SECT. 17. *And be it further enacted,* That whenever interest, on the said bills so to be emitted, shall be paid prior to the time fixed for their redemption, such bills shall be thereupon exchanged for other bills of the like tenor, to bear date from the expiration of the year for which such interest is paid, and then destroyed ; and any two of the persons to be appointed on the part of this state, are hereby impowered to join with the Commissioner of Congress in completing such other bills for that purpose.

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When interest shall be paid on said bills prior to the time fixed for redemption they shall be destroyed, and others issued.

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27,200 Dollars to be raised annually, for five years, for redeeming the new bills, and paying the interest thereon.

SECT. 18. *And whereas* the Legislature of this state, from a regard for the public good, are desirous to carry the resolutions aforesaid into full execution, and confide in the justice of the United States, that in a future adjustment of the quotas apportioned to the several states, the extra-proportion of the bills of the currency of the United States now in circulation, assigned to this state in the resolution of Congress, of the seventh day of October in the year One Thousand Seven Hundred and Seventy-nine, and recommended to be brought into the Continental Treasury, by the resolutions of the eighteenth day of March aforesaid, as well as of the bills to be issued in pursuance of the same resolutions, will be duly and equitably considered, and credit accordingly given to this state: Therefore, for effectually securing the redemption of the bills, to be emitted on the credit of this state, and the payment of the interest thereon, *Be it enacted*, That a tax on the persons and estates in this state of Twenty-seven Thousand Two Hundred Dollars shall be annually levied and collected from the last day of December One Thousand Seven Hundred and Eighty-one, for and during the term of five years, to be assessed and raised in the several counties of this state, in the following proportions; *That is to say*, In the county of New-Castle the sum of Ten Thousand Three Hundred and Sixty-one Dollars and Two-thirds of a Dollar; in the county of Kent the sum of Nine Thousand and Sixty-six Dollars and Two-thirds of a Dollar; and in the county of Suffex the sum of Seven Thousand Seven Hundred and Seventy-one Dollars and Two-thirds of a Dollar.

OBSOLETE.

The Levy Courts within that period, to lay an additional tax for raising the said sum,

SECT. 19. *And for that end*, *Be it enacted*, That the Justices, Grand Jurymen and Assessors of each of the counties aforesaid, at the usual time of holding their Levy Courts, in the present and four following years, shall, over and above the tax laid for discharging the county rates and levies, lay such additional sum in the Pound, upon the whole rates of the county, according to the then assessment, as will certainly raise, clear of all charges of collection, their respective county proportions of the same annual sum of Twenty-seven Thousand Two Hundred Dollars, as before limited

limited and expressed; and the same Levy Courts shall cause duplicates of such additional assessment of each hundred to be transcribed and delivered to the Collectors respectively, with a warrant to demand and receive, and (in case of neglect or refusal) to levy and recover the same (in the case of residents) in the manner as is directed by the act of Assembly, intitled, *An act for raising county rates and levies*, and in the case of non-residents and minors, in the manner as is herein before directed.

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SECT. 20. *And be it enacted*, That the said Collectors, respectively, shall, on or before the first day of November, in every of the years One Thousand Seven Hundred and Eighty-two, Eighty-three, Eighty-four, Eighty-five and Eighty-six, pay to the Treasurer of the county all and every such additional sum and sums of money assessed on the persons and estates in their district, deducting Nine-pence in the Pound for their trouble; and that the respective County Treasurers shall, within twenty days after, in every of the years aforesaid, pay over the monies by them so received to the State Treasurer, who shall apply and dispose of the same as in this act is directed. And all and every of the said Collectors and Treasurers, with respect to the said additional tax, shall give annually the like securities, be liable to the like manner of account, suit, and removal from office, as in this act is before prescribed; and the Treasurers, respectively, shall have the like allowances for their services.

OBSCOLETE.

Time prescribed for the annual payment of said additional tax.

The respective Collectors and Treasurers to give security annually.

SECT. 21. *And be it enacted*, That all bonds, directed to be given by the Collectors and County Treasurers, respectively, by this act, shall, immediately after taking the same, be brought to, and filed in, the Office of the Clerk of the Peace of each county where taken; and that the bonds by this act directed to be given by the State Treasurer, shall, as soon as conveniently may be after taking the same, be recorded in the Office of the Recorder of Deeds of the county where taken, the execution whereof being first proved by one or more of the witnesses subscribing the bond, before any judge or justice within the state, and certified under his hand and seal, the original to be lodged

OBSCOLETE.

Bonds given by Collectors and County Treasurers to be filed with Clerk of the Peace, &c. Those by State Treasurer in the Office of the Recorder of Deeds, &c.

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Part of the annual tax aforesaid applied to the payment of interest;

and the residue, if paid in the new bills, to be destroyed, &c.

The taxes aforesaid to be paid in gold or silver, at the values here ascertained,

lodged in the Secretary's Office; an attested copy of which record shall be admitted as evidence in any suit or proceeding thereon;

SECT. 22. *And be it enacted*, That Four Thousand and Five Hundred and Thirty-three Dollars, and One-third of a Dollar, part of the yearly tax aforesaid, shall be appropriated to and applied for the payment of the interest aforesaid, and therefore shall be annually retained in the treasury of this state in specie, if so much specie shall be received in each year; or otherwise in the said bills of credit; and the residue of the said yearly tax, if paid in the said bills; shall be annually destroyed; but if the said residue, or any part thereof, be paid in specie, the same shall be retained in the treasury for the redemption of such of the said bills as shall be outstanding on the thirty-first day of December, in the year One Thousand Seven Hundred and Eighty-six, the interest on such bills to be paid only to that day.

SECT. 23. *And be it enacted*, That the taxes last aforesaid shall be payable only in gold and silver coin at the following rates, regulations, and values, *to wit* :

Johannes's, weighing 18 Penny-weight, £.	6	0	0
Half-Johannes's, weighing 9 Penny-weight,	3	0	0
Moidores, weighing 6 Penny-weight, 18 grains,	2	5	0
English Guineas, weighing 5 Penny-weight 6 grains,	1	15	0
French Guineas, weighing 5 Penny-weight 5 grains,	1	14	6
Spanish Pistoles, not lighter than 4 Penny-weight 6 grains,	1	8	0
French milled Pistoles, weighing 4 Penny-weight 4 grains,	1	7	0
Arabian Chequins, weighing 2 Penny-weight 3 grains,	0	14	0
Other gold coin, (German excepted) by the Penny-weight,	0	6	5
English milled Crowns,	0	8	4
Other English milled silver at the same rate.			

French

See chap. 75.  
b. sect. 13.

French filter Crowns, -	o	7	6	CHAP. LXXI. 1781.
Spanish milled Pieces of Eight,	o	7	6	
Other good coined Spanish silver <i>per</i> ounce,	o	8	6	
Any other gold coin, of the same fineness of Spanish or Portugal coin <i>per</i> ounce,	6	9	2	
Or in bills to be emitted as aforesaid on the credit of this state.				or in the new bills.

SECT. 24. *And be it enacted*, That if any person shall counterfeit, forge, or alter any of the said bills of credit to be emitted under the said resolutions of the eighteenth day of March last, by this or any other of the United States of America, such person shall be adjudged guilty of the same crime as if he had so counterfeited, forged, or altered the bills of credit emitted by the act, intituled, *An act for printing and emitting Fifteen Thousand Pounds in bills of credit of this state, to be let out on loan; and for striking the further sum of Ten Thousand Pounds in such bills for the use of this state, and for providing a fund for sinking the same*, passed the twenty-second day of February, One Thousand Seven Hundred and Seventy-seven, and such person shall be tried in the manner as in the same act is directed; which act is hereby declared to be extended to any the like offences committed with respect to the bills of credit emitted or to be emitted by this or any other state under the resolutions aforesaid. (b)

OBSOLETE.

Counterfeiting  
or altering the  
bills how  
punished.

SECT. 25. *And whereas* the burthens, necessarily imposed on the good people of this state for carrying on the war, might be alleviated, and the most speedy and effectual measures adopted, for affording relief to the brave officers and private men of the regiment of this state, who are now languishing in captivity, or generously exerting themselves in the service of their country, and other pressing exigencies be provided for, if sums of specie could be borrowed, until

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(b) All the preceding sects, from 13 to 24, inclusive, and sects, 30, 31, marked OBSOLETE in the margin, relate to certain new bills of credit devised by Congress to have issued under their resolution of March, 18, 1780, on the funds of the individual states for that purpose established, and the faith of the United States, no part of which new bills were issued in this state before June 2, 1781, when Congress resolved "That the several states suspend as far as possible the issuing of such part of their respective quotas of the said bills as remain to be issued." So the whole provision herein became obsolete.

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Persons lending  
specie to the  
state to be repaid  
with an annual  
interest of six  
Per Cent.

by the system of œconomy now taking place, and by the blessing of Providence on the efforts of the United States in the just and common cause, the public funds shall become sufficiently productive to answer the demands of government. *Be it therefore enacted,* That if any taxable within this state, shall lend to the same any sum of specie for three years, and shall pay the same into the hands of the Treasurer of the county where such person resides, he shall receive therefor an annual interest of six *per cent.* to be deducted out of his tax, if such tax exceeds the interest; such deduction to be indorsed on the Treasurer's receipt, and the balance to be paid in specie if the interest exceeds the tax, and the receipt of the Treasurer shall be a sufficient voucher for the sum lent, and be payable to the bearer thereof: Which money so lent shall be forthwith paid by the County Treasurer to the State Treasurer, and be by him retained to be disposed of by the General Assembly, except such part thereof as is herein after directed to be paid to the order of the President of this state.

Such specie ex-  
empt from taxa-  
tion until repaid.

SECT. 26. *And,* for removing any apprehensions that might be entertained by such lenders being rated or assessed higher on account of such loan, and to render the same as advantageous as may be to them; *Be it enacted,* That the sum so lent in specie shall not in any future assessment of the lender be considered as part of his rateable property, and the monies so lent are hereby declared to be exempt from all taxation, until the same shall be repaid by this state, in specie, with the interest as aforesaid.

Sums borrowed  
how to be appli-  
ed.

SECT. 27. *And be it enacted,* That the sums so to be borrowed shall not exceed in the whole Three Thousand Pounds in any one county of this state; and that the first Five Hundred Pounds that shall be received on such loans, shall be applied, and transmitted, in specie, to and for the relief of such officers and private men of the regiment of this state, as are now prisoners of war, by such person or persons, as shall be appointed by the President or Commander in Chief.

SECT. 28. *And whereas* an observance of the immutable laws of justice and equity is pleasing in the sight of the Supreme and Righteous Governor of the Universe,

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verse, and therefore it cannot be reasonably expected, that public prosperity should be founded on a violation of them; and the honour and true interest of societies are promoted by a regard in their rulers to the obligations of public faith, whereby confidence and energy are acquired, a deviation from which principles tends to injure the morals of a people, render property insecure, discourage industry, obstruct commerce, introduce confusion, and embarrass the measures of government: *And whereas* the honorable the Congress have, by their act of the twentieth day of March last, recommended to the several states, to revise their laws enacted pursuant to a former resolution of Congress, making the Continental bills of credit a tender in discharge of debts and contracts, and to amend the same, in such manner as they shall judge most conducive to justice in the present state of the paper currency; and, that the said laws be enacted in such manner, that no person may take unjust advantage to defeat the good purposes of the said act, by availing themselves of the notice thereof, before the passing of such laws; *Be it enacted*, That the bills of credit of the United States, or bills of credit emitted by this state, or by the government of New-Castle, Kent and Suffex, on Delaware, now in circulation, shall be a tender for all debts and contracts, contracted or made since the first day of January in the year One Thousand Seven Hundred and Seventy-seven, other than for debts expressly for gold, silver or sterling, at the current value of such bills at the time of tender, respect being also had to the value of the currency when such debts and contracts were contracted or made, so that equal justice may be done to both parties, according to their true intentions in making the contract; the value of the currency, at the time of the contract, to be ascertained by a table of depreciation formed by the Board of Treasury of the United States, on the twenty-ninth day of July, One Thousand Seven Hundred and Eighty, in pursuance of an act of Congress, of the twenty-eighth day of June preceding, until the eighteenth day of March last, and, from that day to the eighteenth day of January, in this year, to be ascertained by computing a progressive rate of depreciation,

How the bills of credit now circulating may be a tender for debts and contracts.

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as mentioned in the said act, assuming the depreciation on the eighteenth day of August last, to be as sixty of the said bills for One Spanish milled Dollar, and on the said eighteenth day of January as seventy-five of the former for one of the latter; and also, that the said debt, being reduced into specie, by computing the same according to the said scale of depreciation, may be paid in gold or silver at the rates, regulations and values aforesaid. (c)

until the 31st of  
August, 1781.

SECT. 29. *Provided*, That the bills of credit of the United States, or bills of credit emitted by this state, or by the government of New-Castle, Kent and Sussex, on Delaware, now in circulation, shall not be a tender as aforesaid after the thirty-first day of August next ensuing the passing of this act. *And provided also*,

Not to extend to  
Sheriffs, &c.

That Sheriffs, Attornies at Law, and Attornies in Fact, who have received, or may, before notice of the passing of this act, receive money, in right of others, may pay the same over to the persons for whom it was received, as if this act had not been made.

OBSOLETE.

Persons refusing  
to receive the  
bills to be emit-  
ted by this act,  
as equal to gold  
or silver shall not  
sue, unless, &c.

SECT. 30. *And be it enacted*, That if any person shall refuse to receive the bills of credit, to be emitted by virtue of this act, as equal to gold and silver, at the values herein ascertained, in payment of any debt or demand now due, or hereafter to become due, other than debts or contracts expressly for gold or silver or sterling, and shall persist in such refusal, no suit shall be commenced, prosecuted or proceeded on for such debt or demand, before the thirty-first day of December One Thousand Seven Hundred and Eighty-six, unless the debtor or person contracting, shall neglect or refuse to pay the interest annually due, and to become due thereon, in the said bills in sixty days after demand made, or hath removed, or shall be about to remove, himself or his effects out of this state, or shall refuse to give sufficient security, if required, for the payment of the debt or money mentioned in such contract.

OBSOLETE.

SECT. 31. *Provided always*, That, the space of time,  
from

(c) See after in chap. 77. b. another scale of depreciation prescribed for settling the pay accounts of the officers and private men of the regiment of this state, by the Auditors, appointed in sect. 33. of this chap. 71. b.

from the passing of this act to the said thirty-first day of December, shall not, with respect to the creditors hereby prohibited from commencing, prosecuting or proceeding on suits as aforesaid, be taken or held as part of the time limited by law for commencing, prosecuting, or proceeding on suits or actions.

SECT. 32. *And be it enacted*, That all that space of time, from the first day of January in the year One Thousand Seven Hundred and Seventy-seven to the passing of this act, shall not be taken or held as part of the time limited by law for commencing, or prosecuting any suit for any demand whatsoever.

SECT. 33. *And whereas* the services of the officers and private men of the regiment of this state, in the service of the United States of America, deserve the utmost attention; *Be it therefore enacted*, That Thomas Montgomery, (d) of the county of New-Castle, Eleazar M. Comb of the county of Kent, and John Drain, of the county of Sussex, gentlemen, be, and they are hereby appointed Auditors to settle the depreciation of the pay accounts, of all the officers and private men of the said regiment, from the first day of January in the year One Thousand Seven Hundred and Seventy-seven, to the first day of August One Thousand Seven Hundred and Eighty; and the said Auditors, or any two of them, are hereby impowered, and directed with all possible dispatch to frame an estimate in specie of all sums in Continental Money received by the said officers and private men on account of their pay, within the period aforesaid, therein governing themselves by the scale of depreciation herein before mentioned; a duplicate of which estimate they shall immediately communicate to the President or Commander in Chief, and the same being by him, and the Privy Council, fully approved, the said Auditors or any two of them are hereby also impowered and directed to give to the officers and private men, (e) to whom pay on such settlement as aforesaid shall

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Period of time  
in which acts of  
limitation are  
not to operate.

Auditors to settle the depreciation of the pay accounts of the officers and private men of the regiment of this state.

(d) See after in chap. 88. b. sect. 6, William Killen appointed in the place of Thomas Montgomery who declined to serve.

(e) See chap. 77. b. sect. 4, where it is extended to the widows and children of all the officers and private men of the regiment aforesaid, who have fallen or died in the service during that period.

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Vacancies how  
supplied.

be found due, certificates specifying the sums due in specie, and shall report their proceedings to the General Assembly at their next sitting, in order that the most effectual measures, which the exigencies of public affairs will admit may be devised for the relief of the officers and men aforesaid. (f) *Provided always*; That if any one or more of the said Auditors shall happen to die, or be incapacitated to attend and perform the duties herein before assigned, the President or Commander in Chief shall and may appoint a person or persons in his or their stead.

SECT. 34. *And be it enacted*, That the Auditors aforesaid, previous to their entering on the duties required of them by this act, shall severally take the following oath or affirmation, to wit,

Qualification of  
the Auditors.

*I do swear (or affirm, as the case may be) that I will well and truly perform all and singular the duties required of me by the act, intituled, "An act for calling out of circulation and cancelling the quota of this state, according to the present apportionment, of all the bills of credit emitted by Congress; and for emitting and funding new bills, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes;" to the best of my knowledge and ability, without partiality or respect to any person or persons whatsoever;*

Their allow-  
ance.

Which oath or affirmation any judge or justice within this state may administer; and the said Auditors shall be intituled to receive the sum of One Hundred Pounds in bills to be emitted by virtue of this act, to be equally divided amongst them.

Appraisements  
henceforth to be  
made in specie.

SECT. 35. *And be it enacted*, That, from and after the passing of this act, all valuations and appraisements required by law to be made of estates in the Orphans Courts, Registers Offices, and on executions, shall be made in specie, at the rates herein before mentioned.

SECT. 36. *And be it enacted*, That all fines and penalties

(f) See after in chap. 88. b. sect. 8, where it is enacted that the sum declared due in such certificates shall bear an interest of six Per Centum from the first day of March, 1782, until the same be fully and finally discharged.—Then see chap. 103, b. passed June 21, 1783; that the certificates given as aforesaid, and not then assigned or transferred, shall bear a like interest, from August the first, 1780—and see chap. 202. b. making the said certificates receivable in discharge of mortgages in the Loan Offices, and for lands sold at the suit of any of the Trustees, by chap. 229. b. sect. 4.

nalties in money, imposed by any law now in force within this state and passed before the first day of January in the year One Thousand Seven Hundred and Seventy-seven, shall, upon conviction, be paid in the bills to be emitted by virtue of this act, or in specie at the rates aforesaid, or in the bills of credit of the United States, now in circulation, equal at their current value, respectively, to so much specie; and that all fines and penalties in money, except militia fines, imposed by any law of this state, since that day, shall be paid in the bills to be emitted as aforesaid, or in specie at the rates aforesaid, or in bills aforesaid now circulating at their current value, and equal to so much specie as such sums of money, mentioned for the fines or penalties, were worth at the time of passing such law, the said several comparative values to be ascertained by the Justices of the Court in which such convictions shall be respectively had, according to the directions herein before given for establishing a scale of depreciation. *Provided always*, That such payments in the bills aforesaid now circulating shall not be made after the thirty-first day of August next ensuing the passing of this act.

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1781.

How fines and penalties are to be paid.

See before sect. 29.

SECT. 37. *And be it further enacted*, That the act, intituled, *An act for supporting and establishing certain bills of credit issued by the Congress of the United States of America, and to prevent the counterfeiting of the same, and certain lottery tickets issued by their authority, certificates of the Continental Loan Office, and also other bills of credit; (g) as also one other act, intituled, An act for printing and emitting Fifteen Thousand Pounds in bills of credit of this state, to be let out on loan; and for striking the further sum of Ten Thousand Pounds in such bills for the use of this state, and for providing a fund for sinking the same*, passed the twenty-second day of February One Thousand Seven Hundred and Seventy-seven. (b) so far as the same relates to making the said bills a legal tender, be, and the same are hereby repealed.

Parts of certain acts repealed.

SECT. 38. *And whereas*, guardians, executors; administrators

(g) Chap. 4. b.

(b) Chap. 8. b. sect. 9.

C H A P.

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1781.

How Courts of  
Law and Equity  
are to decide in  
certain cases.

ministrators or trustees, may have received divers sums of money for the wards, legatees, heirs, or cestuique-trusts, to whom they are respectively accountable, which they have lent to the United States on Loan Office certificates, or to some person or persons on mortgages or other securities, or otherwise applied the same in purchases of lands, goods or chattels, for the benefit of the persons to whom they are accountable, or to their own use; *Be it enacted*, That it shall and may be lawful for the Justices of the Orphans Court, or of any other Courts of Law or Equity within this state, before whom any suits, actions or complaints may have been or shall be brought against any of the persons acting in the characters aforesaid, to award, order, and adjudge such mortgages, securities, conveyances or Loan Office certificates, with the consent of the said guardians, executors, administrators or trustees respectively, to be assigned, transferred, and delivered to the wards, legatees, heirs or cestuique-trusts for whose money the same were taken, in payment and discharge of so much of what may be found due to them, or the amount of the real value thereof at the time they were taken, to be paid to them, at the discretion of such court; and in all other controversies between guardians, executors, administrators, and trustees, or any of them, and any of the persons to whom they may be severally accountable, or between the representatives of any intestate, concerning the valuation of lands heretofore made, or any other matter whatsoever, the Justices of the Court, or the jury or referees, before whom any such controversy shall legally come for decision, are hereby authorized and required to determine according to equity and good conscience.

*Passed Feb. 12, 1781.*

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C H A P. LXXII. b.

*An ACT for the protection of the trade of this state on the river and bay of Delaware.---Repealed in chap. 92. b. sect. 10, passed Feb. 5. 1782.*

CHAP.

C H A P. LXXIII. b.

C. H. A. P.  
LXXIII.

1781.

An ACT for ascertaining the allowance to Members of the General Assembly, and for other purposes.—Altered and supplied in chap. 6. c. passed February 2, 1793, and in art. 2. of the constitution of this state, adopted in June 1792.

C H A P. LXXIV. b.

An ACT for stating the accounts of the several Loan Offices, and of Commissioners into whose hands any public monies have come by virtue of laws passed under the former government, and for repealing part of an act, intitled, An act for the appointment of Trustees of the General Loan Offices in the respective counties of this state.

1781.

**W**HEREAS it has been judged expedient by the General Assembly of this state; at the present Session, that the bills of credit emitted by virtue of the laws of this state, passed under the present or former government, should be taken out of circulation, and therefore, that the accounts of the several Loan Offices, and Commissioners should be regularly stated;

Preamble;

SECTION 1. BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same, That John M<sup>c</sup>Kinly, esq. and Thomas Montgomery, gentleman, of New-Castle county, the honorable Thomas Collins, esq. of Kent county, and John Clowes, esq. of Suffex county, be, and they, or any two of them, are hereby authorized and required to settle and state all the accounts of the Loan Offices aforelaid, from the first day of June, in the year One Thousand Seven Hundred and Seventy-four, to the first day of June next after the passing of this act, relating as well to the bills of credit emitted on loan as those that have been given to public use, or have otherwise come to the hands of the Trustees,

Commissioners appointed to state the accounts of Loan Offices, &c.

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or any of them; in such settlement or state forming an accurate list of all the mortgages outstanding, with the names of the mortgagors, the principal sums therein mentioned and unpaid, and the interest due, and to become due to the said first day of June next, ascertaining also as near as may be, the sums of money in the hands of any of the Trustees in each year during the period aforesaid, and whether the same, or any, or what part thereof, was gold, silver, Government, State or Continental currency, and when and how the same hath been applied or disposed of; and giving all such other information respecting the premises, as may best enable the General Assembly to determine concerning the said funds, and the transactions relating to the said offices; and shall, in like manner, settle and state the accounts of the several Commissioners appointed by any act of Assembly into whose hands any part of the public monies emitted by laws of this state under the former government hath come, and shall make a report of their proceedings on the whole to the General Assembly at their next Session.

Powers vested in them.

SECT. 2. *And for enabling the said John M'Kinly, Thomas Montgomery, Thomas Collins, and John Clowes, to perform the duties hereby required of them with effect, Be it enacted,* That they, or any two of them, shall have full power and authority to call for and examine all books and papers relating to the said Loan Offices and Commissioners, or any of them, in whose hands soever the same may be, and to summon and cause to come before them witnesses who may be examined by them on oath or affirmation, which they or any of them may administer.

SECT. 3. *And be it enacted,* That so much of the act, intituled, *An act for the appointment of Trustees of the General Loan Offices in the respective counties of this state,* passed, at Wilmington, the twenty-fifth day of December in the year One Thousand Seven Hundred and Seventy-nine, as relates to the appointment of new Trustees of the said Loan Offices in the several counties of New-Castle and Kent, is hereby repealed. (a)

SECT.

(a) See chap. 51. b. Ante.

SECT. 4. *And be it enacted*, That the said John M<sup>c</sup>Kinly, Thomas Montgomery, Thomas Collins, and John Clowes, or such of them as act, shall have and receive for performing the duties by this act required of them, the sum of One Hundred and Fifty Pounds, in specie, or the bills to be emitted on the credit of this state, to be divided amongst them.

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LXXIV.  
1781.

Allowance to the  
Commissioners.

*Passed February 12, 1781.*

C H A P. LXXV. b.

*An ACT for raising Seven Thousand Eight Hundred and Seventy-five Pounds, in specie, for the service of the year One Thousand Seven Hundred and Eighty-one, by a general tax.*

1781.

**W**HEREAS Congress have called upon the Preamble. United States for their respective quotas of the supplies and monies necessary for supporting the army of the said states, during the present campaign; and for defraying other expences incurred in the prosecution of the present war. *And whereas* it is just and reasonable that this state should contribute its proportion of supplies and money; and also make provision for defraying the expences that have arisen, or may arise, within the same in the present year, *We*, the Representatives of the freemen of this state, in Assembly met, taking into our serious consideration the public necessities aforesaid, have agreed to give the sum of Seven Thousand Eight Hundred and Seventy-five Pounds for the uses aforesaid, to be raised by way of tax as hereafter mentioned, and desire that it may be enacted;

SECTION 2. *And be it enacted by the General Assembly of Delaware*, That the sum of Seven Thousand Eight Hundred and Seventy-five Pounds, in gold or silver coin, at the rates, regulations and values ascertained by the act, intituled, *An act for calling out of circulation and cancelling the quota of this state, according to the present apportionment, of all the bills of credit emitted by Congress;*

Seven Thousand  
Eight Hundred  
and Seventy-five  
Pounds to be  
raised in 1781.

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Proportion  
thereof for each  
county.

Special Courts  
to be held to  
ascertain the  
sum in the  
Pound to raise  
the proportions  
aforesaid.

gress; and for emitting and funding new bills, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes, passed the twelfth day of February last, shall be raised, levied and paid into the state treasury in two equal portions in the months of September and December in the present year One Thousand Seven Hundred and Eighty-one, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say*; For the county of New-Castle, the sum of Three Thousand Pounds; For the county of Kent, the sum of Two Thousand Six Hundred and Twenty-five Pounds; And for the county of Suffex the remaining sum of Two Thousand Two Hundred and Fifty Pounds.

SECT. 3. *And be it enacted*, That, for the better assessing, levying and collecting the aforesaid several sums of money in specie in the several counties aforesaid, the Justices of the Peace of each county, or any five of them, are hereby authorized and required, to hold a Special Court on or before the twentieth day of July next, in the counties aforesaid respectively, at the places where the Levy Courts in the said counties are usually held, and then and there with the assistance of the Clerks of the Peace to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise the several sums aforesaid, clear of all charge of collection; and after, to divide each taxable's portion thereof into two equal parts for collection on the fifteenth days of the said months of September and December: And the said justices, or any two of them, shall thereupon issue their warrant, annexed to a duplicate of the said assessments certified by the Clerk of the Peace, to the Collector of each hundred, authorizing and requiring him forthwith to demand and receive from the persons or estates rated in the said duplicate assessment list, the sum *per* Pound which shall have been ascertained as necessary to raise the several sums as aforesaid; and the said Collectors, respectively, shall proceed without delay to collect, and (in case of neglect or refusal to pay by the respective days last aforesaid) to levy and recover the same in the manner as is directed by  
the

the act of Assembly, intituled, *An act for raising county rates and levies*: And that the said Clerk of the Peace shall, within fifteen days next after the day of holding the Special Court aforesaid, deliver to the Treasurer of the said respective counties a true account of the sum total, which every Collector shall be charged with pursuant to this act.

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1781.

SECT. 4. *And whereas* some owners of lands may not reside in the same county or district where such land lies, or not within this state, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on such land; *Be it therefore enacted*, That the tenant, or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords or owners if their found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax: And in case the tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for; or for the tenant, or person having the care of the said lands, to recover the same from the owners, by action or suit in any court where the same may be cognizable, together with costs of suit: And all parents, guardians or tutors, making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts. *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

Provision for securing the payment of the tax in certain cases.

SECT. 5. *And be it enacted*, That the said Collectors respectively shall, on or before the twentieth day of September next, pay to the Treasurer of their county one moiety of the tax by this act to be raised, and shall, on or before the twentieth day of December next, render a just and true account of, and pay unto the said Treasurer, the residue of the said tax, deducting Six-pence in the Pound for the trouble of collection; and that the said County Treasurers, within ten days after the said twentieth days of September and December, shall pay over the monies by them so received

Collectors, after deducting their commissions, to pay the tax to the Treasurers.

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Collectors how  
to proceed in the  
collection of the  
tax.

Defaulting taxa-  
bles to pay an  
additional sum  
of Three-pence  
in the Pound.

Each Collector  
and Treasurer  
to give bond.

received to Samuel Patterfon, of the county of New-Castle, esq. the Treasurer of this state.

SECT. 6. *And be it enacted*, That the Collector of each hundred, on or before the sixth days of August and November next, respectively, shall fix up in the most public places of his hundred, four advertisements written in a fair and legible hand, and signed by him, thereby calling on the taxables of such hundred to pay to him the several sums of money assessed on them as taxes by this act for raising one of the portions aforesaid, at some convenient place in his hundred, on or before the days therein named; at which place the said Collector shall give four days due attendance, the days so to be named to be at least twenty days after the said sixth days of August and November respectively; and shall also in such advertisements inform the said taxables, that if they neglect to pay to him the several sums of money so assessed, on or before the days so named for the payment thereof, the person so neglecting will be compelled to pay an additional tax of Three-pence in the Pound; and if any taxable, after such notice, shall not pay his share of such portion to the Collector on or before the days so named for the payment thereof, every person so neglecting shall pay, to the Collector the said additional tax of Three-pence in the Pound upon the sum so due from such taxable, which shall be levied and recovered by the said Collector for his own use in the same manner as the said tax is herein directed to be levied and recovered.

SECT. 7. *And be it enacted*, That the several Collectors and the Treasurers of the aforesaid counties respectively, shall each of them give bond, in the name of the Delaware State, to the Clerk of the Peace of the county, on or before the twenty-first day of August next, with such sureties as the same Clerk and one Justice of the Peace there shall approve of, *That is to say*, The several County Treasurers in the sum of Two Thousand Pounds in gold and silver coin lawful money of the Delaware State, and the several Collectors in such sum as the said Justice and Clerk of the Peace shall direct, conditioned for the true and faithful performance and discharge of their duty respectively in the execution of this act; and in case of their, or any  
of

of their neglect or refusal so to do, any three Justices of the Peace of the county, either in or out of sessions, may and shall forthwith appoint others in his or their stead, who shall give security as aforesaid.

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1781.

SECT. 8. *And be it enacted,* That the State Treasurer shall, and he is hereby impowered and required, to order and direct the County Treasurers respectively, so often as he shall think necessary, to lay before him the account of the sum total of the rates and assessments, and to pay the money that shall be in their hands by virtue of this act: And the said County Treasurers shall also adjust and settle their said accounts with a Committee of the Levy Court, or Court of Appeal, in the manner as by the said act for raising county rates and levies is directed; and if the said County Treasurers, or any of them, shall neglect or refuse to produce his or their said account, or to pay the money in his or their hands, or adjust and settle his or their accounts with a Committee of the Levy Court or Court of Appeal, according to the directions herein, the said State Treasurer shall and may proceed against such Treasurer so refusing by way of action or suit, in the name of the Delaware State, in which there shall be but one imparlance, to recover the monies due to the state treasury from such delinquent, and the said Levy Court or Court of Appeal may remove him from the said office, and appoint another in his stead: And if any Collector shall refuse or neglect to render a true and just account of, and pay unto the Treasurer of the county, the sums he may or ought to have levied by virtue of this act, such County Treasurer shall proceed, in like manner, to recover the monies unpaid by such delinquent Collector, and the said Courts, or the Justices in their Court of Quarter Sessions after, may remove him from his office and appoint another in his stead.

County Treasurers how to be proceeded against for neglect of duty.

SECT. 9. *And be it enacted,* That the said State Treasurer, before the first day of September next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved by the President or Commander in Chief for the time being, in an obligation of the sum of Six Thousand Pounds in gold and silver coin, lawful money of the Delaware State, conditioned

State Treasurer to give bond.

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1781.

His place how  
supplied in case  
of delinquency.

conditioned, for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death or other incapacity in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint another fit person to supply his place, who shall give security as aforesaid.

County Treasurers their allowances.

SECT. 10. *And be it enacted*, That the said State Treasurer shall, from time to time, account with a Committee of the General Assembly, and discharge himself of all monies which shall come to his hands in pursuance of his office aforesaid, by virtue of this act or otherwise, and shall be allowed commissions for the monies so received and duly accounted for, at the rate of Seven Shillings and Six-pence for every Hundred Pounds, and no more; and each County Treasurer, for his trouble in receiving and paying the monies, and performing the duties by this act required, shall have and receive at the rate of Ten Shillings for every Hundred Pounds, and no more; to be allowed to the said respective Treasurers at the settling of their accounts: And where any of the said Treasurers shall be removed from office, he shall deliver up to his successor all the books and papers relating to the public accounts of the said office, whole, entire and undefaced; and, upon the death of any of the said Treasurers, his executors or administrators shall deliver up in like manner all such books and papers to the succeeding Treasurer.

SECT. 11. *And be it enacted*, That all gifts, grants and sales, which shall be made by any delinquent Collector or Treasurer of their real estates, after the time they should have paid the monies arising from the said assessments, (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

The sum to be raised how disposed of.

SECT. 12. *And be it enacted*, That the said sum of Seven Thousand Eight Hundred and Seventy-five Pounds

Pounds shall be subject to the joint draughts of the Speakers of the Council and Assembly, made by order of their respective Houses, or the draughts of the President or Commander in Chief, for the time being, in the manner that shall be directed by joint resolutions of the Council and Assembly from time to time.

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SECT. 13. *And*, to prevent any doubts that may arise what species of gold and silver coin may be considered as lawful money of this state, *Be it enacted*, That the gold and silver coin as enumerated and specified in the said *Act for calling out of circulation and cancelling the quota of this state, according to the present apportionment, of all the bills of credit emitted by Congress; and for emitting and funding new bills, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes*, passed at New-Castle, the twelfth day of February last, being genuine and true coin, and of the weights therein mentioned, shall be and the same are hereby declared to be lawful money of the Delaware State. (a)

What species of gold and silver deemed lawful money.

Passed June 18, 1781.

C H A P. LXXVI. b.

An ACT for expediting the march of the recruits raised for the Delaware Regiment.—Obsolete.

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(a) Chap. 71, b. sect. 23.

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## C H A P. LXXXVII. b.

*A Supplementary ACT to the act, intituled, An act for calling out of circulation and cancelling the quota of this state, according to the present apportionment, of all the bills of credit emitted by Congress; and for emitting and funding new bills, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes.*

Preamble.

**W**HEREAS by the said act of Assembly, where-  
to this is intended as a supplement, certain  
persons therein named are appointed to settle the de-  
preciation of the pay accounts of all the officers and pri-  
vate men of the regiment of this state, in the service  
of the United States of America, from the first day of  
January in the year One Thousand Seven Hundred  
and Seventy-seven to the first day of August in the  
year One Thousand Seven Hundred and Eighty, and  
are thereby impowered, to frame an estimate in specie  
of all sums in Continental Money received by the  
said officers and private men on account of their pay  
within the period aforesaid, therein governing them-  
selves by the scale of depreciation formed by the Board  
of Treasury of the United States, in pursuance of an  
act of Congress, until the eighteenth day of March  
aforesaid in the year One Thousand Seven Hundred  
and Eighty, and from that day to the eighteenth day  
of January in this year to be ascertained by comput-  
ing a progressive rate of depreciation as mentioned  
in the said act, assuming the same on the eighteenth  
day of August last, to be as sixty of the said bills for  
One Spanish milled Dollar, and on the said eighteenth  
day of January as seventy-five of the former for one  
of the latter, (a)

SECTION 2. *And whereas* it appears to the General  
Assembly, that a more favourable scale of deprecia-  
tion hath been made in an adjacent state on the behalf  
of the officers and privates belonging to the same, em-  
ployed

(a) Chap. 71. b, sectr. 28, 33.

ployed in the like service, and the Assembly, willing to place the officers and privates of the regiment of this state upon an equality in this respect with those of the adjacent state, desire that it may be enacted,

SECT. 3. *And it is hereby enacted by the General Assembly of Delaware,* That the following scale of depreciation shall be the rule by which the Auditors of the pay accounts appointed, or to be appointed, in and by the act of Assembly whereto this is a supplement, shall be governed in the settlement of the same accounts :

One Thousand Seven Hundred and Seventy-seven.

January---One and an half.	July---Three.
February---One and an half.	August---Three.
March---Two.	September---Three.
April---Two and an half.	October---Three.
May---Two and an half.	November---Three.
June---Two and an half.	December---Four.

One Thousand Seven Hundred and Seventy-eight.

January---Four.	July---Four.
February---Five.	August---Five.
March---Five.	September---Five.
April---Six.	October---Five.
May---Five.	November---Six.
June---Four.	December---Six.

One Thousand Seven Hundred and Seventy-nine.

January---Eight.	August---Twenty.
February---Ten	September---Twenty-four.
March---Ten and an half.	October---Thirty.
April---Seventeen.	November---Thirty-eight
May---Twenty-four.	and-an half.
June---Twenty.	December---Forty-one and
July---Nineteen.	an half.

One Thousand Seven Hundred and Eighty.

January---Forty and an half.	May---Fifty-nine.
February---Forty-seven and an half.	June---Sixty-one and an half.
March---Sixty-one and an half.	July---Sixty-four and an half.
April---Sixty-one and an half.	

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See chap. 71. b.  
sect. 33.

SECT. 4. *And be it enacted*, That the said Auditors shall in like manner settle and adjust the accounts of all officers and private men of the regiment aforesaid who have fallen, or died in the service during the said period; and their widows and children shall be intitled to such certificates, and to all the benefits and advantages by the said recited act intended to the officers and private men now in the said regiment. (b)

*Passed June 18, 1781.*

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C H A P. LXXXVIII. b.

1781. *An ACT to dispose of sundry supplies collected in Suffes county for the Army of the United States.*

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C H A P. LXXIX. b.

1781. *An ACT for aiding the discontinuance of the process and proceedings in the Court of General Quarter Sessions of the Peace and Gaol Delivery in Kent county.*

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C H A P. LXXXI. b.

1781. *A Supplementary ACT, to an act, intituled, "An act to enable the owners and possessors of a certain tract of meadow, marsh, and cripple, on both sides of Mill Creek, below the town of New-Castle, to keep the banks, dams and sluices in repair, and to raise a fund to defray the expence thereof," passed on the twenty-fourth day of March, in the year of our Lord One Thousand Seven Hundred and Seventy.*

*Passed June 18, 1781—Private act.*

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(b) See also chap. 88. b, sect. 8.—and chap. 103. b. after, directing an allowance of interest.

## C H A P. LXXXII. b.

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An additional Supplementary ACT to the act, intituled,  
 "An act for establishing a militia within this state."---  
 Repealed by chap. 86. b. passed February 5, 1782.

## C H A P. LXXXIII. b.

An ACT for raising Twenty-three Thousand Six Hundred  
 and Twenty-five Pounds, in specie, for the service of the  
 year One Thousand Seven Hundred and Eighty-two.

1781.

**W**HEREAS Congress have called upon the Preamble:  
 United States for their respective quotas of  
 the supplies and monies necessary for supporting the  
 army of the said states, and for defraying other ex-  
 pences incurred in the prosecution of the present war :  
 And it is just and reasonable, that this state should  
 contribute its proportion of supplies and money, and  
 also make provision for defraying the expences that  
 have arisen, or may arise, within the same, in the pre-  
 sent and succeeding year ; *We*, the Representatives of  
 the Freemen of this state in Assembly met, taking into  
 our serious consideration the public necessities afore-  
 said, have agreed to give the sum of Twenty-three  
 Thousand Six Hundred and Twenty-five Pounds for  
 the uses aforesaid, to be raised by way of tax as here-  
 after mentioned, and desire that it may be enacted ;

SECTION 2. *And be it enacted by the General Assembly* 23,625l. to be raised in 1782.  
*of Delaware*, That the sum of Twenty-three Thousand  
 Six Hundred and Twenty-five Pounds, in gold or  
 silver coin, at the rates, regulations and values ascer-  
 tained by the act of Assembly passed the twelfth day  
 of February One Thousand Seven Hundred and Eighty-  
 one, shall be raised, levied, and paid into the  
 state treasury in three equal portions in the months  
 of March, June and October, in the year One Thou-  
 sand Seven Hundred and Eighty-two, and shall be  
 assessed and taxed in the several counties of this state  
 in the following proportions, *That is to say*; For the  
 county

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The proportion  
thereof for each  
county.

county of New-Castle the sum of Nine Thousand Pounds; For the county of Kent the sum of Seven Thousand Eight Hundred and Seventy-five Pounds; and for the county of Suffex the sum of Six Thousand Seven Hundred and Fifty Pounds.

SECT. 3. *And whereas* it appears to the General Assembly, That divers of the hundreds in the several counties of this state are so large that no one Assessor chosen therein hath, or can obtain, so competent a knowledge of the objects of taxation as may enable him to make a just and equal assessment; and that a division of such hundreds into two or more districts, and electing an additional Assessor therein will contribute to remedy the defect;

The Justices of  
the Peace to  
divide the hun-  
dreds into  
districts.

SECT. 4. *Be it therefore enacted*, That the Justices of the Peace, at the Court of Quarter Sessions and Gaol Delivery to be held in the present month of November for the counties of New-Castle and Kent, and the Justices of the Peace, at the Levy Court to be held in the same month for the county of Suffex, shall, and they are hereby required, to divide such and so many of the hundreds of their respective counties as they shall judge too large for the purpose aforesaid into two, three or four districts, according to their best discretion, ascertaining the limits of each district by waters, roads or established bounds; and also to nominate and appoint two freeholders in each of those districts in which the present Assessor doth not reside, to give notice and preside as Judges of the Election of a District Assessor as hereafter directed; of which nomination and appointment the said justices respectively shall direct immediate notice to be given to each of the said freeholders.

An Assessor to  
be elected in  
each district.

SECT. 5. *And be it enacted*, That the freeholders and others who are qualified to elect or be elected Members of Assembly in each of the districts so to be laid out as aforesaid, and in which the present Assessor doth not reside, shall meet on the respective days following, *to wit*, in the county of Suffex on the twenty-fourth day of this instant November, in the county of Kent on the same day of the same month, and in the county of New-Castle on the first day of December next, at some convenient place within their  
said

said respective districts, to be appointed by the said judges, or one of them, and the said electors shall, between the hours of one and four in the afternoon of the same day, during all which time the election shall be open, in the presence of the said judges, or one of them, proceed to choose by balloting one able and discreet freeholder residing within the same district, who may be supposed to be best acquainted with the estates and circumstances of the inhabitants, to be an Assessor for the year ensuing.

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SECT. 6. *And be it further enacted,* That the said two judges so to be appointed as aforesaid, or one of them, shall, at least five days before the said twenty-fourth day of November and first day of December, give notice of the time and place where such election shall be made, by affixing advertisements in three of the most public places in their district, upon pain of forfeiting Five Pounds: At which time and place the said two judges, or one of them, under the like penalty, shall attend to receive the votes of the electors, and officiate as Judge or Judges of the election; and as soon as the same is closed, they, or one of them, together with one of the electors then present, shall certify under their hands and seals the name of the person so chosen: And the said judges, or one of them, shall immediately give notice to the person so elected to be Assessor, that he may give his attendance at the next general meeting of the Assessors; and every Assessor, so chosen and notified, and also each of the present Assessors, shall serve in the said office under the penalty of Ten Pounds; but before he enters upon the duty thereof he shall take the qualifications prescribed to be taken by Assessors by the laws of this state. And the certificates aforesaid shall, within ten days after the said elections respectively, be returned into the office of the Clerk of the Peace of the county, by the said District Judges, or one of them, under the penalty of Five Pounds.

How such election shall be proceeded in.

SECT. 7. *And be it enacted,* That as well the Assessors so to be chosen as the present Assessors of the respective counties, shall, and they are hereby required, to meet together at their several county towns on the tenth day after the days before mentioned for the district

Assessments how to be made.

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Duplicates to be  
put up for public  
inspection.

Time for hold-  
ing Courts of  
Appeal.

Forfeitures how  
recoverable ;

their applica-  
tion.

Allowance to  
Assessors,

and District  
Judges.

trict elections in the respective counties of the state, and unite in rating and assessing the persons and estates there rateable, agreeable to the laws of this state now in force for raising county rates and levies, under the penalty of Ten Pounds each for neglect or refusal so to do; and after making such rates and assessments shall forthwith deliver the same to the Clerk of the Peace for each county, who, under the like penalty, shall respectively make out duplicates of the said assessments, together with notice of the day appointed for holding a Court of Appeal, and deliver such duplicates to the Sheriff of the county, who, under the like penalty, shall put up the same in the most public place in each district, at least ten days before the said court; at which court one or more of the Assessors out of each hundred in the county shall attend.

SECT. 8. *And*, to the end that the said Assessors, Clerks of the Peace and Sheriffs, may have sufficient time for the performance of the duties required of them in the foregoing section; *Be it enacted*, That the ensuing Courts of Appeal in the respective counties of this state shall be held on the fourteenth day of January next, any thing in the act of Assembly, intituled, *An act for raising county rates and levies*, to the contrary notwithstanding.

SECT. 9. *And be it enacted*, That all the penalties and forfeitures herein before mentioned shall be recovered in the name of the Delaware State, in any Court of Record within the state, by action of debt, bill or plaint, wherein no more than one imparlance shall be allowed, and the same shall be paid, one half to the Overseers of the Poor, for the time being, for the use of the poor of the hundred where such neglect or offence is committed, and the other half to him or them that will sue for the same.

SECT. 10. *And be it enacted*, That each of the said Assessors shall have their reasonable expences for their trouble herein, to be allowed by the Levy Court for their county respectively; and the respective District Judges aforesaid shall be allowed for the service required of them by this act Fifteen Shillings, and no more; which sum shall be discounted to them, or the one of them who may perform the whole service,

by

by the Collector of the hundred out of his or their county tax.

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SECT. 11. *And be it enacted,* That the assessments so to be made as herein before directed when rendered complete, by determining all appeals thereon, shall be taken and considered as the Pound-rate of each county of this state for the ensuing year, upon which all hundred and county taxes are to be assessed.

Assessments under this act to be the Pound-rate for the ensuing year.

SECT. 12. *And be it enacted,* That, for the better assessing, ordering, levying and collecting of the aforesaid sums of money in specie directed to be raised in the respective counties of this state, the Members of the said Courts of Appeal, or such of them as attend, are hereby authorized and required, at the time of holding the said courts in the counties aforesaid respectively, to ascertain the sum in the Pound, upon the whole rate of the county, according to the aforesaid assessment, necessary to raise the several sums aforesaid, clear of all charge of collection; and after, to divide each taxable's portion thereof into three equal parts for collection on the eighth days of the said months of March, June and October; And the said justices, or any two of them, shall thereupon issue their warrant, annexed to a duplicate of the said assessments certified by the Clerk of the Peace, to the Collector of each hundred, authorising and requiring him forthwith to demand and receive from the persons or estates rated in the said duplicate assessment list, the sum *per* Pound which shall have been ascertained as necessary to raise the several sums as aforesaid; and the said Collectors respectively, shall proceed without delay to collect, and (in case of neglect or refusal to pay by the respective days last aforesaid) to levy and recover the same in the manner as is directed by the act of Assembly, intitled, *An act for raising county rates and levies*: And that the said Clerks of the Peace shall within twenty days next after the days of appeal deliver to the Treasurer of the said respective counties a true account of the sum total, which every Collector shall be charged with pursuant to this act.

Courts of Appeal to ascertain the sum in the Pound to raise the proportions aforesaid.

SECT. 13. *And whereas* it may tend to the ease and

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First portion of  
the tax aforesaid  
may be paid in  
articles of sup-  
plies for the  
army.

convenience of the taxables of this state to have it in their power to discharge part of the aforesaid tax in articles of supply for the use of the Federal Army, *Be it enacted*, That every taxable within this state shall be, and he is hereby, permitted to pay the first portion of the sum on him or her to be assessed, in pursuance of this act, in good merchantable wheat flour, pork or beef, at the following prices, *to wit*; for one barrel of flour, containing two hundred and twenty-four pounds of flour, well packed in a good cask, fit for transportation, the sum of Thirty-seven Shillings and Six-pence; for one barrel of well-fatted pork, containing two hundred and twenty-five pounds of pork, with not more than two heads in one barrel, well salted and packed in a good tight cask fit for transportation, the sum of Three Pounds Fifteen Shillings; and for one barrel of good well-fatted beef, containing two hundred and twenty-five pounds of beef, well salted and packed in a good tight cask fit for transportation, the sum of Two Pounds Fifteen Shillings; to be delivered to such person, in each of the counties of this state, as the President or Commander in Chief shall appoint to receive the same, at the following place in each county, *That is to say*, In New-Castle county at Christiana Bridge, in Kent county at the Forest Landing, and in Sussex county at Osburn's Landing: *Provided*, The same be delivered on or before the eighth day of March next, and not to be received thereafter.

Receivers of  
supplies to exa-  
mine the same.

SECT. 14. *And be it enacted*, That each of the officers hereafter to be appointed in pursuance of this act, shall search and try every barrel of flour offered to him for delivery by boring the head and piercing it through with an instrument to be contrived for that purpose, in order to prove whether it be honestly and well packed, as also to enable him to judge of its goodness, and afterwards shall plug up the hole: And if any of the said officers suspect any barrel offered to him as aforesaid not to contain two hundred and twenty-four pounds of good merchantable flour, he shall unpack and repack the same, and if the barrel does not contain that quantity, the owner shall pay to the officer One Shilling and Six-pence for his trouble,

over

over and above the two *per centum* allowed him by this act: And each of the said officers shall search every barrel of beef and pork offered to him as aforesaid by opening, unpacking and repacking, in order to judge of the goodness and quantity of the meat according to the directions and the true intent and meaning of this act, and of the true package thereof, and if the barrel be found on such search deficient in any of the particulars aforesaid, the owner shall pay to the officer One Shilling and Six-pence for his trouble, over and above the two *per centum* aforesaid. And every barrel of flour, beef or pork, which shall be approved and received by any of the said officers, shall be marked on the quarter by him at least with the initial letters of his name and surname in a fair and distinguishable manner.

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SECT. 15. *And be it enacted*, That the said receivers shall give receipts for so much of the aforesaid articles as shall be delivered to them respectively; at the place aforesaid in each county, on or before the said eighth day of March, specifying the particular articles so delivered, on whose account the same were paid, and the value thereof at the prices aforesaid; which receipts the said taxables shall deliver and pass to the Collector for the hundred in which such taxable resides, in discharge of so much of the said first portion of the tax aforesaid as the articles so delivered amount to; whereupon the said Collector shall give such taxable a receipt for the same, and shall pass the said receiver's receipt to the Treasurer of his county in discharge of so much of his collection; and the said Treasurer shall in like manner pay over and be allowed for the same in the settlement of his accounts with the Treasurer of this state.

How supplies shall be passed to the credit of the taxables delivering the same, &c.

SECT. 16. *And be it enacted*, That the said receivers respectively shall cause to be fairly entered in books by them to be provided for that purpose, an account of the quantities of the aforesaid articles by them received, and shall make monthly returns to the President or Commander in Chief of the state.

Receivers to make monthly returns, &c.

SECT. 17. *And be it enacted*, That the said receivers respectively shall be allowed the sum of two *per centum* on the value of the articles by them so received, and

Their allowance.

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and also all such necessary expences as they may incur in procuring store-houses and transportation for the same, which shall be adjusted by the President, who shall draw for the same on the Treasurer of this state.

To give bond.

SECT. 18. *And be it enacted*, That the said receivers respectively, before they enter on the duties hereby enjoined them, shall give bond to the President in the name of the Delaware State in the sum of Two Thousand Pounds, in specie, with two sufficient sureties, for the faithful performance of the duties required of them by this act.

Supplies how to be disposed of.

SECT. 19. *And be it enacted*, That the articles of supplies aforesaid shall be delivered by the receiver in each county, upon the draught or order of the President or Commander in Chief of this state.

Provision for securing the payment of the tax in certain cases.

SECT. 20. *And whereas* some owners of lands may not reside in the county or district where such land lies, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on such land; *Be it therefore enacted*, That the tenant, or other person residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords or owners, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax: And in case the tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for; or for the tenant, or person having the care of the said lands, to recover the same from the owners, by action or suit in any court where the same may be cognizable, together with costs of suit: And all parents, guardians or tutors, making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts. *Provided*, That nothing in this act shall in any manner alter any contract made between any landlord and tenant, concerning the payment of taxes.

Collectors, after deducting their commissions, to pay the tax to the Treasurer, &c.

SECT. 21. *And be it enacted*, That the said Collectors respectively shall, on or before the twenty-first day of March next, pay to the Treasurer of their county  
one

one third part of the tax by this act to be raised; and shall, on or before the twenty-first day of June next, pay to the Treasurer of their county one other third part of the said tax; and shall, on or before the twenty-first day of October next, render a just and true account of, and pay unto the said Treasurer, the residue of the said tax, deducting Six-pence in the Pound for the trouble of collection; and that the said County Treasurers, within ten days after the said twenty-first days of March, June and October, shall pay over the monies by them so received to the Treasurer of this state.

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SECT. 22. *And be it enacted*, That the Collector of each hundred, on or before the eighth days of February, May, and September next, respectively, shall fix up in the most public places of his hundred, four advertisements written in a fair and legible hand, and signed by him, thereby calling on the taxables of such hundred to pay to him the several sums of money assessed on them as taxes by this act for raising one of the portions aforesaid, at some convenient place in his hundred on or before the days therein named; at which place the said Collector shall give four days due attendance, the days so to be named to be at least twenty days after the said eighth days of February, May, and September respectively; and shall also in such advertisements inform the said taxables, that if they neglect to pay to him the several sums of money so assessed, on or before the days so named for the payment thereof, the person so neglecting will be compelled to pay an additional tax of Three-pence in the Pound; and if any taxable, after such notice, shall not pay his share of such portion to the Collector on or before the days so named for the payment thereof, every person so neglecting shall pay to the Collector the additional tax of Three-pence in the Pound upon the sum so due from such taxable, which shall be levied and recovered by the said Collector for his own use, in the same manner as the said tax is herein directed to be levied and recovered.

Collectors how  
to proceed in  
the collection  
of the tax.

Defaulting tax-  
bles to pay an  
additional sum  
in the Pound.

SECT. 23. *And be it enacted*, That the several Collectors, and the Treasurers of the aforesaid counties respectively, shall each of them give bond in the name  
of

Each Collec-  
tor and Treas-  
urer to give  
bond.

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of the Delaware State, to the Clerk of the Peace of the county, on or before the twentieth day of February next, with such sureties as the same Clerk and one Justice of the Peace there shall approve of, *That is to say*, The several County Treasurers in the sum of Ten Thousand Pounds, in gold or silver coin, lawful money of the Delaware State, and the several Collectors in such sum as the said Justice and Clerk of the Peace shall direct, conditioned for the true and faithful performance and discharge of their duty respectively in the execution of this act; and in case of their, or any of their neglect or refusal so to do, any three Justices of the Peace of the county, either in or out of sessions, may and shall forthwith appoint others in his or their stead, who shall give security as aforesaid.

County Treasurers how to be proceeded against for neglect of duty.

SECT. 24. *And be it enacted*, That the State Treasurer shall and he is hereby impowered and required, to order and direct the County Treasurers respectively, so often as he shall think necessary, to lay before him the accounts of the sum total of the rates and assessments, and to pay the money that shall be in their hands by virtue of this act; And the said County Treasurers shall also adjust and settle their said accounts with a Committee of the Levy Court, or Court of Appeal, in the manner as by the said act for raising county rates and levies is directed; and if the said County Treasurers, or any of them, shall neglect or refuse to produce his or their said accounts, or to pay the money in his or their hands, or adjust and settle his or their accounts with a Committee of the Levy Court or Court of Appeal, according to the directions herein, the said State Treasurer shall and may proceed against such Treasurer so refusing, by way of action or suit, in the name of the Delaware State, in which there shall be but one imparlance, to recover the monies due to the state treasury from such delinquent, and the said Levy Court or Court of Appeal may remove him from the said office and appoint another in his stead: And if any Collector shall refuse or neglect to render a true and just account of, and pay unto the Treasurer of the county, the sums he may or ought to have levied, by virtue of this act, such County Treasurer shall proceed in like manner  
to

Collectors, how to be proceeded against for default.

to recover the monies unpaid by such delinquent Collector; and the said courts, or the Justices in their Court of Quarter Sessions after, may remove him from his office and appoint another in his stead.

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SECT. 25. *And be it enacted,* That the said State Treasurer, before the first day of March next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved by the President or Commander in Chief for the time being, in an obligation of the sum of Twenty-five Thousand Pounds in gold and silver coin, lawful money of the Delaware State, conditioned for the true observation of this act; and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death, or other incapacity, in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint another fit person to supply his place, who shall give security as aforesaid.

State Treasurer  
to give bond;

his place how  
supplied in case  
of delinquency;

SECT. 26. *And be it enacted,* That the said State Treasurer shall, from time to time, account with a Committee of the General Assembly, and discharge himself of all monies which shall come to his hands in pursuance of his office aforesaid, by virtue of this act, or otherwise, and shall be allowed commissions for the monies so received and duly accounted for, at the rate of Seven Shillings and Six-pence for every Hundred Pounds, and no more; and each County Treasurer, for his trouble in receiving and paying the monies and performing the duties by this act required, shall have and receive at the rate of Ten Shillings for every Hundred Pounds, and no more; to be allowed to the said respective Treasurers at the settling of their accounts: And where any of the said Treasurers shall be removed from office, he shall deliver up to his successor all the books and papers relating to the public accounts of the said office, whole, entire and undefaced; and, upon the death of any of the said Treasurers, his executors or administrators shall deliver up in like manner all such books and papers to the succeeding Treasurer.

shall account  
with the General  
Assembly;

His commis-  
sions.

County Treasurers,  
their  
allowance.

SECT. 27. *And be it enacted,* That all gifts, grants and

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Sales, &c. by  
delinquent Col-  
lectors or Trea-  
surers void, un-  
less, &c.The taxes when  
raised how to be  
applied.

and sales which shall be made by any delinquent Collector or Treasurer of their real estates, after the time they should have paid the monies arising from the said assessments (unless their remaining estates be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling of the same estates on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

SECT. 28. *And be it enacted,* That so much of the said sum of Twenty-three Thousand Six Hundred and Twenty-five Pounds as shall come into the treasury of this state, shall be subject to the joint draughts of the Speakers of the Council and Assembly, made by order of their respective Houses, or the draughts of the President or Commander in Chief, for the time being, in the manner herein before directed, or that shall be directed by joint resolutions of the Council and Assembly from time to time.

*Passed November 13, 1781.*

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1781.

*An ACT to vest in the Congress of the United States a power to levy duties of five per centum ad valorem, on certain goods and merchandizes imported into this state, and on prizes and prize-goods condemned in the Court of Admiralty thereof, and for appropriating the same.—Repealed after by chap. 104. b. passed June 21, 1783.*

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*An additional Supplementary ACT to the act, intituled, An act for calling out of circulation and cancelling the quota of this state, according to the present apportionment, of all the bills of credit emitted by Congress; and for emitting and funding new bills according to the resolutions of Congress, of the eighteenth day of March last, and for other purposes, passed, at New-Castle, on the twelfth day of February One Thousand Seven Hundred and Eighty-one.*

**W**HEREAS by the said recited act, to which this <sup>Preamble.</sup> is intended to be an additional supplement, it is directed, that the sum of Two Millions Two Hundred and Sixty-six Thousand Six Hundred and Sixty-six Dollars and Two-thirds of a Dollar, this state's computed quota of the bills of credit emitted by Congress, directed to be brought into the state treasury, shall not on any pretence be re-issued, but shall remain there to be destroyed. *And whereas* the mode provided and directed in the said act for the destruction of the said bills of credit, in the execution thereof will be attended with considerable expence and trouble: (a) In order therefore, to avoid the said expence and trouble, and to enable the Treasurer of this state to pay over to the Treasurer of the United States this state's quota of the said bills of credit,

SECTION 2. *BE it enacted by the General Assembly of Delaware,* That the Treasurer of this state be, and hereby is authorized and directed to pay over the aforesaid sum of Two Millions, Two Hundred and Sixty-six Thousand, Six Hundred and Sixty-six Dollars and Two-thirds of a dollar, so as aforesaid directed to be brought into the treasury of this state, or any part thereof, to the Treasurer of the United States, and to take a proper receipt or receipts for the same on behalf of this state, any thing in the said

The State Treasurer to pay over to the Continental Treasurer this state's quota of the bills emitted by Congress.

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recited

(a) See before in chap. 71. b. sects. 12, 13.

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recited act contained to the contrary notwithstanding.

SECT. 3. *And whereas* part of the taxes laid by the said recited acts still remains to be levied, but it is computed, that such sums in the bills of credit intended to be cancelled by the said act, have been levied by virtue thereof, as added to such other sums in the like bills as have been paid to Collectors for county rates and levies, and received by other persons on account of this state, will amount to the quota aforesaid, and therefore it would be useless and inexpedient to levy any further sums in the said bills :

None of the said bills to be received in payment of taxes, after the 20th Nov. 1781.

SECT. 4. *Be it therefore enacted*, That, from and after the twentieth day of this instant November, no Collector shall receive any of the bills aforesaid in payment of the taxes laid by the said act, or of county rates and levies, but in lieu thereof, shall, on or before the first day of January next, collect and levy all the sums of money still remaining due for the said taxes, or for county rates and levies, in lawful money of this state in the proportion of One Pound of the latter for Three Hundred Pounds of the former, (b) and shall have the same powers for collecting and levying the same respectively, in the manner herein directed, which they had for collecting and levying them respectively, by the laws of this state, at any time before the passing of this act, and shall be intitled to and receive their fees for such collection in the same proportion.

Collectors, and others, to pay the bills aforesaid, in their hands, to the County Treasurer :

SECT. 5. *And be it enacted*, That all Collectors and other persons who now have in their hands any of the bills aforesaid received by them on account of this state, shall, on or before the first day of December next, pay the same to the Treasurer of their county, and the Treasurer so receiving the same, shall, within ten days after such receipt, pay the same over to the State Treasurer.

SECT. 6. *And be it enacted*, That every Collector, or other person offering such bills in payment as aforesaid to the Treasurer of their county, shall, on his oath

(b) See after in chap. 97, b. further provision.

oath or solemn affirmation according to law, which the Treasurer to whom the same is offered is hereby impowered and required to administer, declare, that the bills so offered by him were actually received as taxes aforesaid, or on account of the state (as the case may be) on or before the twentieth day of this month of November; and without such oath or affirmation being taken, the said Treasurer shall not receive the bills so offered.

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But shall be first qualified that such bills were received on account of the state.

*Passed November 13, 1781.*

C H A P. LXXXVI. b.

*An ACT for establishing a militia within this state.—Revised, altered and supplid, in chap. 36. c. passed June 18, 1793, and in chap. 95. c. passed February 9, 1796.*

1782.

C H A P. LXXXVII. b.

*An ACT to remedy defects that have arisen in the execution of an act of Assembly, intituled, "An act for embodying a number of the militia of this state, for the purpose of reinforcing the Army of the United States."—Obsolete.*

1782.

C H A P. LXXXVIII. b.

*An ACT for ascertaining the depreciation of the pay accounts of divers persons in the several departments of the army, who are credited to this state as part of the quota of the land forces thereof, and for other purposes.*

1782.

**W**HEREAS the honorable the Congress of the Preamble,  
United States, did, on the thirteenth day of  
June, One Thousand Seven Hundred and Eighty-  
one, by their resolution, recommend it to the sever-  
ral

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ral states to which the officers of the hospital and medical department then in service did belong, or of which they are or were inhabitants, to settle the accounts of the said officers for depreciation on the principles established by the resolutions of Congress of the tenth day of April, One Thousand Seven Hundred and Eighty, and to make provision for paying the balances which may be found due, in the same manner with officers of the line; *And whereas* such settlement and provision has not yet been made by this state for James Tilton and Henry Latimer, officers in said department and inhabitants of this state now in service;

Depreciation of  
the pay accounts  
of the officers in  
the hospital and  
medical depart-  
ments to be ad-  
justed;

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware,* That the Commissioners appointed by an act of the General Assembly of this state, intituled, *An act for calling out of circulation and cancelling the quota of this state, according to the present apportionment, of all the bills of credit emitted by Congress; and for emitting and funding new bills, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes,* (a) and the Commissioner herein after appointed for that purpose, be and hereby is empowered and directed to settle and adjust the accounts of the said James Tilton and Henry Latimer, for depreciation of their pay, in the same manner, and on the same principles as by the said act they are directed to settle the accounts of the officers and men of the Delaware Regiment, and to give the like certificates for the balances which may be found due to the said James Tilton and Henry Latimer.

SECT. 3. *And whereas* Congress, by their resolution of the sixteenth day of December, One Thousand Seven Hundred and Seventy-eight, annexed Captain Allen M'Lane, his subalterns and men, raised in the Delaware State, to the Delaware Regiment, and the General Assembly of the state in pursuance thereof, and of the directions of his Excellency the Commander in Chief of the army, on the first day of June, One Thousand Seven Hundred and Seventy-nine,

(a) Chap. 71. b. sect. 33.

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nine, did resolve, that Captain M<sup>c</sup>Lane, his officers and the non-commissioned officers and privates of his company be annexed to the battalion or regiment of this state, agreeable to the resolution of Congress, and the directions of the Commander in Chief of the army aforesaid, and that they be allowed the same pay, emoluments and advantages with the other officers and men belonging to the said regiment, and be in all respects considered as part of the same corps; notwithstanding which acts and resolutions no such annexation took place, but the said Allen M<sup>c</sup>Lane, by the subsequent appointment of the Commander in Chief of the army, was attached to Major Lee's partizan legion, and upon the new arrangement of the army in February last, retired upon half pay for life; nevertheless it is deemed just and reasonable, that an allowance for depreciation of pay should be made to the said Allen M<sup>c</sup>Lane, and such of his company who were credited to this state in its quota of land forces;

SECT. 4. *Be it therefore enacted*, That the Commissioners appointed by the before mentioned act of Assembly, and the Commissioner herein after appointed, be, and they are hereby empowered to settle the accounts for the depreciation of the pay of the said Allen M<sup>c</sup>Lane, and such of his company as are credited to this state as aforesaid, in the same manner as they are by the said act directed to settle the accounts of the officers and men of the Delaware Regiment, and on such settlement to issue the like certificates for the balances which may be found due to them respectively.

and also the pay accounts of Captain M<sup>c</sup>Lane, his subalterns and privates,

SECT. 5. *And be it enacted*, That the said Commissioners be and hereby are directed, to settle the accounts of depreciation of the pay of all other officers and men in the army and service of the United States of America, who are credited to this state in their quota of land forces, in the manner aforesaid, and to issue certificates as aforesaid, for the balances which may be found due to them respectively.

and all other persons in the army, who are credited to this state, as part of its quota.

SECT. 6. *And whereas* it appears to the General Assembly, that Thomas Montgomery, one of the Auditors named in the before mentioned act of Assembly, (b) to settle the depreciation of the pay accounts aforesaid,

William Killen, esq. appointed a Commissioner.

(b) To wit, Chap. 71. b. sect. 33.

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aforesaid, hath declined that service; *Be it enacted*, That William Killen, of Kent county, esquire, be and he is hereby appointed an Auditor in the place and stead of the said Thomas Montgomery, who is hereby discharged from that duty, and the said William Killen shall have the like powers, take the same qualifications, and be intitled to a portion of the reward in the said act prescribed for the Auditors therein named.

SECT. 7. *And whereas* no provision is made in the said act of Assembly for the payment of interest on the certificates to be given to the officers, non-commissioned officers and soldiers belonging to the regiment of this state, and such other officers, non-commissioned and soldiers as are credited to the same in its quota of land forces, for the balances that shall appear to be due to them respectively on the settlement of the depreciation of their pay, and it is deemed just and reasonable that interest should be paid therefor;

Certificates to  
bear interest  
from 1st March,  
1782.

SECT. 8. *Be it therefore enacted*, That the certificates to be given to the officers, non-commissioned officers and soldiers belonging to the regiment of this state, and such other officers, non-commissioned officers and soldiers as are credited to the same in its quota of land forces, on account of the depreciation of their pay, shall bear an annual interest of six per centum, for the sum due thereon, from the first day of March next, until the same be fully and finally discharged. (c)

Passed Feb. 5, 1782.

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(c) See after in chap. 103, b. passed June 21, 1783, that the certificates given to the officers of the hospital and medical departments, and to the officers, non-commissioned officers and soldiers belonging to the regiment of this state, and such others as are credited to the same in its quota of land forces, not then assigned or transferred by such officers, &c. are to bear a like interest from the first day of August, 1786.

## C H A P. LXXXIX. b.

C H A P.  
LXXXIX.

1782.

*A Supplement to the ACT, intituled, An act for regulating and establishing fees.*

**W**HEREAS by the act to which this is a <sup>Preamble.</sup> supplement, it is provided, That each and every Auditor, appointed by the consent of parties under a rule of court, before signing an award or report, shall be duly sworn or affirmed by some judge of the court, faithfully and impartially to determine the matters in controversy, according to the best of his skill and judgment, who is to certify the same on the said rule of court *ex officio.* (a) *And whereas*, since the passing of the same act, the number of Judges in the Courts of Common Law within this state, have been lessened, whereby the attendance of Auditors on a judge of the court where such rule may be made is, in many instances, become burthenfome; For remedy whereof,

*BE it enacted by the General Assembly of Delaware,* That any one Justice of the Peace, in the respective counties of this state, or Burgesses of the borough of Wilmington, is hereby authorized and required, upon application, to administer the oath or affirmation as above recited, and in the said act prescribed, to be taken by Auditors appointed as aforesaid, and afterwards to certify such oath or affirmation on the rule of court *ex officio*, any thing in the said act, to which this is a supplement, to the contrary notwithstanding.

*Passed February 5, 1782.*

## C H A P. XC. b.

*An ACT for increasing the powers of the Justices of the Supreme Court, and for other purposes.*—Supplied in art. 6. of the constitution of this state of June, 1792, in chap. 8. c. passed February 2, 1793, and in chap. 19. c. passed June 19, 1793.

1782.

C H A P.

(a) See chap. 204. 2. sect. 31.

C H A P.  
XCI.

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C H A P. XCI. b.

*An ACT for more effectually punishing and discouraging offences committed in taking vessels out of the harbours of this state.*

**F**OR more effectually punishing and discouraging offences committed in taking vessels out of the harbours of this state,

SECTION 1. *BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That if any person or persons shall hereafter forcibly, fraudulently or secretly take, carry away or remove out of this state, or shall attempt so to take, carry away or remove out of this state, any ship or vessel from any harbour, port, river, creek, or sound within this state, on any pretence whatsoever, or shall aid or assist any person or persons in committing such offence, the person or persons so offending may be indicted and tried in the same manner as is usual in case of offences committed on land, in the Court of General Quarter Sessions of the county next adjoining to the water where such offence shall be committed, or, where such water runs between two counties, then in the Court of General Quarter Sessions for either of the said counties, and being thereof convicted in such court, shall forfeit and pay to the owner or owners of such ship or vessel and cargo the full value thereof, restore the same, if taken away, to such owner or owners, and shall pay a fine not exceeding Five Hundred Pounds lawful money of this state to the Treasurer thereof, towards the support of government.

SECT. 2. *And be it further enacted,* That the value of such ship or vessel and cargo shall be assessed by the jury who pass upon the trial of such offender or offenders, and in case of confession, by a jury to be impanelled, by order of the court where such indictment shall be found, for that purpose, which such court is hereby authorized fully and effectually to cause to be done.

*Passed February 5, 1782.*

CHAP.

## C H A P. XCII. b.

C H A P.  
XCII.  
1782.

*An ACT for the protection of the trade of this state on the River and Bay of Delaware. (a)—Obsolete.*

(a) A supplementary act hereto, chap. 98. b.

## C H A P. XCIII. b.

*An ACT for aiding and more effectually carrying into execution certain acts of Congress of the twentieth and twenty-seventh days of February last past.—Obsolete.*

1782.

## C H A P. XCIV. b.

*An ACT to prevent the sales of lands, goods and chattels, by virtue of executions, in certain cases, for a limited time, and for other purposes.—Expired.*

1784.

## C H A P. XCV. b.

*An ACT for the discharging of the half pay to the widows or children of the officers of the Delaware Regiment, who have died or may die in the service of the Continent.*

1783.

**W**HEREAS Congress, on the twenty-fourth day of August, One Thousand Seven Hundred and Eighty, have directed, that their resolution of the fifteenth day of May, One Thousand Seven Hundred and Seventy-eight, granting half-pay for seven years to the officers of the army who should continue in service to the end of the war, be extended to the widows of those officers who have died or shall hereafter die in the service, to commence from the time of such officers death and continue for the term of seven years, or if there be no widow, or in case of her

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death

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death or intermarriage, the said half pay to be given to the orphan children of the officer dying as aforesaid, if he shall have left any. *And whereas* Congress, by their said resolution of the twenty-fourth day of August aforesaid, have recommended to the Legislatures of the respective states to which such officers belong, to make provision for paying the same on account of the United States;

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That the half pay allowed by Congress to the widows or children of the officers of the Delaware Regiment who have died or may die in the service of the Continent, shall be paid to such widows or orphan children by this state on account of the United States, agreeable to the said resolutions. (a)

SECT. 2. *And be it further enacted,* That the State Treasurer for the time being be, and he is hereby empowered and directed to pay out of the public monies which have or may come into his hands as State Treasurer, all the half pay which by virtue of the resolutions aforesaid, is now due or may become due to any widow or orphan child or children of any officer belonging to the Delaware Regiment who hath died in the service of the Continent, or may hereafter die in such service, upon the widow or guardian of such child or children producing a proper certificate from the commanding officer, or one of the field officers of the regiment, of the rank such officer held at the time of his death, and the time when such officer died, and also upon such widow's making oath or affirmation before any Justice of the Peace of this state, that the officer so deceased was her lawful husband; which sums so paid by the State Treasurer are by him to be charged against the Continent and deducted out of the monies heretofore raised or to be raised within this state for the use of the Continent, and the same shall be allowed the State Treasurer on the settlement of his accounts with the General Assembly, or their Committee for that purpose to be appointed.

*Passed February 8, 1783.*

CHAP.

(a) See chap. 103. b. sect. 3, interest allowed on this half pay from the time the same became due.

## C H A P . X C V I . b .

C H A P .  
X C V I .

1783.

*An ACT for preventing and punishing the counterfeiting of the common seal, bank bills and bank notes of the President, Directors and Company, of the Bank of North America, and for other purposes therein mentioned.*

**W**HEREAS it is necessary to take effectual measures for preventing and punishing frauds and cheats which may be put upon the President, Directors and Company of the Bank of North America, by altering, forging or counterfeiting the common seal, and the bank bills and bank notes of the said President, Directors and Company; (a)

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware, That if any person or persons shall forge, counterfeit or alter the common seal of the said President, Directors and Company, or any bank bill or note, made or given out, or to be made or given out, for the payment of any sum of money by or for the said President, Directors and Company, or shall tender in payment, utter, vend, exchange or barter any such forged, counterfeited or altered bill or note, or shall demand to have the same exchanged for ready money by the said President, Directors and Company, or any other person or persons (knowing such bill or note so tendered, uttered, vended, exchanged or bartered, or demanded so to be exchanged, to be forged, counterfeited or altered) with intent to defraud the said President, Directors and Company, or any other person or persons, bodies politic or corporate, then every such person or persons so offending, and being thereof convicted in due form of law, shall be whipped at the public whipping-post of the county on his or her bare back with thirty-nine lashes well laid on, and be set in the pillory for one hour, and have the soft parts of his or her ears cut off, and shall also restore to the party defrauded, or attempted to be defrauded, double the amount of such bill or note so forged,*

(a) See after an act to incorporate this Company, passed February 2, 1786. chap. 129. b.

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forged, counterfeited, altered, tendered in payment, uttered or vended, exchanged, barteted or intended so to be.

SECT. 2. *And be it enacted*, That if any President, Director, or any officer or servant of the said President, Directors and Company being entrusted with any such bill or note, or any bond, deed, money or other effects belonging to the said President, Directors and Company, or having any such bill or note, or any bond, deed, money or other effects, lodged or deposited with the said President, Directors and Company, or with such officers or servant, as an officer or servant of the said President, Directors and Company, shall secrete, embezzle, or run away with any such bill, note, bond, deed, money or other effects, or any part of them, every President, Director, officer or servant so offending, and being thereof convicted in due form of law, shall be whipped at the public whipping-post of the county on his or her bare back with thirty-nine lashes well laid on, and be set in the pillory for one hour, and have the soft parts of his or her ears cut off, and shall also restore to the party defrauded double the amount of such bill, note, bond, deed, money or other effects so secreted or embezzled.

*Passed February 8, 1783.*

C H A P. XCVII. b.

1783.

*An ACT for the levying and collecting divers sums of money remaining due for taxes in Continental bills of credit herein mentioned, and for other purposes.*

**W**HEREAS it appears, that considerable balances of taxes directed by law to be raised within this state in Continental bills of credit, in the years One Thousand Seven Hundred and Seventy-eight, One Thousand Seven Hundred and Seventy-nine, and One Thousand Seven Hundred and Eighty, are yet due and uncollected: *And whereas* the said bills of credit have been called out of circulation, and this state hath paid to Congress their computed quota of all the said bills, for the purpose of sinking and destroying

destroying the same; whereby it is become inexpedient and useless to levy the said balances in such bills;

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That from and after the passing of this act, no Collector of the said taxes shall receive any of the bills aforesaid in payment of the taxes laid by law for the use of the Continent, or of this state; but in lieu thereof shall immediately proceed to collect and levy all such sums still remaining due, in lawful money of this state, at the rate or value thereof, at the end or expiration of one month after the same were made payable, the value thereof to be estimated by the table or scale of depreciation adopted by this state for settling and adjusting debts and contracts within the same, (a) and shall have the same powers for levying and collecting the same respectively, in the manner herein directed, which they had for collecting and levying them respectively by the laws of this state at any time before the passing of this act, and shall be intitled to and receive their fees for such collection in the same proportion.

SECT. 2. *And be it enacted,* That the several Collectors shall pay over to the Treasurer of their county respectively, or the person who was then their Treasurer, the sums of money so levied and collected by virtue of this act in lawful money aforesaid, on or before the twenty-fifth day of April next, in discharge of the obligations given by such Collectors under the laws aforesaid; and the monies so paid shall be subject to the joint draughts of the Speakers of the Council and Assembly, made by order of their respective Houses.

*Passed February 8, 1783.*

C H A P. XCVIII. b.

*A Supplementary ACT to the act, intitled, "An act for the protection of the trade of this state on the River and Bay of Delaware." (b)—Obsolete.*

CHAP.

(a) See before in chap. 85. b. sect. 4.—as also chap. 71. b. sect. 28.

(b) See before chap. 92. b.

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XCIX.

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C H A P. XCIX. b.

*An ACT for raising Twenty-two Thousand Five Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-three.*

Preamble.

**W**HEREAS Congress, by their resolution of the sixteenth day of October last, have called upon the United States for their respective quotas of Two Millions of Dollars, for the service of the year One Thousand Seven Hundred and Eighty-three, of which sum this state's computed quota is Twenty-eight Thousand Dollars: *And whereas* there are divers sums of money due to inhabitants of this state for supplies furnished for the Army of the United States, for money borrowed on the credit of this state, and for public service performed, to be paid by this state in the first instance, the payment whereof hath hitherto been delayed: *All* which several sums herein before mentioned, together with the necessary expences that have arisen or may arise, within this state for the service thereof within the present year, and the interest on the certificates given to the officers and soldiers of the Delaware Regiment, it is computed, will amount to Twenty-two Thousand Five Hundred Pounds; *We* the Representatives of the Freemen of this state in Assembly met, taking into our serious consideration, the necessity of complying with the above requisition of Congress, and also of discharging the aforesaid debts, and making provision for defraying the expences that have arisen, or may arise, within this state for the service thereof for the present year, have agreed to give the sum of Twenty-two Thousand Five Hundred Pounds for the uses aforesaid, and desire that it may be enacted;

22,500l. to be  
raised for 1783.

SECT. 2. *And be it enacted by the General Assembly of Delaware,* That the sum of Twenty-two Thousand Five Hundred Pounds, of gold and silver coin, lawful money of the Delaware State, shall be raised, levied and paid into the state treasury for the purposes aforesaid within the time herein after directed, and shall be assessed and taxed in the several counties of this state

state in the following proportions, *That is to say*; For the county of New-Castle the sum of Eight Thousand Five Hundred and Seventy-one Pounds, Eight Shillings and Eight-pence; For the county of Kent the sum of Seven Thousand Five Hundred Pounds; and, for the county of Suffex the remaining sum of Six Thousand Four Hundred and Twenty-eight Pounds, Eleven Shillings and Four-pence.

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Each county's proportion thereof.

SECT. 3. *And be it enacted*, That for the better assessing, ordering, levying and collecting the aforesaid several sums of money in the several counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court, on or before the nineteenth day of August next, in the counties aforesaid respectively, at the places in the said counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised and levied in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrant to the Collectors of each hundred, annexed to a duplicate of the said assessment, certified by the Clerk of the Peace, authorising and requiring him forthwith to demand and receive from the persons rated in his assessment list the sum *per* Pound which they shall ascertain as necessary to raise the several sums as aforesaid: *And* the said Collectors respectively, shall proceed without delay to collect, and (in case of neglect or refusal to pay) to levy and recover the same in the manner directed by the act of Assembly, intituled, *An act for raising county rates and levies*; and the said Clerks of the Peace shall, within ten days next after the day of holding the Special Court aforesaid, deliver to the Treasurers of the said respective counties a true account of the sum total which every Collector shall be charged with pursuant to this act.

A Special Court to be held to ascertain the sum on the Pound-rate.

Collectors, how to proceed in case of refusal to pay.

SECT. 4. *And whereas* some owners of lands may not reside in the same county where such lands lie,

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Provision for  
securing the  
payment of the  
tax, in certain  
cases.

or may be under the age of twenty-one years, where by it may be difficult to recover or collect the tax assessed on the said land, *Be it therefore enacted*, That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax: And in case the tenant, or persons having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant, to deduct the tax so paid out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owners by an action or suit in any court where the same shall be cognizable, together with costs of suit; and all parents, guardians, or tutors making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts. *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

Where no effects to distrain upon for tax, part of the land, or of the timber or grass thereon, to be sold.

SECT. 5. *And be it enacted*, That in all cases where the Collector can find no effects on the land belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same if distrained, and the rate cannot be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for the same county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, to be sold at auction, as may be necessary to pay the assessment.

Collectors to pay the tax to the County Treasurers.

SECT. 6. *And be it enacted*, That the said Collectors respectively, shall, on or before the first day of December next, pay to the Treasurer of their county at least one moiety or half of the tax by this act to be raised; and shall on or before the first day of March next render a just and true account of, and pay unto the said Treasurer, the residue of the said tax, and all and every the sum and sums of money they may  
or

or ought to have levied by virtue of this act, deducting Six-pence in the Pound for the trouble of collecting; and that the said County Treasurer shall, within twenty days after the said first days of December and March, pay over the money by him so received into the state-treasury:

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Who shall pay the same into the state treasury.

SECT. 7: *And be it enacted,* That the sum of Twenty-eight Thousand Dollars, part of the sum of Twenty-two Thousand Five Hundred Pounds, to be raised by this act, shall, on the receipt thereof, be paid over by the State Treasurer to the orders of Congress, or the Superintendent of Finance, taking proper receipts therefor; and the remaining part of the said Twenty-two Thousand Five Hundred Pounds, shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President or Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, agreeable to the laws of this state:

The taxes wher raised how to be applied.

SECT. 8: *And be it enacted,* That the several Collectors and the Treasurers of the aforesaid counties respectively shall, each of them, give bond in the name of the Delaware State, to the Justices of the Peace, on or before the second day of the Court of Quarter Sessions to be held in November next, with such sureties as they shall approve of; *That is to say,* The several County Treasurers in the sum of Eight Thousand Pounds; and the several Collectors in such sum as the said justices shall direct, conditioned for the true and faithful performance and discharge of their duty respectively in the execution of this act: And in case of their, or any of their neglect or refusal so to do, the said justices, or any three of them, shall forthwith appoint others in his or their stead, who shall give security as aforesaid:

Collectors and County Treasurers to give bond;

and for refusal shall be removed.

SECT. 9: *And be it further enacted,* That the State Treasurer shall and he is hereby impowered and required to call upon the County Treasurers respectively, so often as he shall think necessary, after the said first days of December and March next, to pay over to him the monies that shall be in their hands by virtue of this act: And each County Treasurer

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County Treasurers to account with the Auditor, &c.

How to be proceeded against in case of delinquency.

State Treasurer to settle annually with the Auditor.

shall once in every six months, certify into the Auditors Office at Dover an account of all the monies which he may then have received from the Collectors of hundreds in his county, specifying the sum received of each Collector with the name of the Collector annexed thereto, and the time of such his receipts: And each County Treasurer shall adjust and settle his account of the sum of his county, directed to be raised by this act, with the said Auditor in the manner as by the *Act for the auditing and arranging the accounts of this state, and for the more effectual settlement of the same*, it is prescribed; and if the said County Treasurers, or any of them, shall neglect or refuse to certify to, and account with the Auditor as aforesaid, or to pay the monies in his or their hands to the State Treasurer, according to the directions of this act, the said Auditor or State Treasurer, as the case may be, may and shall proceed against such Treasurer so refusing or neglecting, by way of action or suit, in the name of the Delaware State, for the non-performance of the duties required of such delinquent Treasurer by this act. And if any Collector shall refuse or neglect to render a just and true account of, and pay unto the Treasurer of the county, the sums of money he may or ought to have levied by virtue of this act, such County Treasurer shall proceed in like manner to recover the monies unpaid by such delinquent Collector.

SECT. 10. *And be it enacted*, That the said State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact state, as well of all the monies by him received, with the names of the persons by whom paid, and time of payment, as of the monies by him paid, to whom, on what account or order, and the time when; and the said State Treasurer, at the expiration of each and every year, shall appear in the said Auditor's Office, and then and there lay a general account, stating all his transactions for the year, before the Auditor, who shall forthwith proceed to adjust the said account; and the said State Treasurer shall discharge himself of all monies which shall come to his hands in pursuance of his office aforesaid by virtue of this act, or otherwise,

wife, and shall be allowed commissions for the monies so received and duly accounted for, at the rate of Seven Shillings and Six-pence for every Hundred Pounds, and no more. And where any State Treasurer shall be removed from office, he shall deliver up to his successor all the books and papers relating to the public accounts of the said office, whole, entire and undefaced; and upon the death of any State Treasurer, his executors or administrators shall deliver up in like manner all such books and papers to the succeeding Treasurer.

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His commiss-  
ions.

SECT. 11. *And be it enacted*, That all gifts, grants, and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessments (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing, and selling the same estates, on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

Sales, &c. by  
delinquent Col-  
lectors or Treas-  
urers void, un-  
less, &c.

SECT. 12. *And be it enacted*, That the said State Treasurer, before the first day of November next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Twenty-five Thousand Pounds, conditioned for the true observation of this act, and the duty which to the said office doth appertain: And in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy-Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

State Treasurer  
to give bond;

his place how  
supplied in case  
of delinquency,  
&c.

SECT. 13. *And be it enacted*, That each County Treasurer for his trouble in receiving and paying the monies, and performing the duties by this act required, shall have and receive Ten Shillings for every Hundred Pounds, and no more.

County Treas-  
urer his com-  
missions.

SECT. 14. *And be it enacted*, That if any of the days appointed

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appointed by this act for the performance of any the duties hereby required, shall happen to be a Sunday, then such duties shall be performed on the day following.

SECT. 15. *Whereas* it appears that sundry Collectors of the state tax directed to be raised for the service of the year Seventeen Hundred and Eighty-two, have, through their indulgence, omitted to execute for the taxes within the time limited by law; and this General Assembly being willing to give the same summary mode to the said Collectors, to collect the arrearages of taxes, as they could have had under the law for the raising of Twenty-three Thousand Six Hundred and Twenty-five Pounds in specie in the year aforesaid.

Summary mode  
for collecting  
the arrearages  
of taxes extend-  
ed.

SECT. 16. *Be it therefore enacted*, That the Collectors of the said state tax be empowered to collect all arrearages and balances due them of the public taxes, by execution or otherwise, between the time of passing this act and the thirteenth day of November next, in as full and ample a manner as they heretofore could have done, had the same been done in the time limited by law.

*Passed, June 21, 1783.*

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N. B. From a mistake in the enumeration, there is no chap. numbered 100. b.

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C H A P. C I. b.

1783.

*An ACT for repealing part of an act, intitled, "An act for ascertaining the allowance to Members of the General Assembly, and for other purposes," passed at New-Castle, the twelfth day of February One Thousand Seven Hundred and Eighty-one.---In chap. 73. b. see the note there.*

CHAP.

## C H A P. CII. b.

C H A P.  
CII.

1783.

*An ACT to authorise the Delegates of the Delaware State to subscribe and ratify the alteration of part of the eighth article of the confederation and perpetual union between the United States of America, as agreed to in Congress on the eighteenth day of April last.*

**W**HEREAS the United States, in Congress assembled, on the eighteenth day of April One Thousand Seven Hundred and Eighty-three, as a more convenient and certain rule of ascertaining the proportions, to be supplied by the states respectively, to the common treasury, agreed to the following alteration in the articles of confederation and perpetual union between the said states, and advised the several states to authorise their respective delegates to subscribe and ratify the same, as part of the said instrument of union, in the words following, *to wit*, So much of the eighth of the articles of confederation and perpetual union between the Thirteen States of America as is contained in the words following, *to wit*, *All charges of war, and all other expences that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state granted to, or surveyed for, any person, as such land and the buildings and improvements thereon, shall be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint*, is hereby revoked and made void; and in place thereof it is declared and concluded, the same having been agreed to in a Congress of the United States, *That all charges of war and all other expences that have been, or shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, except so far as shall be otherwise provided for, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition, including those bound to servitude for a term*

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*a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes, in each state; which number shall be triennially taken and transmitted to the United States in Congress assembled, in such mode as they shall direct and appoint.*

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, That the Delegates from this state to Congress for the time being, or any two or more of them, be and they are hereby authorised, empowered and directed to subscribe and ratify the said eighth article of the confederation so as aforesaid altered and agreed to by the act of Congress before recited, as part of the said instrument of union, on the behalf of this state.*

SECT. 3. *And be it further enacted, That the said article of confederation and perpetual union, so as aforesaid altered, subscribed and ratified, shall thenceforth become obligatory on this state, any thing in the act, intituled, An act to authorise and impower the Delegates of the Delaware State to subscribe and ratify the articles of confederation and perpetual union between the several states, passed at Dover on the first day of February in the year One Thousand Seven Hundred and Seventy-nine, to the contrary in anywise notwithstanding.*

*Passed June 21, 1783.*

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C H A P. CIII. b.

1783.

*A Supplement to an act, intituled, An act for ascertaining the depreciation of the pay-accounts of divers persons in the several departments of the army, who are credited to this state as part of the quota of the land forces thereof; and for other purposes.*

Preamble.

**W**HEREAS by the act of the General Assembly, to which this is a supplement, passed at Dover the fifth day of February One Thousand Seven Hundred and Eighty-two, (a) it is declared that the certificates to be given to the officers of the hospital and medical departments, and to the officers,  
non-

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non-commissioned officers, and soldiers belonging to the regiment of this state, and such other officers, non-commissioned officers and soldiers as are credited to the same, in its quota of land forces, on account of the depreciation of their pay, should bear an annual interest of six *per centum*, for the sum due thereon, from the first day of March then next, until the same was fully and finally discharged: *And whereas* it appears from sundry certificates produced to the General Assembly, by the officers of this state, given by other states to their officers; that the interest money arising on the depreciation of their pay, commences at an earlier period, *to wit*; from the first day of August One Thousand Seven Hundred and Eighty: And it appearing just and reasonable, that the officers of the hospital and medical departments, and the officers, non-commissioned officers and soldiers belonging to the regiment of this state, and such other officers, non-commissioned officers, and soldiers as are credited to the same in its quota of land forces, should be put on the same footing with the officers, non-commissioned officers and soldiers of the other states, with respect to the interest arising on the depreciation of their pay;

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware*, That the certificates given to the officers of the hospital and medical departments, and to the officers, non-commissioned officers and soldiers belonging to the regiment of this state, and such other officers, non-commissioned officers and soldiers as are credited to the same, in its quota of land forces, on account of the depreciation of their pay, and which were not assigned or transferred by such officers, non-commissioned officers and soldiers before the passing of this act, shall bear an annual interest of six *per centum* for the sum due thereon, from the first day of August One Thousand Seven Hundred and Eighty, any thing in the said act, to which this is a supplement, to the contrary thereof in anywise notwithstanding.

Certificates to  
bear interest  
from August 1,  
1780.

SECT. 3. *And be it further enacted*, That the half pay to the widows, child or children of the officers

Interest allowed  
on half pay, to  
officers widows.

of

(a) See chap. 88, b, sect. 3.

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of the Delaware Regiment, who have died or may die in the service of the Continent, as provided for by the act of the General Assembly of this state, intituled, *An act for the discharging the half pay to the widows, or children, of the officers of the Delaware Regiment who have died, or may die, in the service of the Continent*, passed at Dover the fifth day of February last past, (b) shall bear an annual interest of six per centum thereon from the time the same became due, and such interest shall be paid by the State Treasurer, together with the principal sum of the half pay, to such widows, child or children, in the manner as by the said last recited act is directed, any thing therein contained to the contrary thereof in anywise notwithstanding.

Passed June 21, 1783.

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C H A P. CIV. b.

1783.

*An ACT for the repeal of part of an act, intituled, "An act to prevent the sales of lands, goods and chattels, by virtue of executions, in certain cases, for a limited time; and for other purposes."*

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C H A P. CV. b.

1783.

*An ACT to invest the Congress of the United States with the power to levy duties upon all goods, wares and merchandise imported into this state, from beyond the seas, for a limited time; and to establish a fund for the payment of interest arising on the public debt.—This act not to have effect until similar laws be passed in all the states, which did not happen.—And so obsolete.*

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(b) See before, chap. 95, b.

C H A P. CVI. b.

CHAP.  
CVI.

1783.

An ACT for the auditing and arranging the accounts of this state, and for the more effectual settlement of the same.—Temporary and after continued, by chap. 142. b. passed October 28, 1786, and re-enacted in chap. 143. b. with amendments.

C H A P. CVII. b.

1784.

An ACT for raising Twenty-three Thousand Six Hundred and Twenty-five Pounds for the service of the year One Thousand Seven Hundred and Eighty-four.

**W**HEREAS Congress, by their resolution of Preamble. the twenty-seventh day of April last, have called upon the United States for sums of money sufficient to make up the deficiency of one half of Eight Millions of Dollars called for, and apportioned on the said states by resolutions of Congress of the thirtieth day of October and the second day of November One Thousand Seven Hundred and Eighty-one, for the purpose of paying the arrears of interest due on the debts of the said United States to the end of the year One Thousand Seven Hundred and Eighty-three, and for the service of the year One Thousand Seven Hundred and Eighty-four. *And whereas* provision hath been already made by the General Assembly for the payment of Twelve Thousand Pounds, equal to Thirty-two Thousand Dollars, in part of this state's computed quota of the same Eight Millions of Dollars, so that the deficiency of the part thereof demanded of this state by the first abovementioned resolution, appears to be Twenty-four Thousand and Forty-two Dollars and Five-tenths of a Dollar. *And* Twenty-three Thousand, Six Hundred and Twenty-five Pounds to be raised. *whereas* also it is necessary to make provision for the expences that have arisen, and may arise, within this state for the service thereof in the present year, which added to the aforesaid sum it is computed will amount to Twenty-three Thousand Six Hundred and Twen-

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ty-five Pounds: *We* the Representatives of the Freemen of this state, taking into our serious consideration the necessity of complying with the requisition of Congress first abovementioned, and of making provision for the defraying the necessary expences that have arisen, or may arise, within this state for the service thereof, within the present year, have agreed to give the said sum of Twenty-three Thousand Six Hundred and Twenty-five Pounds for the uses aforesaid, and desire that it may be enacted;

Each county's  
proportion  
thereof.

SECTION 2. *And be it enacted by the General Assembly of Delaware*, That the sum of Twenty-three Thousand Six Hundred and Twenty-five Pounds, lawful money of the Delaware State, shall be raised, levied and paid into the state treasury for the purposes aforesaid, within the time herein after directed, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say*; For the county of New-Castle the sum of Nine Thousand Pounds; For the county of Kent the sum of Seven Thousand Eight Hundred and Seventy-five Pounds; and, For the county of Suffex the remaining sum of Six Thousand Seven Hundred and Fifty Pounds.

Special Court  
to be held to  
ascertain the  
sum on the  
Pound rate.

SECT. 3. *And be it enacted*, That for the better assessing, ordering, levying and collecting the aforesaid several sums of money in the counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court, on or before the sixteenth day of August next in the counties aforesaid respectively, at the places in the said counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised and levied in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each county, herein after named, or who may be appointed agreeable to the directions in this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorising and requiring

Warrant to be  
issued to Col-  
lectors.

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1784.

requiring him forthwith to demand and receive from the persons rated in his assessment list the sum per Pound which they shall ascertain as necessary to raise the several sums as aforesaid.

SECT. 4. *And be it enacted,* That James Delaplain of the county of New-Castle, John Clayton of the county of Kent, and Levin Derrickson of the county of Suffex, be, and hereby are appointed Collectors of the tax aforesaid in their respective counties, and each and every of them shall appear before the Justices at the Special Court to be holden as aforesaid, and enter into bond with good and sufficient securities, such as the said justices, or any three of them, shall approve, in double the sum to be collected, with condition, *That if the above bound*

Collectors appointed,

who shall give bond;

*shall well and faithfully execute and perform the several duties required of him as a Collector of the tax for county, according to law,*

*then the above obligation to be void, else to remain in full force;* and the said justices, or some two of them, shall witness the execution of such bond, and immediately after deliver the same to the Clerk of the Peace, who shall record the said bond, and as soon after as conveniently may be, transmit the same to the Auditor, to be by him safely kept in his office, and an attested copy of the said record shall be as good evidence in law as if the said bond was actually proved in court; and if any person appointed a Collector as aforesaid shall, after five days notice of his appointment, neglect to appear, not having a reasonable excuse in the judgment of the said justices, or appearing shall refuse to take upon him the office of Collector, or shall refuse or neglect to give bond as aforesaid, the said justices, or any five of them, may remove him from his said office, and shall immediately, on any vacancy by death or removal, or by refusal to act, neglect to appear, or give bond as aforesaid, appoint some other Collector for their county who will give bond as aforesaid; and to this end the Justices of the Peace of each county, or any five of them, are hereby authorised and required, so often as occasion may be, to meet at the usual place of holding Levy-

which shall be recorded, &c.

Vacancies how supplied.

Courts

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1784.

May appoint  
deputies.

Their power.

Courts in their county, and then and there open and hold a special session for the purposes aforesaid.

SECT. 5. *And be it enacted,* That each Collector may appoint one or more deputies to assist him in collection, for every of whom he shall be answerable.

SECT. 6. *And be it enacted,* That the said Collectors and their deputies shall proceed without delay, to collect the assessment imposed by this act, and if any person or persons shall neglect or refuse to pay, by the space of ten days after demand made, such person or persons being a freeholder, it shall and may be lawful for the said Collectors respectively to levy by distress and sale of the goods and chattels of the person or persons so neglecting or refusing to pay as aforesaid, the said several sums of money such person or persons stand charged with, of which sale five days notice, exclusive of the day of notice and sale, shall be given; but if no distress can be found by the Collector or deputy, and the party assessed refuse or neglect to shew goods or chattels of his own forthwith to be levied upon to satisfy such assessment with reasonable charges, then such Collector or deputy shall take the body of every such neglecting or refusing person, and bring him to the county gaol and deliver him to the Sheriff or keeper of the said gaol, who is hereby authorized and required to receive and detain him in safe custody until payment with costs be made.

Provision for  
securing the pay-  
ment of the tax  
in certain cases.

SECT. 7. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on the said land, *Be it therefore enacted,* That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant, to deduct the tax so paid out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owners by an action or suit

suit in any court, where the same shall be cognizable, together with costs of suit; and all parents, guardians or tutors making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

SECT. 8. *And be it enacted*, That in all cases where the Collector can find no effects on the land, belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same if distrained, and no rate cannot be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for that county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at auction, as may be necessary to pay the assessment.

If no effects on the land, part thereof, or of the timber or grass thereon to be sold.

SECT. 9. *And be it enacted*, That the said Collectors respectively shall, on or before the thirty-first day of December next, pay to the State Treasurer one moiety of the tax by this act to be raised, and the other moiety thereof on or before the thirty-first day of May next, and each Collector shall, on or before the fifteenth day of February next, appear in the Auditor's Office, and then and there lay before the Auditor an accurate and fair account of his collection of the half part of the rate aforesaid, under the penalty of One Hundred Pounds lawful money, and the said Auditor shall immediately proceed to adjust his said account, and shall upon such settlement allow to the said Collector a commission of three and an half *per centum* on the whole collection of the assessment then made by him and paid to the State Treasurer, or on the sum the said Auditor shall then adjudge him to be answerable for; and the said Auditor shall not allow the Collector any deductions of any part of the sums mentioned in the said duplicate of assessment, except only when it shall be made appear to him, that the Collector has used all lawful means for the levying and collecting the same: And each Collector shall, on or before

Collectors to pay over the tax to the State Treasurer,

and to account half yearly with the Auditor;

who shall allow commissions of three and an half Per Cent.

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Surplusage of  
each county's  
quota how ap-  
plied, &c.

Collectors  
chargeable with  
ten Per Cent.  
upon failure of  
payment.

Clerks of the  
Peace to trans-  
mit duplicates to  
the Auditor.

before the fifteenth day of July which will be in the year One Thousand Seven Hundred and Eighty-five, in like manner appear and lay before the Auditor his account of the collection of the other half part of the rate aforesaid, under the like penalty, and the Auditor shall forthwith proceed to settle and adjust the said final accounts, charging therein the balance found on the first account aforesaid, and every Collector shall pay to the State Treasurer, on or before the last day of the same month of July in the year last aforesaid, the whole balance of his account adjusted by the Auditor, unless the whole sum levied by him, clear of delinquences, charges of collection and commissions, shall exceed the quota of his county herein before ascertained, in which case such surplusage shall be paid to the Treasurer of the same county, and the said Auditor shall transmit an account of his settlement with the Collectors aforesaid to the Clerks of the Peace respectively, who shall file the same, and deliver a copy thereof to the Treasurer of his county, to enable him to receive of the Collector such surplusage as aforesaid, where the same may happen, and each Clerk of the Peace shall also lay the said account before the Levy Court of his county; and upon failure of payment by any Collector, the President or Commander in Chief being certified thereof, by the State Treasurer, shall direct the Attorney General to commence a suit or suits on the bond of such delinquent Collector to compel the payment of the money due, with an interest of ten *per centum* from the said last day of July in the year last aforesaid, in which suit or suits there shall be but one imparlance.

SECT. 10. *And be it enacted*, That the Clerks of the Peace of the respective counties in this state, shall, on or before the first day of November next, transmit into the Auditor's Office certified copies of the duplicate of the assessments and annexed warrant herein before directed to be issued and delivered to each Collector; and the said Auditor shall forthwith, after each settlement made by him with any Collector, transmit an account of the balances as well to the President or Commander in Chief as to the State Treasurer; and the State Treasurer shall, on or before the tenth day

day of August which will be in the year One Thousand Seven Hundred and Eighty-five, certify and transmit to the President or Commander in Chief how much of such balances are then unpaid.

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SECT. 11. *And be it enacted,* That if any Collector shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person; he shall receive the same fees as a Constable is intitled to by law for the like service: And any person whose property shall be liable to payment of the said assessment, or any part thereof, may discharge the same at any time before sale of the property distrained, and in such case the Collector shall receive for his or his deputy's trouble one-half of the fees he would be intitled to on sale, and no more.

Collectors fees  
upon distress or  
execution.

SECT. 12. *And be it enacted,* That the sum of Twenty-four Thousand and Forty-two Dollars and Five-tenths of a Dollar, equal in value to Nine Thousand and Fifteen Pounds Eighteen Shillings and Ninepence, part of the said sum of Twenty-three Thousand Six Hundred and Twenty-five Pounds to be raised by this act, shall, within twenty days after receipt thereof by the State Treasurer, or any parts thereof, be paid over to the superintendant of the finances of the United States; or any person by him authorized to receive this state's quota of the Continental taxes, taking proper receipts therefor; which receipts shall be sufficient vouchers for the payment of the sums of money therein specified in the settlement of such Treasurer's account with the Auditor of this state; and the remaining part of the said Twenty-three Thousand Six Hundred and Twenty-five Pounds shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, entered and certified in the Auditor's Office, agreeable to the laws of this state: And it is hereby declared, that the said State Treasurer shall not, on any pretence whatsoever, apply any part of the monies hereby directed to be paid into his hands, until the aforesaid Twenty-four Thousand and Forty-two Dollars and Five-tenths of

9016l. 18s. 9d.  
appropriated to  
the use of the  
United States.

Residue subject  
to the draughts  
of General Assembly,  
&c.

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a Dollar are paid as aforesaid for the use of the United States, nor shall the said sum be subject to any of the draughts aforesaid.

The State Treasurer to account with the Auditor, &c.

SECT. 13. *And be it enacted,* That the said State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact state, as well of all the monies by him received, with the names of the persons by whom paid, and time of payment, as of the monies by him paid, to whom, on what account or order, and the time when; and the said State Treasurer, at the expiration of each and every year, shall appear in the said Auditor's Office, and then and there lay a general account, stating all his transactions for the year, before the Auditor, who shall forthwith proceed to adjust the said account; and the said State Treasurer shall discharge himself of all monies which shall come to his hands in pursuance of his office aforesaid by virtue of this act, or otherwise, and shall be allowed commissions for the monies so received and duly accounted for, at the rate of Ten Shillings for every Hundred Pounds, and no more. And where any State Treasurer shall be removed from office, he shall deliver up to his successor all the books and papers relating to the public accounts of the said office; whole, entire and undefaced; and upon the death of any State Treasurer, his executors or administrators shall deliver up, in like manner, all such books and papers to the succeeding Treasurer.

His commissions.

Sales, &c. by delinquent Collectors or Treasurers void, unless, &c.

SECT. 14. *And be it enacted,* That all gifts, grants and sales which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessments, (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates, on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

State Treasurer to give bond;

SECT. 15. *And be it enacted,* That the said State Treasurer, before the first day of November next, shall become bound unto the Delaware State with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being,

in

In an obligation of Thirty Thousand Pounds, conditioned for the true observation of this act and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

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his place how  
supplied in case  
of delinquency,  
&c.

SECT. 16. *And whereas* it appears by the proceedings of Congress of the twenty-eighth day of April last, that for the more easy payment of the aforesaid deficiencies, Congress are willing to receive one fourth part of each state's quota thereof in certificates to be given for interest due to citizens of the said states, on monies loaned to Congress and on liquidated debts;

SECT. 17. *Be it therefore enacted,* That for the ease and convenience of paying the aforesaid tax, it shall and may be lawful for such of the citizens of this state as have obtained certificates from the Continental Loan Officer thereof, for monies lent to Congress, and for every citizen of this state who may have any liquidated debts against the United States, to produce the certificates for such monies lent, or liquidated debts, to the Continental Loan Officer of this state, and obtain from him a certificate of the interest due, for such monies lent or liquidated debts, to the last day of December One Thousand Seven Hundred and Eighty-two; which certificates for the interest aforesaid the said Loan Officer is hereby required to give, conformable to such instructions as he shall receive from the superintendant of the finances of the United States for that purpose, which last mentioned certificates shall be receivable by the Collector of each county of this state, on account of the sums of money to be raised by this act; and the Collectors shall pay the same into the hands of the State Treasurer in lieu of so much lawful money; which last mentioned certificates, or so many of them as shall not exceed the sum of Fourteen Thousand Dollars in value, shall be paid over by the said Treas-

Certificates for  
interest due on  
public debts,  
to be taken in  
payments of tax-  
&c.

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surer as part of the said sum of Twenty-four Thousand and Forty-two Dollars and Five-tenths of a Dollar to the superintendant of the finances of the United States, or the person authorized by him to receive this state's quota of the Continental taxes;

SECT. 18. *And be it enacted*, That if any of the days appointed by this act for the performance of any of the duties hereby required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

SECT. 19. *Whereas* it appears, that sundry Collectors of the state taxes directed to be raised for the service of the years Seventeen Hundred and Eighty-one, Eighty-two and Eighty-three, have, through their indulgence, omitted to execute for those taxes within the times limited by law, and this General Assembly being willing to give the same summary mode to the said Collectors to collect the arrearages of such taxes, as they could have had under the several acts of Assembly passed for those purposes in the years Seventeen Hundred and Eighty-one, and Seventeen Hundred and Eighty-three;

Summary mode  
for collecting the  
arreages of  
taxes.

SECT. 20. *Be it enacted*, That the Collectors respectively of the said several state taxes, heretofore appointed, or hereafter to be appointed for that purpose by any three of the Justices of the Peace for the county, on good cause shewn to them, be and they hereby are impowered to collect all arrearages and balances due of the said taxes by execution, or otherwise, between the time of passing this act and the last day of September next, in as full and ample manner as heretofore could have been done had the same been done within the time limited by law.

*Passed June 26, 1784.*

CHAP.

## C H A P. CVIII. b.

C H A P.  
CVIII.

1784.

*An ACT to prevent vexatious prosecutions and suits against such as acted in this state for the defence of the liberties of America.*

**W**HEREAS divers virtuous citizens of this state, Preamble. and other good people well affected to their country, at an early period of the late war with Great Britain for the liberties and independence of the United States of America, have, at the risque of their lives and fortunes, acted in conformity to, and carried into execution, several resolutions, recommendations, votes and orders of Congress, and of the Assemblies, Conventions, Committees, and other public bodies within this state, and also as civil and military officers, and in obedience to them, tho' perhaps in some cases not sufficiently authorised thereunto; in which proceedings some force and violence and defect of form was unavoidable, which in time of peace and common safety would not have been warrantable; and also since the declaration of independence and the establishment of the present government, by reason of the wars and troubles raised and occasioned by our foreign and domestic enemies, divers like matters and things have been acted and done, which were necessary in regard of the exigence of public affairs, and the parties concerned therein ought to be indemnified; nevertheless some persons have commenced and prosecuted, and threaten to commence and prosecute actions and suits against citizens, for and by reason of their actings and doings aforesaid: Therefore, for the preventing the troubles and charges which the said citizens might be put to by means of such vexatious suits and prosecutions, and for their indemnity in the premises,

SECTION 2. *BE it enacted, and it is hereby enacted* What actions discharged. *by the General Assembly of Delaware, That all personal actions, suits, indictments, informations and all other prosecutions whatsoever, for or by reason of any act, matter or thing, done or performed by any Assembly, Convention, Committee, or other public body within this*

CHAP.  
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1784.

If such be  
hereafter com-  
menced, &c.  
defendant shall  
recover double  
costs.

this state, or in obedience to any ordinance, vote, resolution, recommendation, order or advice of Congress, or of any of the Assemblies, Conventions, Committees or other public bodies aforesaid, or of any commissioned officer, civil or military, for or by reason of the premises, except as herein after is mentioned, be and are, hereby discharged and made void; and if any action or suit, hereby declared to be discharged, shall be commenced or prosecuted, every person so sued may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff shall become non suit, or forbear further prosecution, or suffer discontinuance, or if a verdict or judgment pass against him, the said defendant shall recover double costs, for which he shall have the like remedy as in cases where costs by law are given to defendants.

SECT. 3. *And whereas* it appears to the General Assembly, that some actions have been brought and are yet depending, the causes of which are alledged to come within the description of the indemnification herein before provided: Therefore, for the putting an end to the same in a speedy and equitable manner,

Where such ac-  
tions are now  
depending, how  
to be proceeded  
in.

SECT. 4. *Be it enacted, by the authority aforesaid,* That the justices of the respective courts where such actions are now depending, or to which they may be removed, are hereby authorised and required, at the first sitting of their courts after the passing of this act, to nominate and appoint three or more judicious and indifferent persons, freeholders of the county, to hear and determine, upon oath or affirmation, the causes of such action, after a reasonable notice given to the parties, their attornies or agents, and to assess such damages for the value of any property that may be claimed to have been taken, as the same Auditors may think reasonable and just, under the circumstances of the case; and if any sum of money shall be found due and payable to any plaintiff, the same Auditors shall in their report to the courts aforesaid certify how much thereof, if any, ought to be paid by the defendant or defendants, and how much thereof, if any, ought to be paid by the state; and upon each report

report made, the justices of the respective courts aforesaid shall cause judgment or judgments to be entered thereon accordingly, which shall be final and conclusive upon the parties respectively; and the judgment so entered against either of the parties in the suit, shall and may be proceeded on as judgments in other cases for damages and costs, or for costs only.

SECT. 5. *And*, in case any judgment shall be entered, upon any report to be made as aforesaid, for any sum of money to be paid by the state, *Be it enacted*, That the President or Commander in Chief, on a certificate produced to him, subscribed by the Clerk of the Court wherein such judgment shall be so entered, specifying the sum to be paid by the state, is hereby authorized and required to draw a warrant or order on the State Treasurer for the amount thereof, payable to such plaintiff, his agent or attorney, taking receipt for such warrant or order on the back of the certificate, and the amount of the warrant or order shall be paid by the State Treasurer to the person in whose favour it may be drawn, or other person by him duly authorized; and the same warrant or order with receipt thereon shall be a sufficient voucher for the said Treasurer in his accounting with the Auditor of this state: *Provided*, That nothing in this act shall prevent or hinder any person from commencing and prosecuting a suit or suits against any other person who under pretext of public authority as herein before mentioned may have converted to his own use the property of the plaintiff in such suit, his testator or intestate, or any part thereof, and from recovering damages against such wrong-doer in due form of law.

President to draw for such monies as ought to be paid by the state.

SECT. 6. *And be it further enacted by the authority aforesaid*, That this act and the general sentences and words before mentioned shall be reputed, taken, expounded and adjudged in all courts and elsewhere most beneficial and available to all and singular the good people who may be sued for, or by reason of, any act or thing done or performed as aforesaid.

This act to be expounded most favourable to defendants.

Passed June 26, 1784.

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CIX.

1784.

C H A P. CIX. b.

*A Supplement to the act, intituled, An act for furnishing supplies within this state for the Army of the United States, for the ensuing campaign, passed at Lewis-Town, the fifteenth day of April in the year of our Lord One Thousand Seven Hundred and Eighty.*

Preamble,

**W**HEREAS in and by said act, a grant was made to Congress of certain quantities of flour, hay and Indian corn, to be levied on the inhabitants of this state. *And whereas* a commutation was allowed such of the inhabitants as could not furnish their proportion of the articles specified, of sundry other articles therein mentioned, which were rated higher than their intrinsic value, though proportioned to the value Congress had put on the sundry articles of supply by them asked, in their resolution of the twenty-fifth of February One Thousand Seven Hundred and Eighty. (a) *And whereas* many good subjects have not had it in their power to deliver in their proportion of supplies for want of proper persons to receive, or store-houses wherein the same might be deposited, agreeable to said act, who merit relief;

*BE it therefore enacted by the General Assembly of Delaware,* That the persons rated in hay may exonerate themselves by paying money therefor at the rate of Three Shillings *per* hundred weight; those assessed in flour may pay at the rate of Twenty-two Shillings and Six-pence *per* hundred weight; and such as were assessed in Indian corn may pay off the same in money at the rate of Two Shillings and Six-pence *per* bushel, any thing in said act notwithstanding.

*Passed June 26, 1784.*

CHAP.

(a) Chap. 56. b. sect. 8.

C H A P. CX. b.

C H A P.  
CX.  
1784.

An ACT for enabling James M<sup>r</sup> Mullan the younger, and his issue, to take and use the surname of Gardner, pursuant to the will of James Gardner deceased.  
Passed June 26, 1784.—Private act.

C H A P. CXI. b.

An ACT for the relief of Bertles Shee, a languishing prisoner in the gaol of Kent county.  
Passed October 30, 1784.—Private act.

C H A P. CXII. b.

A Supplement to an act, intituled, "An act for the more easy and speedy recovery of small debts."—Repealed and supplied in chap. 250. b. passed Feb. 4, 1792.

C H A P. CXIII. b.

An ACT for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned. (a)

**W**HEREAS divers sums of money in bills of credit have been emitted in this state, by laws passed under the present and the former government thereof, for the redemption of which, lands have been

(a) For Supplementary acts hereto, see after, chap. 141. b.—chap. 161. b.—chap. 192. b.—chap. 202. b.—chap. 229. b.

C H A P.  
CXIII.

1785.

been mortgaged by the persons to whom the same were lent; but divers of the mortgagors, or other persons in whose right the mortgaged premises are now held, having paid the principal money borrowed, and the interest due thereon, in bills of credit emitted by the Congress of the United States of America, part of the funds pledged for the redemption of the first mentioned bills are thereby discharged, and the deeds and other securities taken therefor cancelled; by which means the said bills are become greatly lessened in their value. *And whereas*, by an act of Assembly, passed the twelfth day of February One Thousand Seven Hundred and Eighty-one, (b) the bills of credit emitted by any law of this state, passed under the present or former government thereof, are declared not to be a legal tender after the thirty-first day of August thence next ensuing; and it is become necessary, that they should be called in and destroyed;

Bills of credit,  
when to be  
brought in.

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware*, That every person residing within this state, who may or shall have in possession any of the bills of credit emitted in the same, by virtue of any law passed under the present or former government thereof, who shall deliver the said bills to the Trustee of the Loan Office herein after appointed for the county in which such person resides, on or before the first day of August next, and every person not residing within this state, who may or shall have in possession any of the said bills, who shall deliver the same into the Loan Office in any of the counties of the same, on or before the first day of November next, shall receive a certificate from the Trustee of the Loan Office into which such bills shall be delivered; which certificates the said Trustees are hereby respectively impowered and required to give, specifying the nominal sum to which the said bills so delivered in do amount: And the said Trustees respectively, whenever there shall come into the said offices so much lawful money as will be sufficient to discharge the sums due on such certificates, at the rate of One Pound for every

Certificates to be  
given for the  
amount thereof,

(b) See chap. 71. b. sect. 29.

every Seventy-five Pounds mentioned in the same, shall pay the sums of money due thereon, at the rate aforesaid, to the bearers thereof respectively, which sums of money so paid shall be allowed to such Trustee on the settlement of his accounts with the General Assembly, or their Committee for that purpose to be appointed.

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which shall be paid at the rate of One Pound for Seventy-five Pounds.

SECT. 3. *Provided always*, That any thing herein contained shall not be construed to extend to any of the signers of any emission of paper money issued under the present or former government of this state, or to any person acting in a public capacity: into whose hands any of the aforesaid bills have come, and now remain in his possession in consequence of the trust vested in him; but that every such person shall, before the first day of August aforesaid, deliver to the Trustees aforesaid respectively the bills so remaining in his possession, or account for the said bills at their current value at the time he ought to have delivered the same, and upon such person or persons refusing or neglecting to deliver the said bills, or to account as aforesaid, the said Trustees are hereby respectively empowered and directed to sue for, and recover the value of the said bills, agreeable to the laws of this state.

Proviso, as to persons in public trust, who have any of the bills aforesaid.

SECT. 4. *And be it enacted*, That if any person residing within this state or elsewhere, who may or shall have in possession any of the aforesaid bills of credit, shall neglect or refuse to deliver the same to the Trustee of the Loan Office in one of the counties of this state, within the time herein before limited for such bills to be delivered in, or having delivered such bills shall refuse to receive such certificate, the bills so refused or neglected to be delivered in, or for which such certificate shall be refused to be received, are hereby declared not to be redeemable by this state at any time thereafter.

Bills not delivered within the time aforesaid irredeemable thereafter.

SECT. 5. *And be it enacted*, That the said Trustees respectively shall forthwith, after the said first day of November, call to their assistance any one Member of the Legislative Council, and also any one Member of the House of Assembly, of their county, and in their presence, and under their immediate inspection, shall count all the bills of credit that may then have come

When brought in to be burnt and destroyed.

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1785.

Mortgagors under any former act may renew their mortgages;

and shall have a deduction of interest made them.

to their hands in pursuance of this act, and the said bills being so counted and duly examined and compared, the said Members of Council and Assembly shall forthwith cause the same to be burnt and destroyed in their presence. (c)

SECT. 6. *And whereas* there are divers sums of money due on mortgage deeds in the several counties of this state to the respective Loan Offices of the same, the days for payment whereof, or some of them, in the said deeds expressed are now past, and the money thereon due, or part thereof, yet remains unpaid; and as it is just and reasonable, that the mortgagors, or those in whose right the mortgaged premises are now held, should either pay the principal sums due on such deeds, and the interest that may have arisen thereon, or otherwise renew the respective deeds for the purpose of securing payment of the same, *Be it therefore enacted*, That it shall and may be lawful for the Trustees of the Loan Offices, herein after appointed in the respective counties of this state, to permit such person or persons as may have mortgaged any lands or tenements by virtue of any former law of the same, or his or their heirs, or such other person or persons to whom he or they may have made over his or their right of redemption and estate in the mortgaged premises, and in which mortgage deed all the days expressed for payment of the money borrowed are now past, to renew the said mortgage; in which new deed the whole of the principal sum unpaid, together with the interest thereon shall be inserted, deducting all the interest arising thereon between the first day of September One Thousand Seven Hundred and Seventy-seven and the twelfth day of February One Thousand Seven Hundred and Eighty-one; and also to permit any person or persons who may have mortgaged any lands or tenements in manner aforesaid, his or their heirs, or such other person or persons to whom he or they may have made over his or their right of redemption and estate in the mortgaged premises, and in which mortgage deed all the days expressed for payment

(c) See before in chap. 230. a. sects. 15, 21.—chap. 8. b. sect. 13.

ment of the money borrowed are not yet past, to renew the said mortgages; in which new deeds the principal sum then due, together with the interest that may have arisen thereon, deducting as aforesaid, and the principal sum to become due, shall be inserted; which sums shall be made payable in seven years from the first day of August next, in equal and annual portions, bearing an annual interest at the rate of five *per centum*: And if any mortgagor or mortgagors, his or their heirs, or such other person or persons to whom he or they may have made over his or their right of redemption and estate in the mortgaged premises, shall neglect or refuse to renew such mortgage deed in manner aforesaid, or pay the principal sum and interest thereon due, deducting as aforesaid, at or before the first day of August next, the Trustee of the Loan Office for the county in which the mortgaged premises lie, shall, forthwith after the said day, proceed to recover the principal and interest due as aforesaid and to become due on such mortgage deeds, in the manner directed by the laws of this state. (*d*)

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Mortgagors neglecting the same, how proceeded against.

SECT. 7. *Provided always*, That where any mortgage deed shall have been made since the first day of September in the year One Thousand Seven Hundred and Seventy-seven, the money lent shall be reduced to specie agreeable to the laws of this state. *Provided also*, That where any lands mortgaged under any former law of this state made for the emission of paper bills of credit have been alienated, or the equity of redemption therein made over, there shall be no other deduction for interest than from the time they shall appear to be so made over or alienated, to the said twelfth day of February in the year One Thousand Seven Hundred and Eighty-one aforesaid.

Money borrowed since September 1, 1777, to be reduced.

What deduction of interest where mortgaged premises have been alienated.

SECT. 8. *And be it further enacted*, That, together with

(*d*) See after in chap. 141. b. passed June 24, 1786; provision made for renewing mortgages in the several Loan Offices of the state by guardians of minor owners of land mortgaged there under the approbation of the Orphans Court; and further time allowed for renewal of Loan Office mortgages generally.

See also chap. 161. b.—passed June 8, 1787.—chap. 192. b. sect. 7, passed February 3, 1789.—chap. 202. b. passed January 27, 1790.—chap. 229, b. passed January 29 1791, severally extending the time for renewals in the cases aforesaid.—But see sect. 5, of said chap. 202, b. not to be admitted of where there is a subsequent Lien, unless, &c.

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Mortgagors shall  
execute bonds  
and warrants of  
attorney,

Making default  
in payment how  
proceeded a-  
gainst.

with every of the aforesaid mortgage deeds, taken and renewed as aforesaid, the respective mortgagors shall execute a bond of double the mortgage money to the respective Trustees aforesaid, conditioned for the payment of the money in such mortgage deed specified, at or before the days in the said deed expressed for payment thereof, together with the interest thereon arising annually, and also a warrant of attorney empowering such person or persons as the said respective Trustees shall appoint, to confess or suffer judgment; which the said Trustees are hereby required to cause their Attorney to enter in any of the Courts of Common Pleas of this state against such mortgagors as shall make or suffer default in payment of the principal sum in such mortgage deed specified, or the interest thereon arising, or any part of the same; at the days and times in such deed expressed for the payment thereof (e) in every of which warrants of attorney shall be inserted a release of all errors that may happen in entering such judgment: And if any mortgagor, or other person or persons claiming the right of redemption in such mortgaged premises, shall neglect or refuse to pay the principal due on such mortgage deed, at the time of entering such judgment, and interest for the whole sum in such deed specified, for the space of twenty days after entering the same, the said Trustee shall cause execution to issue from the Office of the Prothonotary of the county in which such default shall happen, directed to the Sheriff thereof, commanding him to levy the principal sum due and the interest on the whole sum in the said mortgage deed specified, on the goods and chattels, lands and tenements of the mortgagor; upon which execution the Sheriff shall sell so much of the goods and chattels of such defaulting mortgagor (having first duly advertised the same) as will be sufficient to discharge the aforesaid principal sum and interest due as aforesaid, together with the legal costs; but if the mortgagor hath alienated

(e) In chap. 202. b. depreciation certificates issued by this state made receivable in discharge of mortgages in the respective Loan Offices thereof, with some exceptions, as in sect. 9.—In sect. 6. thereof it is declared that mortgages made there before, Feb. 3, 1789, shall be deemed the last Lien.

nated the mortgaged premises, or where the same shall not be alienated, if no such goods and chattels of the mortgagor can be found, then the said Sheriff shall sell so much of the said lands as will be sufficient for the purposes aforesaid, and shall convey the lands by him so sold to the purchaser thereof in the same manner as Sheriffs convey lands by them taken in execution and sold for other debts by the laws of this state.

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SECT. 9. *And be it enacted,* That where any judgment shall be entered; in manner herein before directed, for default of payment of any monies due on any mortgage deed to be taken in pursuance of this act, such judgment shall remain in force until all the money due, and to become due, on such mortgage deed for principal and interest, shall be fully and finally discharged; and no writ or process shall be necessary to revive the same, although more than one year may elapse from the time of entering thereof before the said sums be paid: And so often as default shall be made or suffered in payment, either of principal or interest, at the days and times in such deed expressed for payment thereof, it shall and may be lawful for the court in which any such judgment may have been entered, at the request of the said Trustees respectively, to cause a new execution to issue for the recovery of the sum of money then in arrear, which the Sheriff of the county shall execute in manner herein before directed.

No process necessary to revive judgment against defaulting mortgagor.

SECT. 10. *And be it enacted,* That all sums of money which the Trustees of the Loan Offices in the several counties of this state, respectively, shall receive on account of the principal or interest due on any mortgage deed made or executed in pursuance of any former law thereof, (except so much as will be sufficient to discharge the sums due on the certificates herein before directed to be given by such Trustees) and all sums of money which they shall receive for the principal of any mortgage deed to be made or executed in pursuance of this act, may be lent out by such Trustees to any person or persons for the term of seven years, bearing an annual interest at the rate of five *per centum*, and payable in equal annual portions, upon mortgage of messuages, lands or tenements in this state, whereof

Principal money received under this act to be lent out on mortgage, for seven years.

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whereof the borrowers stand seized in fee-simple in their own right, free from incumbrances, quit-rents and other rents charged on the same and discovered to the said Trustees only excepted; but as to messuages erected upon ground subject to the payment of ground-rent offered in mortgage, care shall be taken by the said Trustees, that there be no rent in arrear at the time of receiving the same in mortgage, and that the ground shall be near equal in value above the ground-rent to the sum lent, for the better security of the mortgage money; and upon lending any monies the said Trustees respectively in pursuance of the trust reposed in them, shall in the respective names and stile of, the Trustee of the Loan Office of the county of New-Castle, the Trustee of the Loan Office of the county of Kent, the Trustee of the Loan Office of the county of Suffex, and not otherwise, take and receive deeds of mortgage in fee-simple of messuages, lands and tenements to secure the re-payment of the monies so by them to be lent, and shall also take and receive bonds and warrants of attorney to confess or suffer judgment, such judgments to be entered, and the monies due thereon to be recovered by such Trustees respectively in case of default of payment of principal, or interest, at the days in such deeds of mortgage specified for payment thereof, in the manner herein before directed for the recovery of monies due on mortgage deeds renewed under this act: And all sums of money, which shall be received by any of the Trustees aforesaid for interest arising or becoming due on any mortgage deed to be made or executed in pursuance of this act, the said Trustees respectively shall pay over on the orders of the Speakers of the two Houses of the General Assembly, or the President or Commander in Chief, in such manner as is, or shall be directed by the laws of this state. (f)

Interest money  
how disposed of.

Limitation of  
sums to be lent  
on mortgage.

SECT. 11. *Provided always, and be it enacted,* That no more than the sum of Sixty Pounds shall be lent  
by

(f) See chap. 247. b. sect. 3. passed Feb. 14, 1792, Trustees restrained from making any further loans of money paid into their respective Loan Offices, but enjoined to recover and collect all monies due on mortgages unrenewed, and the instalments that have or may become due on the renewed mortgages, and pay the same over to the State Treasurer.

by any of the Trustees aforesaid to any one person, nor any larger sum than half the value of the premises offered in mortgage, free from incumbrances as before mentioned, which value shall be ascertained by, and certified under, the hands of any two reputable freeholders of the neighbourhood in which the lands lie.

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SECT. 12. *And be it enacted,* That all and every of the said deeds of mortgage shall be fairly entered in books of large paper, to be provided by the said Trustees; attested copies of which deeds so entered and certified by the said Trustees respectively, shall be, and are hereby declared to be, sufficient evidence to prove the mortgages thereby mentioned to be made, and on every of the aforesaid deeds shall be indorsed, or added, an oath, or affirmation, to be taken by the respective mortgagors, which the said Trustees respectively are hereby empowered to administer;—*That he, she or they, is or are seized of the premises thereby mortgaged, in his, her or their own right, and to his, her or their own use, and that free from any former gift, grant, sale, mortgage, judgment, or any other incumbrance, to the knowledge of such mortgagor or mortgagors, except such as shall be then made known to the Trustee;* and the aforesaid deeds being so executed and acknowledged shall transfer the possession and vest the inheritance of and in such mortgaged premises to and in the said Trustees respectively and their successors as fully and effectually as deeds acknowledged and recorded under the act of Assembly of this state, intituled, *An act for acknowledging and recording deeds;* may or can do: And the said Trustees shall be allowed for their trouble in taking and recording each of the aforesaid deeds of mortgage in manner aforesaid, and the bond and warrant of attorney to be taken therewith, the sum of Fifteen Shillings for every such deed with bond and warrant of attorney, and no more, to be paid by the mortgagor.

Affidavit to be taken by the mortgagors.

Trustees fees.

SECT. 13. *And be it enacted,* That the said Trustees respectively shall indorse upon each mortgage deed the receipts of all sums of money paid in discharge of such mortgage, distinguishing the principal from the interest

Trustees to indorse receipts on mortgage deeds, &amp;c.

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and shall account  
with Commit-  
tees of the Ge-  
neral Assembly.

Trustees salary,

Persons appoint-  
ed Trustees.who upon giving  
bond, and taking  
an oath,

interest, and shall keep fair and regular accounts of all the monies they receive by virtue of this act, and the sums they pay or lend in pursuance thereof, in books by them to be provided for that purpose; and shall exhibit the same, together with their vouchers, to such Committees of the General Assembly as shall be appointed to settle their accounts: (g) And each of the said Trustees shall be allowed for his trouble and service, in performing the duties of him required by this act, the sum of Thirty Pounds *per annum* out of the interest money arising under the same, during the continuance of his trust.

SECT. 14. *And be it enacted*, That John Stockton of the county of New-Castle, gentleman, is hereby constituted and appointed Trustee of the Loan Office for the said county of New-Castle; and Simon Wilmer Wilson, of the county of Kent, gentleman, is hereby constituted and appointed Trustee of the Loan Office for the said county of Kent; and Joseph Hall, of the county of Suffex, gentleman, is hereby constituted and appointed Trustee of the Loan Office for the said county of Suffex; (h) which said Trustees, and their successors, shall, severally, before they enter on the execution of their trust, give and duly execute a bond to the President or Commander in Chief of this State, in the name of the Delaware State, with two or more sufficient sureties, such as he shall approve of, in the sum of Ten Thousand Pounds, conditioned for the faithful execution of the trust, and performance of the several acts, matters and things enjoined them by this act; and shall also take the oath or affirmation required to be taken by the Trustees of the Loan Offices of this state, by an act of Assembly, intituled, *An act for emitting the sum of Thirty Thousand Pounds in bills of credit, on loan; and providing a fund for the payment of public debts*;

(g) See chap. 143. b. sect. 1, &c. passed Feb. 3, 1787, authorising the Auditor of Accounts to call upon all persons, or their representatives, who shall be possessed of any mortgages, pledges, or other securities, monies, goods or effects, belonging to this state to account for the same.—See also chap. 22b. b. sect. 6, passed Jan. 29, 1791, that such accounting be annually with the Auditor, who shall report the same to the Legislature.

(h) For subsequent appointments, see chap. 192. b.—chap. 217. b.—chap. 45. c.—chap. 75. c.

*debits*; which said oath or affirmation shall be indorsed on their respective bonds, and the said bonds with the indorsements aforesaid, shall be delivered to the Secretary of this state, to be by him recorded; and if the said bonds, or any of them, shall in any wise be forfeited, the same shall be sued and prosecuted, and the penalties thereof be recovered for the benefit, advantage and use of the state.

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SECT. 15. *And be it enacted*, That the said Trustees, after having given bond and taken the oath or affirmation aforesaid, are hereby respectively authorized and impowered forthwith to enter on the trust to which they are severally hereby appointed in each of the counties of this state, and shall severally do and perform all matters and things enjoined them by this act; during the continuance of their trust.

shall enter upon their trusts.

SECT. 16. *And be it enacted*, That the late Trustees of the Loan Offices in the respective counties in this state, are hereby enjoined and required forthwith to deliver up to the Trustees in this act appointed for the respective counties aforesaid, all mortgage deeds, bonds and warrants of attorney, plate, bills of credit, and other money remaining in the said offices, together with the books and papers which to the same respectively do belong: And in case any of the said late Trustees should be dead, then the executors or administrators of such deceased Trustee, or other person in whose possession the same may be, shall deliver up such deeds, bonds, warrants of attorney, plate, bills of credit, and other money belonging to such office.

Former Trustees to deliver up mortgage deeds, &c.

SECT. 17. *And be it enacted*, That none of the Trustees appointed by this act shall continue in the exercise of their said trust longer than the space of four years from the commencement of their said trust, and from thence until a new nomination and appointment shall be made by the General Assembly: And if any of the said Trustees shall happen to die, or remove out of the county for which he is appointed, in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the advice of the Privy Council, to appoint some other fit person as Trustee in his place and stead until the next meeting of the General Assembly, who

Trustees to continue four years.

Vacancy happening in the recess of Assembly, how supplied.

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may then appoint some fit person to perform the said trust; and any person being so appointed by the President or General Assembly, and having given bond and taken the oath or affirmation herein before directed, shall have the same power and authority, and be entitled to the same reward, as if such Trustee had been appointed by this act. (i)

*Passed February 5, 1785.*

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C H A P. CXIV. b.

1785. *An ACT for the support of non-commissioned officers, private soldiers, warrant officers, marines and seamen, citizens of this state, who, in the course of the late war, have been maimed, or disabled from getting a livelihood.—Supplied and repealed by chap. 147. b. passed Feb. 3, 1787.*

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C H A P. CXV. b.

1785. *An ACT to increase the daily allowance to Grand and Petit Jurors, and witnesses.—Repealed in chap. 27. c. sect. 29, passed June 15, 1793.*

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C H A P. CXVI. b.

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

Preamble.

**W**HEREAS the Legislature of this state hath heretofore made provision for the encouragement

(i) See chap. 192. b. sect. 6, that suits brought by any of the Trustees of the respective Loan Offices of this state shall not be discontinued or abated by resignation, death or expiration of the office of any such Trustee, but continued and prosecuted in the names of the present Trustees, or their successors.

ment of owners of mills within the same, (a) and fixed a reasonable toll for grinding the several species of grain usually brought to those mills; (b) And whereas great complaints have been made, by some of the inhabitants of the said county of New-Castle, as well of the unreasonable delays of the owners and occupiers of the water grist-mills within the same county, to grind grists of grain for their family-consumption, as of the refusal of some owners and occupiers of mills to grind such grists; for the remedying of which complaints,

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SECTION I. *BE it enacted by the General Assembly of Delaware,* That all owners, occupiers, or possessors of water grist-mills on Christiana creek, and on the creeks whose waters empty into the same, within the county of New-Castle, (the water grist-mills on Brandywine creek below the bridge, on the public road leading from Wilmington to Chester, excepted) shall, from and after the passing this act, appropriate the Monday and Saturday of every week to the grinding and manufacturing wheat and other grain into flour, for the family-consumption of the inhabitants of the said county, which may be brought to the said mills for that purpose; and if any owner, occupier or possessor of any such mill shall neglect or refuse to grind or manufacture wheat or other grain as aforesaid, in such quantity as he reasonably may, observing the rule of first come first served, and that in a good and artificial manner, on the Monday and Saturday of every week for the toll allowed by law, and shall be convicted thereof before any two Justices of the Peace for the said county, upon the oath or affirmation of the party complaining, or of any other credible witness or witnesses, such owner, occupier or possessor of a grist-mill shall forfeit and pay the sum of Twenty Shillings for every such neglect or refusal, (c) to be applied towards supporting the poor of the hundred; which shall be recovered with costs, by distress and sale of the offender's goods and chattels, by warrant under

Mills on Christiana creek, &c. to grind for the inhabitants of the county on the Monday and Saturday of every week, under the penalty of Twenty Shillings for every neglect.

(a) See chap. 23. 2. and 174. 2. in the Appendix.

(b) In chap. 134. 2.

(c) See chap. 204. b. this penalty increased to Five Pounds.

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Mills on Brandywine to be regulated annually by the Court of Quarter Sessions, in the month of February.

Such regulation to be advertised.

Penalty for violation.

under the hands and seals of the justices before whom such conviction may be had.

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

SECT. 3. *Provided always, and be it enacted, That if it shall so happen that the Court of Quarter Sessions shall omit to fix and determine the days of rotation for the grinding and manufacturing of grain as aforesaid, by the said mills below the bridge, in the month*

(d) See note (c) before.

month of February in any year succeeding the present one, that then, and in such case, the last rotation fixed by the said court shall continue as the rule for grinding and manufacturing grists for the inhabitants of the said county, until another shall be made under the directions of this act.

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1785.

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

Penalty for  
mills being out  
of order.

*Passed February 5, 1785.*

## C H A P. CXVII. b.

*An ACT to empower the President to appoint suitable persons to preside in the several Courts of General Quarter Sessions of the Peace in this State.—Altered and supplied in art. 6, of the constitution of this state, adopted in June, 1792.*

1785.

## C H A P. CXVIII. b.

*An ACT for the recovery of monies received under the late militia law.*

1785.

**W**HEREAS considerable sums of money are yet remaining in the hands of divers persons, which have been received on account of fines and forfeitures under the late militia law of this state; and as it is just and reasonable, that every person who hath received public monies should account for the same,

Preamble.

SECT.

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1785.

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware,* That every person within this state, who may have in his hands any monies received on account of any fine or forfeiture under the late militia law thereof, shall forthwith, after the passing of this act, pay over the same into the hands of the last Treasurer of the battalion to which such person did belong, or in case of his death or removal, or where none such hath been chosen, then to the late Colonel of the said battalion, or in case of his death or removal, to the officer who was next in order of rank, resident in the district thereof; and if any person shall neglect or refuse to pay over all such monies as shall appear to be in his hands by an account by him to be rendered to such Treasurer, Colonel, or other officer next of rank as aforesaid, on oath, to be administered by any Justice of the Peace, by the space of three months after demand made, the said Treasurer, Colonel, or other officer next of rank as aforesaid, shall proceed to sue for and recover the same in such manner as other debts are sued for and recovered by the laws of this state.

SECT. 3. *And be it enacted,* That every person last appointed Treasurer of any battalion under the late militia law, and in case no such appointment hath been made, the late Colonel, or the officer next in rank in such battalion, shall, when ordered, render upon oath, to the General Assembly, a just and true account as well of all the monies which have heretofore come into his hands, in pursuance of the late militia law of this state, as of the monies received or recovered under this act, and of the expenditure of any such monies, that the balance in the hands of such Treasurer, or commanding officer, may be ascertained. (a)

*Passed February 5, 1785.*

CHAP.

(a) And since Feb. 3, 1787, to render such account to the Auditor of Accounts—  
See chap. 143. b.

C H A P. CXIX. b.

C H A P. CXIX.

1785.

An ACT to enable the owners and possessors of the meadows, marsh, and cripple, on Cedar-creek, in Redlion hundred, in the county of New-Castle, to erect a new bank in part, and to keep the residue of the old bank, dams, sluices, and flood-gates in repair; and to raise a fund to defray the expence thereof.

Passed February, 5. 1785.—Private act.

C H A P. CXX. b.

1785.

An ACT to repeal an act, intituled, An act directing the punishment of petty larceny, (a) and for other purposes therein mentioned.

**W**HEREAS the mode of prosecuting and convicting of persons stealing any money or goods under the value of Five Shillings, directed in and by the said act, is a great deviation from the safe and constitutional rule of the common law, in regard to the prosecution and conviction of persons charged with such offences; inasmuch as they are thereby deprived of that inestimable privilege a trial by their country: And the said act is found by practice to be dangerous to the liberty, property and credit of the inhabitants of this state,

Preamble.

SECTION 2. BE it therefore enacted by the General Assembly of Delaware, That from and after the publication of this present act, every person and persons charged with stealing any money or goods under the value of Five Shillings, their accessaries, aiders, comforters and abettors, shall be prosecuted in the same manner and form, and in the same court, and the like proceedings shall be had, and judgment given against, and punishment inflicted on, such persons in case of conviction, as are provided and directed against

Prosecution and punishment of petty larceny to be as for grand larceny.

(a) Chap. 96. a.

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against any person or persons convicted of feloniously and fraudulently taking and carrying away any goods, chattels or effects of another to the value of Five Shillings or upwards; in and by an act, intituled, *An act against larceny to the value of Five Shillings and upwards.* (b) Provided always nevertheless, That no person or persons prosecuted by virtue of this present act, although convicted three or more times thereon, shall therefor suffer the pains of death, or be capitally punished; any law or custom to the contrary in any wise notwithstanding.

SECT. 3. *And be it further enacted by the authority aforesaid, That the said act, intituled, An act directing the punishment of petty larceny, shall be and is hereby repealed and made null and void.*

Passed June 4, 1785.

C H A P. CXXI. B.

1785.

*An ACT for the suppression of public markets or fairs.*

Preamble.

**W**HEREAS there are divers fairs held at several places in the counties of New-Castle and Kent within this state, some of them by ancient charters or letters patent, granted by the then Proprietaries and Governors of this state, and others under subsisting laws of this state. *And whereas it appears to this General Assembly, that the freeholders and inhabitants of the respective places in which such fairs have been held, by virtue of such charters, letters patent and subsisting laws as aforesaid, have under colour and pretext of such charters, letters patent and subsisting laws, held fairs for very different purposes from those mentioned in such charters, letters patent and subsisting laws, and have misused the franchises and liberty thereby granted to them, by permitting strangers, as well as many of the inhabitants of this state,*

(b) Chap. 120. a.

state, to set up and keep booths and stalls at the holding of the said fairs, for the sale of strong liquors and other superfluities; by reason whereof, many imprudent persons more especially servants and young people, are tempted and induced to purchase those liquors, and to use them to excess, and to lay out large sums of money for many articles that are of no real use or benefit; quarrels are excited, and almost every species of vice and immorality is practised, to the scandal of religion and the grief and annoyance of the virtuous part of the community. *And whereas* the original purpose and intention of holding fairs, has long since been done away by the numerous stores that are kept in every part of the country; and the ready market there is for all the produce of the state, and a respectable number of the inhabitants of the said counties and places where such fairs are held, having by their petitions to the General Assembly, humbly prayed that a law may be passed for the repeal of such charters, letters patent, or laws of this state and for relief in the premises:

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SECTION 2. *BE it therefore enacted by the General Assembly of Delaware,* That the said charters, letters patent and laws of this state, and every clause, matter and thing therein contained, so far as relates to the holding of such fairs, be and are hereby repealed, made null and void to all intents and purposes whatsoever: Any thing in the said charters, letters patent or laws aforesaid contained to the contrary in any wise notwithstanding; and that no fair or fairs shall be held or kept in virtue thereof, at any time hereafter, at any place or places in either of the said counties, or elsewhere within this state, by the inhabitants thereof, or any other person or persons whatsoever.

Repealing all  
charters, &c.  
for holding fairs.

SECT. 3. *And be it enacted,* That if any person or persons within this state, shall presume to hold any fair or fairs, or to keep any booth or stall for the selling of strong liquors, he, she or they so offending, shall forfeit and pay for every such offence, the sum of Ten Pounds current money, to be recovered with costs, upon conviction of the party offending, by confession

Penalty for hold-  
ing fairs here-  
after.

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1785.

or otherwise, in any Court of Quarter Sessions where such offence may be committed within this state.

Passed June 4, 1785.

C H A P. CXXII. b.

1785.

An ACT to prevent the issuing the writ of Capias ad Satisfaciendum in certain cases.

reamble,

**W**HEREAS personal liberty is one of the greatest privileges that freemen enjoy, and ought not to be violated in any case whatsoever, unless where substantial justice absolutely requires it: And because it has been represented to this General Assembly, that the writ or process commonly called or known by the appellation of *capias ad satisfaciendum* has been made use of to oppressive purposes, by confining the persons of debtors when they have had sufficient real or personal estate to pay and satisfy the demands of their creditors: For remedy whereof,

No Capias Satisfaciendum to issue until return of Nulla Bona on Fieri Facias,

SECTION 2. *BE it enacted*, That from and after the publication of this act, no plaintiff or plaintiffs shall sue out or obtain a *capias ad satisfaciendum* upon any judgment or judgments entered or obtained in any court or courts within this state, against any defendant or defendants, being inhabitants of this state, until one or more writ or writs of *fieri facias* on the said judgments shall have issued, and it shall appear upon the Sheriff's return on the said writ or writs of *fieri facias*, that the defendant or defendants in the said writ or writs named, have not either real or personal property within the county sufficient to pay or satisfy such debt or debts for which the said writ or writs of *fieri facias* have issued, or until the said plaintiff or plaintiffs obtaining such judgment or judgments, shall swear or affirm, *That he or she verily believes that the defendant or defendants hath, or have not, sufficient personal or real estate to satisfy such debt, interest and costs contained in such judgment or judgments*; which oath or affirmation may be administered by the Prothonotary of the Court where such

unless oath made of want of property to satisfy debt, &c.

such judgment or judgments has, or have been rendered, and filed by him, previous to the issuing such writ or writs of *feri facias*.

C. H. A. P.  
CXXIII.  
1785.

SECT. 3. *And be it enacted*, That if any plaintiff or plaintiffs, his or their Counsel or Attorney, shall issue or cause to be issued the said writ of *capias ad satisfaciendum* upon any judgment or judgments entered or obtained as aforesaid, before the issuing of one or more writs of *feri facias* upon such judgment or judgments, or oath or affirmation made and filed as aforesaid, the said writ of *capias ad satisfaciendum* shall be void and of no effect; any custom or law of this state to the contrary notwithstanding: And the plaintiff or plaintiffs obtaining such writs shall be liable to all costs in issuing and executing the same.

Every Capias Satisfaciendum issued otherwise to be void.

*Passed June 4, 1785.*

C H A P. CXXIII. b.

*A Supplement to the ACT, intituled, An act for the better regulating the wharfs, public streets, buildings, party walls, and partition fences, in the borough of Wilmington, in the county of New-Castle, upon Delaware, and for raising money on the inhabitants of the said borough for the public use and benefit thereof. (a)*

1785.

**W**HEREAS by the act, intituled, *An act for the better regulating the wharfs, public streets, buildings, party walls and partition fences, in the borough of Wilmington, in the county of New-Castle, upon Delaware, and for raising money on the inhabitants of the said borough for the public use and benefit thereof*, the High Constable to be annually chosen, is appointed Collector of the assessments from time to time to be laid on the persons and estates within the said borough; (b) and it sometimes happens

(a) For this see chap. 206. a.

(b) See sect. 23.

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happens to be inconvenient for the High Constable to exercise the office of Collector, and at other times, the inhabitants find a difficulty in their election of a person who is suited to fill both offices: For remedy whereof,

Burgeffes and  
Assistants to ap-  
point a Collec-  
tor,

SECTION 2. *BE it enacted by the General Assembly of Delaware,* That the Burgeffes and Assistants of the said borough, for the time being, shall, on the eighth day of October yearly, (except that day should happen on Sunday, and then on the next day following) meet together, and appoint one suitable inhabitant of the said borough to be Collector of the assessments to be raised on the persons and estates of the freeholders and inhabitants of the said borough for the year then next ensuing.

SECT. 3. *And whereas* no provision is made in the said recited act for obliging the Collector to give security for paying over the monies by him to be received, and recovered in pursuance of his office; whereby the inhabitants may suffer considerable loss for want thereof; and as it is just and reasonable that every person into whose hands public monies may come should give sufficient security for paying over the same:

who shall give  
bond, &c.

SECT. 4. *Be it therefore enacted,* That every person hereafter to be appointed shall, before he enters upon the execution of his office, give a bond in double the sum that probably may come into his hands as Collector, with one sufficient surety, to be by the said Burgeffes and Assistants approved, conditioned for the payment of the whole and every of the sums of money assessed in his duplicate, agreeably to the directions of the said recited act to which this is a supplement.

SECT. 5. *And be it further enacted,* That such part of the said recited act to which this is a supplement as is hereby altered, is declared to be repealed and made null and void.

*Passed June 4, 1785.*

CHAP.

## C H A P. CXXIV. b.

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CXXIV.

1785.

An ACT for raising Ten Thousand Five Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-five.

**W**HEREAS there are divers sums of money due to the inhabitants of this state for supplies furnished the army, for money borrowed on the credit of this state, and for public service performed: *And whereas* it is necessary to make provision for the payment of the interest due to the officers and soldiers of the Delaware Regiment, and for defraying the expenses that have arisen or may arise within this state, for the service of the present year: *We* the Representatives of the freemen of this state, in General Assembly met, taking into our serious consideration the justice and propriety of complying punctually with our engagements to individuals, and supporting the dignity of government, have agreed to give the sum of Ten Thousand Five Hundred Pounds for the uses aforesaid, and desire that it may be enacted;

SECTION 2. *And be it enacted by the General Assembly of Delaware,* That the sum of Ten Thousand Five Hundred Pounds, lawful money of the Delaware State, shall be raised, levied and paid in the state treasury for the purposes aforesaid, within the time herein after directed, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say*; For the county of Kent the sum of Three Thousand Five Hundred Pounds; For the county of New-Castle the sum of Four Thousand Pounds; and, For the county of Suffex the remaining sum of Three Thousand Pounds.

SECT. 3. *And be it enacted,* That for the better assessing, ordering, levying and collecting the aforesaid several sums of money in the counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court, on or before the sixteenth day of August next in the counties aforesaid respectively, at the places in the said counties where the Levy Courts are usually held, and then and there, with the assistance

Preamble.

Ten Thousand  
Five Hundred  
Pounds to be  
raised by a tax.Each county's  
proportion there-  
of.Special Courts  
to be held to as-  
certain the sum  
on the Pound  
rate.

of

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Warrant to be  
issued to each  
Collector.

of the Clerks of the Peace to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised and levied in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each county, herein after named, or who may be appointed agreeable to the directions of this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorizing and requiring him forthwith to demand and receive from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums as aforesaid.

Collectors ap-  
pointed.

SECT. 4. *And be it enacted*, That James Delaplain of the county of New-Castle, Joseph Taylor of the county of Kent, and Nathaniel Mitchel of the county of Sussex, be, and hereby are appointed Collectors of the tax aforesaid, in their respective counties, and each, and every of them shall appear before the Justices at the Special Court to be holden as aforesaid, and enter into bond with good and sufficient securities, such as the said justices, or any three of them shall approve, in double the sum to be collected, with condition, *That if the above bound*

Who shall give  
bond.

*shall well and faithfully execute and perform the several duties required of him, as a Collector of the tax for*

*county, according to law, then the above obligation to be void, else to remain in full force*; and the said justices, or some two of them, shall witness the execution of such bond, and immediately after deliver the same to the Clerk of the Peace, who shall record the said bond, and as soon after as conveniently may be, transmit the same to the Auditor, to be by him safely kept in his office, and an attested copy of the said record shall be as good evidence in law as if the said bond was actually proved in court; and if any person appointed a Collector as aforesaid, shall, after five days notice of his appointment, neglect to appear, not having a reasonable excuse in the judgment of the said justices, or appearing, shall refuse to take upon him the office of Collector, or shall refuse or neglect to

Which shall be  
recorded, &c.

give

give bond as aforesaid, the said justices, or any five of them, may remove him from his said office, and shall immediately, on any vacancy by death or removal, or by refusal to act, neglect to appear, or give bond as aforesaid, appoint some other Collector for their county, who shall give bond as aforesaid, and to this end, the Justices of the Peace of each county, or any five of them, are hereby authorised and required, so often as occasion may be, to meet at the usual place of holding Levy Courts in their county, and then and there open and hold a special session for the purposes aforesaid.

C. H. A. P.

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1785.

Vacancies how supplied.

SECT. 5. *And be it enacted*, That each Collector may appoint one or more deputies to assist him in collection, for every of whom he shall be answerable.

May appoint deputies.

SECT. 6. *And be it enacted*, That the said Collectors and their deputies shall proceed, without delay, to collect the assessment imposed by this act; and if any person or persons shall neglect or refuse to pay, by the space of ten days after demand made, such person or persons being a freeholder, it shall and may be lawful for the said Collectors respectively to levy by distress and sale of the goods and chattels of the person or persons so neglecting or refusing to pay as aforesaid, the said several sums of money such person or persons stand charged with, of which sale five days notice, exclusive of the day of notice and sale, shall be given; but if no distress can be found by the Collector or deputy, and the party assessed refuse or neglect to shew goods or chattels of his own forthwith to be levied upon to satisfy such assessment with reasonable charges, then such Collector or deputy shall take the body of every such neglecting or refusing person, and bring him to the county gaol, and deliver him to the Sheriff or keeper of the said gaol, who is hereby authorised and required to receive and detain him in safe custody until payment with costs be made.

Their power.

SECT. 7. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on the said land; *Be it therefore enacted*, That the tenant or other persons residing on, or having the care

Provision for securing the payment of the tax in certain cases.

of

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of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant, to deduct the tax so paid out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owners by an action or suit in any court where the same shall be cognizable, together with costs of suit; and all parents, guardians or tutors making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts. *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

In what cases  
Collector may  
sell land, &c.

SECT. 8. *And be it enacted*, That in all cases where the Collector can find no effects on the land belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same if distrained, and the rate cannot be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for that county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at auction, as may be necessary to pay the assessment.

Collectors to  
pay over the tax  
to the State  
Treasurer,

SECT. 9. *And be it enacted*, That the said Collectors respectively, shall on or before the first day of December next, pay to James Tilton, who is hereby appointed State Treasurer, one moiety of the tax by this act to be raised; and the other moiety thereof on or before the first day of May next, and each Collector shall, on or before the first day of February next, appear in the Auditor's Office, and then and there lay before the Auditor, an accurate and fair account of his collection of the half part of the rate aforesaid, under the penalty of One Hundred Pounds lawful money; and the said Auditor shall immediately proceed to adjust his said account, and shall upon such settlement,

and to account  
with the Au-  
ditor,

settlement, allow to the said Collector a commission of three and a half *per centum* on the whole collection of the assessment then made by him and paid to the State Treasurer, or on the sum the said Auditor shall then adjudge him to be answerable for; and the said Auditor shall not allow the Collector any deductions of any part of the sums mentioned in the said duplicate of assessment; except only when it shall be made appear to him by a certificate under the hands of any two justices of the neighbourhood where any delinquency may happen, that the Collector has used all lawful means for the levying and collecting the same: And each Collector shall, on or before the first day of July which will be in the year One Thousand Seven Hundred and Eighty-six, in like manner appear and lay before the Auditor his account of the collection of the other half part of the rate aforesaid; under the like penalty; and the Auditor shall forthwith proceed to settle and adjust the said final accounts, charging therein the balance found on the first accounts aforesaid; and every Collector shall pay to the State Treasurer, on or before the last day of the same month of July in the year last aforesaid, the whole balance of his account adjusted by the Auditor, unless the whole sum levied by him, clear of delinquencies, charges of collection and commissions, shall exceed the quota of his county herein before ascertained, in which case such surplusage shall be paid to the Treasurer of the same county, and the said Auditor shall transmit an account of his settlement with the Collectors aforesaid to the Clerks of the Peace respectively, who shall file the same and deliver a copy thereof to the Treasurer of his county, to enable him to receive of the Collector such surplusage as aforesaid; where the same may happen; and each Clerk of the Peace shall also lay the said account before the Levy Court of his county; and upon failure of payment by any Collector, the President or Commander in Chief being certified thereof by the State Treasurer, shall direct the Attorney General to commence a suit or suits on the bond of such delinquent Collector to compel the payment of the money due, with an interest of ten *per centum* from the said last day of July in the

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who shall allow  
commissions at  
three and an  
half Per Cent;

Surplusage of  
each county's  
quota, how ap-  
plied; &c.

Collectors char-  
geable with ten  
Per Cent, upon  
failure of pay-  
ment.

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Clerks of the  
Peace to trans-  
mit duplicates  
to the Auditor.

Auditor to cer-  
tify the balan-  
ces due from  
Collectors, &c.

Collectors fees  
upon distress or  
execution.

The sum to be  
raised by this act  
subject to the  
draught of the  
General Assem-  
bly, &c.

The late Treas-  
urer to account  
with the Audi-  
tor, &c.

year last aforesaid, in which suit or suits there shall be but one imparlance.

SECT. 10. *And be it enacted,* That the Clerks of the Peace of the respective counties of this state, shall, on or before the first day of November next, transmit into the Auditor's Office certified copies of the duplicate of the assessments and annexed warrant herein before directed to be issued and delivered to each Collector; and the said Auditor shall forthwith, after each settlement made by him with any Collector, transmit an account of the balances as well to the President or Commander in Chief as to the State Treasurer; and the State Treasurer shall, on or before the first day of August which will be in the year One Thousand Seven Hundred and Eighty-six, certify and transmit to the President or Commander in Chief how much of such balances are then unpaid.

SECT. 11. *And be it enacted,* That if any Collector shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is entitled to by law for the like service; in the recovery of debts under Forty Shillings: And any person whose property shall be liable to payment of the said assessments or any part thereof, may discharge the same at any time before sale of the property distrained, and in such case the Collector shall receive for his, or his deputy's trouble, one half of the fees he would be entitled to on sale, and no more.

SECT. 12. *And be it enacted,* That the sum of Ten Thousand Five Hundred Pounds to be raised by this act, shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, entered and certified in the Auditor's Office, agreeable to the laws of this state.

SECT. 13. *And be it enacted,* That the said State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact state as well of all the monies by him received, with the names of the persons by whom paid, and time of payment, as  
of

of the monies by him paid, to whom, on what account or order, and the time when; and the said State Treasurer, at the expiration of each and every year, shall appear in the said Auditor's Office, and then and there lay a general account, stating all his transactions for the year, before the Auditor, who shall forthwith proceed to adjust the said account; and the said State Treasurer shall discharge himself of all monies which shall come to his hands in pursuance of his office aforesaid, by virtue of this act, or otherwise, and shall be allowed commissions for the monies so received and duly accounted for, at the rate of Ten Shillings for every Hundred Pounds, and no more. And where any State Treasurer shall be removed from office, he shall deliver up to his successor all the books and papers relating to the public accounts of the said office, whole, entire, and undefaced; and upon the death of any State Treasurer, his executors, or administrators shall deliver up, in like manner, all such books and papers to the succeeding Treasurer.

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his commissions.

SECT. 14. *And be it enacted,* That all gifts, grants, and sales which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessments, (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates, on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

Sales, &c. by delinquent Collectors or Treasurers void, unless, &c.

SECT. 15. *And be it enacted,* That the said State Treasurer, before the first day of November next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Fifteen Thousand Pounds, conditioned for the true observation of this act and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person

State Treasurer to give bond.

His place how supplied in case of delinquency, &c.

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to supply his place, who shall give security as afore-  
said.

SECT. 16. *And be it enacted*, That if any of the days appointed by this act for the performance of any of the duties herein required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

Summary mode  
for collecting  
the arrearages  
of taxes, ex-  
tended.

SECT. 17. *Whereas* it appears, that sundry Collectors of the state taxes directed to be raised for the service of the year Seventeen Hundred and Eighty-one, Eighty-two, Eighty-three and Eighty-four, have, through their indulgence, omitted to execute for those taxes within the times limited by law, and this General Assembly being willing to give the same summary mode to the said Collectors to collect the arrearages of such taxes, as they could have had under the several acts of Assembly passed for those purposes, *Be it enacted*, That the Collectors respectively of the said several state taxes, heretofore appointed, or hereafter to be appointed for that purpose, be and they hereby are empowered to collect all arrearages and balances due of the said taxes by execution, or otherwise, between the time of passing this act and the first day of November next, in as full and ample manner as heretofore could have been done had the same been done within the time limited by law.

*Passed June 4, 1785.*

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1785.

*An ACT for establishing a militia.*—Altered and supplied by chap. 36. c. passed June 18, 1793, and chap. 95. c. passed Feb. 9, 1796.

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## 2d. C H A P. CXXV. b.

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An ACT to enable Joseph Oliver, of the county of Kent, his heirs, executors, or administrators, to erect a bridge over Mispillion creek.—Repealed in chap. 223. b.

## C H A P. CXXVI. b.

1786.

An ACT to vest the United States in Congress Assembled, with powers for the regulation of commerce for the term of fifteen years.—Obsolete.

## C H A P. CXXVII. b.

1786.

An ACT to establish certain free ports within the Delaware state, and for the encouragement of commerce.—Obsolete.

## C H A P. CXXVIII. b.

1786.

An ACT for the more effectual preservation of all such ships or other vessels, and the goods thereof, as shall be forced on shore or stranded upon the coasts of this state, and for other purposes therein mentioned.

**W**HEREAS from the many unavoidable dangers to which vessels are exposed upon the coasts of this state, the said vessels with their cargoes, mariners, and passengers, are often liable to be lost, cast away, or stranded. For the prevention of such accidents, and for other relief in the premises, Preamble.

SECTION 2. BE it enacted by the General Assembly of Delaware, That the Sheriffs, Justices of the Peace, and Officers of the Customs, near adjoining to the coasts of this state, upon application made to them, or any of them, by, or on behalf of, any Commander, Sheriffs, &c. to summon men to the assistance of vessels in distress.

er,

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er, officer, or owner of any ship or vessel belonging to this state, the subjects thereof, or others, in danger of being stranded or run on shore, or being actually stranded or run on shore, are hereby impowered and required to summon so many men of the county as shall be thought necessary to the assistance, and for the preservation of such ship or vessel, so in distress as aforesaid, and their cargoes; and if any person shall refuse or neglect to attend on such summons, he shall forfeit and pay, for such neglect or refusal, the sum of Five Pounds, for the use of the state, to be recovered by such Sheriff, Justice of the Peace, or Officer of the Customs, in the manner that other debts of the same dignity are by the laws of this state; and if there shall be any ship or vessel belonging to this state, or to the citizens thereof, riding at anchor near the place where such ship or vessel is in distress or danger as aforesaid, the Sheriffs, Justices of the Peace, Officers of the Customs abovementioned, or any of them, are hereby impowered and required to demand of the Master or superior officer of such ship or vessel so riding at anchor as aforesaid, assistance by their boats and such hands as they can conveniently spare, for the said service and preservation of such ship or other vessel so in distress as aforesaid; and in case the Master or superior officer of such ship or vessel, riding at anchor as aforesaid, shall refuse or neglect to give such assistance, he shall forfeit for the same the sum of One Hundred Pounds, to be recovered by the Master, superior officer, or owner of the said ship or vessel so in distress, together with costs of suit, in any Court of Record within this state, by action of debt, bill, plaint or information.

All ships shall assist.

Penalty for neglect.

To whose orders they shall conform.

SECT. 3. *And* to prevent confusion and contradictory orders among those persons that are hereby directed to carry this act into execution, *It is further enacted*, That the persons so assembled to save any ship, vessel, or their goods as aforesaid, shall conform in the first place to the orders of the Master, or other officer, or owner of such ship or vessel, or such person or persons as shall be employed by them; and for want of their presence or direction, to the orders of the High Sheriff of the county; and in his absence,

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to the orders of the Justices of the Peace; and in their absence, to the orders of the Officers of the Customs; and if any person or persons whatsoever, besides those empowered by the said Sheriffs, Justices, or Officers of the Customs as aforesaid, or some one of them, shall enter, or endeavour to enter, on board any ship or vessel so in distress, without leave or consent of the Commander, or other superior officer, or owner of the said ship or vessel, or of the Sheriffs, Justices of the Peace, or Officers of the Customs, or some one of them, employed for the service and preservation of the said ship or vessel as aforesaid; or in case any person shall molest him, them, or any of them, in the saving of the said ship, vessel, or goods, or shall endeavour to impede or hinder the saving any such ship, vessel, or goods as aforesaid, or when any such goods are saved, shall take out or deface the marks of any such goods; before the same shall be taken down in a book or books for that purpose to be provided by the Master, superior officer, owner, Sheriffs, Justices of the Peace, or Officers of the Customs as aforesaid, or some one of them; such person or persons shall, within the space of thirty days, make double satisfaction to the party grieved, or in default thereof, shall be committed to the county gaol, where he shall continue, and be employed in hard labour for the space of twelve months: And it shall be lawful for any Master, superior officer, or owner of the said ship or vessel so in distress as aforesaid, or for the said Sheriffs, Justices of the Peace, or Officers of the Customs, or any of them, to repel by force any such person or persons; as shall, without such leave or consent from the said Master, superior officer, or owner, or the said Sheriffs, Justices of the Peace, or Officers of the Customs as aforesaid; or some one of them, press on board the said ship or vessel; and thereby molest them or any of them, in the preservation of such ship or vessel so in distress as aforesaid, or the goods thereof:

Persons molest-  
ing them, &c.  
how punished.

Pressers on  
board may be  
repelled by  
force.

SECT. 4. *And be it further enacted,* That in case any ship or vessel shall be wrecked or stranded upon the coasts aforesaid, and the cargo, or some part thereof, shall be found on the shores of this state, and no person

Goods saved,  
and not claimed  
within a year, to  
be sold, and the  
money paid into  
the treasury,

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person shall appear to claim the same or any part thereof, the person or persons so finding the said goods and saving the same, shall make a true inventory thereof, and shall apply to two Justices of the Peace, who shall cause the said goods, together with the said inventory taken as aforesaid, after being signed by them, to be put into the hands and possession of some good substantial and responsible person, who shall be accountable for the same; and if the said goods shall not be legally claimed by the rightful owner or owners, or some person on his or their behalf, within the space of one year next ensuing, then public sale shall be made thereof, and if the goods are of a perishable nature, they shall be sold forthwith, after giving due notice by advertisement or otherwise, and, after all charges deducted, the residue of the monies arising by such sale, with a fair and just account of the whole, shall be transmitted to the Treasurer of the state, to be disposed of as other public monies in his hands, subject nevertheless to be refunded to the rightful owner or owners when appearing, who upon affidavit, or other proof made of his or their right or property thereto, to the satisfaction of one of the Judges of the Supreme Court, shall, upon his order, receive the same out of the treasury.

but subject to be refunded.

Shewing false lights, plundering, &c. how punished.

SECT. 5. *And be it further enacted,* That if any person or persons shall plunder, steal, take away, or destroy any goods, merchandise, or other effects, from or belonging to any ship or vessel whatsoever which shall be in distress, as aforesaid, or which shall be wrecked, lost, stranded, or cast on shore, on any part of the coast of this state, or any of the furniture, tackle, apparel, provision, or any other part of such ship or vessel, whatsoever, or shall beat, wound, or otherwise mal-treat, with intent to kill or destroy, or shall wilfully prevent or obstruct the escape of any person or persons endeavouring to save his, her, or their life or lives from such ship or vessel, or the wreck thereof, or if any person or persons shall shew any false light or lights, or otherwise contrive to bring such vessel into danger, then such person or persons so offending, shall be deemed guilty of felony, and shall

shall be punished as persons convicted of grand larceny by the laws of this state.

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SECT. 6. *And be it further enacted,* That it shall and may be lawful for any one or more of the Justices of the Peace of this state, upon information made before him or them, upon oath or affirmation, of any part of the cargo or effects whatsoever, belonging to any ship or vessel lost or stranded upon, or near the coasts aforesaid, or the goods and effects of a ship or vessel stranded or cast away on the shores opposite to this state or elsewhere, and brought into the same, being unlawfully carried or conveyed away, or concealed, in any house, out-house, barn, or other place, or of some reasonable cause of suspicion thereof, to issue his or their warrant or warrants for searching of such house, out-house, barn, or other place, as in other cases of stolen goods; and if the same shall be found in any such house, out-house, barn, or other place or places whatsoever, or upon, or in custody or possession of any person or persons, not legally authorized and entitled to keep and withhold the same, and the owner or occupier of such house, out-house, barn, or other place, or the person or persons upon whom, or in whose custody or possession, the same shall be found, shall not immediately, upon demand, deliver the same to the owner or owners thereof, or to such other person or persons as shall be lawfully authorized to demand the same, or shall not give a good account to the satisfaction of the said justice or justices, how he, she, or they, came by, or were possessed thereof, it shall and may be lawful for such justice or justices, upon proof of such refusal, to commit such person or persons so offending to the common gaol of the county, until he, she, or they, shall have paid to such lawful owner or owners, or to the person or persons lawfully authorized to receive the same, double the value of the goods or things so by him, her, or them, unlawfully detained.

Persons concealing goods how proceeded against and punished.

SECT. 7. *And for the encouragement of such persons as shall give their assistance to such ships or vessels so in distress as aforesaid, or shall take up and secure any goods that shall be lost, and cast on shore within this state, Be it further enacted,* That the said

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A reasonable  
salvage shall be  
allowed.

The quantum  
thereof how as-  
certained.

Mode of reco-  
very.

Sheriffs, Justices of the Peace, Officers of the Customs, and the Master or other superior officer of any ship or vessel, and all others who shall act, or be employed in the saving and preserving of any such ship or vessel in distress, or their cargoes, or in finding and saving any goods that shall be lost and cast on shore, shall, within thirty days after the service performed, be paid a reasonable reward or salvage for the same; by the Commander, Master or other superior officer, owners, or mariners of the ship or vessel so in distress, or by the merchant whose ship, vessel or goods, shall be saved as aforesaid; and in default thereof, the said ship or vessel, the goods so saved, or so much thereof, as may be thought sufficient, shall remain in the custody of such Sheriff, Justice of the Peace, or Officer of the Customs, until all charges shall be paid, and until the said Sheriff, Justice of the Peace, Officer of the Customs, and the said Master or other officer of the said ships or vessels, and all others so employed as aforesaid shall be reasonably gratified for their assistance and trouble, or good security given to the satisfaction of the several parties who are to receive the same: And in case, after such salvage, the Commander or other superior officer, owners, or mariners of such ship or vessel so saved, or merchant whose goods shall be saved as aforesaid, shall disagree with the said Sheriff, Justice of the Peace, or Officer of the Customs, touching the monies deserved by any of the persons so employed as aforesaid; it shall be lawful for the Commander of such ship or vessel so saved, or the owner of the goods, or the merchant interested therein, and also for the said Sheriff, Justice of the Peace, or Officer of the Customs, or other person concerned therein, to nominate three good and reputable freeholders of the county, who shall thereupon adjust the quantum of the monies or salvage to be paid to the several persons acting, or being employed in the saving of such ship, vessel, or goods; and such adjustments shall be binding on all parties, and shall be recoverable, if under Twelve Pounds, before any Justice of the Peace, and if above Twelve Pounds, in any Court of Record within this state, by the respective persons to whom

whom the same shall be allotted by the said freeholders as aforesaid.

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SECT. 8. *And be it further enacted*, That if any Sheriff, Justice of the Peace, Officer of the Customs, or others so employed as aforesaid, shall by fraud, or wilful neglect, abuse the trust so hereby reposed in him or them as aforesaid, and shall be convicted thereof, in due form of law, in any Court of Quarter Sessions in this state, such Sheriff, Justice of the Peace, Officer of the Customs, or others, shall respectively forfeit treble damages to the party grieved, to be recovered by action, bill, plaint, or information in any Court of Record within this state.

Sheriffs, &c. abusing their trust, shall forfeit treble damages.

SECT. 9. *And be it further enacted*, That if any action, suit, or information, shall be commenced, or prosecuted against any person or persons for any thing that he or they shall do, or cause to be done, in pursuance and execution of this act, all and every person and persons so sued in any court whatsoever shall and may plead the general issue, and give this act and the special matter in evidence, and if in any such suit the plaintiff or prosecutor shall become non-suit, or forbear prosecution, or discontinue his suit, or if a verdict shall pass against him, or judgment be given on demurrer, then and in any of the said cases, the defendant or defendants shall recover full costs, for which he and they shall have the like remedy as where costs by law are awarded; and this act shall be taken, and allowed in all courts within this state, as a public act, and all judges and justices, are hereby required to take notice thereof; and the Sheriff of each county shall read, or cause this act to be publicly read, at the next Court of Quarter Sessions of his county after the passing hereof, and at the said court to be held in the month of November in every year, under the penalty of Fifty Pounds for each neglect, and during the reading thereof, all other business shall cease in the said courts.

General issue.

Public act.

This act to be publicly read at the Courts of Quarter Sessions.

*Passed February 2, 1786.*

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1786.

An ACT to incorporate the President, Directors, and Company of the Bank of North America.

Preamble.

WHEREAS the United States in Congress assembled, from a conviction of the support which the finances of the United States would receive from the establishment of a National Bank, passed an ordinance to incorporate the subscribers for this purpose, by the name, stile and title of *The President, Directors, and Company of the Bank of North America*, and, by another act, did recommend the further protection and support of the said subscribers to the different Legislatures in the said United States.

SECTION 2. *And whereas* divers persons, subscribers to the said bank, in virtue of the said ordinance and of divers acts of the Legislatures of several of the said United States, are at this time a subsisting body politic, duly organised, and possessing all the powers of a corporation governed as well by the said ordinance of the United States in Congress assembled, as by divers ordinances, by-laws and regulations by the said corporation duly made and enacted, in pursuance of the powers in them vested. *And whereas* the President, Directors, and Company of the Bank of North America, so as aforesaid incorporated, have by their petition under their common seal to the Legislature of this state, prayed that they may have leave to bring in a bill, to be enacted into a law, to incorporate them in the same manner as their other acts of incorporation have already established them.

SECT. 3. *Be it therefore enacted by the General Assembly of Delaware*, That those who are at the time of passing this act, and those who shall hereafter be, and become subscribers to, and holders of stock in the said bank of North America be, now are, and hereafter shall be, one body politic and corporate in deed and in law to all intents and purposes, by the same name, stile and title of *The President, Directors, and Company of the Bank of North America*.

Stile of the corporation.

SECT. 4. *And be it further enacted*, That the said corporation

corporation are hereby declared and made capable in law and equity to have, take, purchase, receive, possess and enjoy, any lands, tenements, and hereditaments, goods, chattels, rights, credits and effects, of what nature, kind or quality soever, to the amount of Ten Millions of Spanish silver, milled Dollars, and no more; and to sell, grant, dispose, alien, or demise the same in such manner and form as they shall think proper.

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Corporate  
powers.

SECT. 5. *And be it further enacted*, That the said corporation be, and hereafter shall be, able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, or any other place whatsoever, and to do and execute all and singular other matters and things which bodies politic or corporate lawfully may do.

SECT. 6. *And be it further enacted*, That the President, Directors, and other officers of the said corporation, which now are, and shall hereafter be, elected and appointed in pursuance of the powers herein granted, or of any other powers in them vested by any other ordinance, acts, or means whatsoever, shall be and continue the President, Directors and officers of the said corporation, until others shall be elected and appointed in virtue of the said powers, in their places, provided that twelve Directors, one of whom shall be President of the corporation, be of the number of their officers.

Continuance of  
officers.

SECT. 7. *And be it further enacted*, That the President and Directors of the said corporation, shall be capable of exercising such powers for the well-governing and ordering the said corporation and the affairs and business thereof, and of holding such occasional meetings for that purpose as have been or shall be fixed, described, and determined by the laws, regulations and ordinances of the said corporation.

Powers of the  
President and  
Directors.

SECT. 8. *And be it further enacted*, That the said corporation shall and may make, ordain, and establish such laws, regulations and ordinances as to them shall seem necessary and convenient for the government of the said corporation: *Provided always nevertheless*, That nothing herein contained shall be construed to authorise

Powers to make  
regulations not  
repugnant to the  
laws of this  
state.

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authorise the said corporation to exercise any powers within this state repugnant or contrary to the laws or constitution of this state.

Shall use a common seal, &c.

SECT. 9. *And be it further enacted,* That the said corporation shall have full power and authority to have and use their present common seal, and to break and alter the same, and establish another or others, with such devices as they shall think proper; and that all acts heretofore certified under the said seal, or hereafter to be certified under that or any other seal of the said corporation, shall have full faith and credit in all and every the courts within this state.

Forging, &c. any bank paper, how punished.

SECT. 10. *And be it further enacted,* That the forging, or counterfeiting, or uttering, passing, or attempting to utter or pass any check or order on the Cashier of the said bank, knowing the same to be forged or counterfeited, shall be subject to the same pains and penalties, and be in like manner punished as the forging, counterfeiting or altering the common seal, or any bank bill, or note, or other bank paper, security, or evidence, is liable to be punished in and by an act of Assembly of this state, intituled, *An act for preventing and punishing the counterfeiting of the common seal, bank bills and bank notes of the President, Directors and Company of the Bank of North America, and for other purposes therein mentioned,* passed the eighth day of February, in the year of our Lord One Thousand Seven Hundred and Eighty-three. (a)

SECT. 11. *And be it further enacted,* That every matter and thing herein contained shall be construed and taken most favourably and beneficially for the said corporation.

*Passed February 2, 1786.*

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(a) Chap. 96. b.

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1786.

An ACT for the appointment of rangers and regulation of strays.

**W**HEREAS the laws heretofore in existence for the regulation of strays, have been found by experience to be very beneficial, but not to answer all the good purposes thereby intended:

Preamble.

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware,* That the Justices of the Peace of the respective counties in this state, at the Courts of General Quarter Sessions of the Peace to be held for the said counties respectively, in the month of February next, and in the month of February in every succeeding year, may and shall, and they are hereby empowered and required, to nominate and appoint one fit person in each and every hundred of the respective counties, to be a ranger for the hundred in which he resides; and upon the death, or removal from office for misbehaviour, of any such ranger, within the aforesaid term of one year, next after his being nominated and appointed as aforesaid, the said justices of their respective Courts of General Quarter Sessions of the Peace, next after such death or removal, may and shall nominate and appoint one other fit person to the said office, for the remainder of the said term, in the room and stead of the person so dying or removed.

Justices of the Quarter Sessions shall appoint a Ranger in each hundred.

Vacancy how supplied.

SECT. 3. *And be it enacted,* That no person or persons whatsoever shall by colour or pretext of any other commission or authority, presume to do, or perform any act or thing belonging to the office or place of ranger within this state, and if any person or persons whatsoever shall offend herein, every such person or persons for every such offence shall forfeit and pay the sum of Fifty Pounds, one moiety whereof to the Overseer or Overseers of the Poor for the time being (for the support of the poor) of the hundred where the offence shall be committed, and the other moiety to him or them who shall sue for the same, to be recovered, together with the costs of suit, in any Court

No other persons shall act as rangers under penalty of 50l.

of

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Cattle under the age of one year, not to be deemed strays, except, &c. nor taken up as such.

Persons marking cattle belonging to others, or working, &c. any stray, how punished.

of Record within this state, by action of debt, bill, plaint or information; any law, usage, or custom to the contrary notwithstanding.

SECT. 4. *And be it enacted*, That no horse, gelding, mare, colt, horned or other cattle, shall be taken or deemed to be stray, unless the same be of the age of twelve months at the least; except such as follow their dams, being strays; and that no person or persons whatsoever, at any time after the publication of this act, shall take up as a stray, any horse, gelding, mare, colt, or any other cattle, that shall be under the age of twelve months at the time of such taking up, except such as before are excepted, under the penalty of any sum not exceeding Twenty Shillings, at the discretion of the justice before whom the same shall be recovered, to be paid to the owner or owners, and to be recovered as other debts of such value are recoverable in this state; but if any such beasts or cattle as aforesaid, of the age of twelve months or upwards, be found at large, and trespassing upon any person or persons, it shall and may be lawful to and for such person or persons, not knowing the owner or owners, to take up and carry the same to the ranger of the hundred wherein such beasts or cattle shall be so taken up, to be secured and disposed of as hereinafter is directed; And every person or persons who shall mark or brand any horse, gelding, mare, colt, horned or any other cattle, belonging to any other person, or shall work, use, or abuse, any waif or stray, upon complaint and due proof thereof made to any two Justices of the Peace of the county wherein the offence is committed, shall for the first offence forfeit and pay (at the discretion of such justices) any sum not exceeding the value of such horse, gelding, mare, colt, horned or other cattle, waif or stray, to be recovered in manner as is hereinafter directed; and for the second offence, any sum not exceeding double the value thereof; the one moiety of said forfeitures to the owner or owners of such waif or stray, if known, and if not known, to one of the said justices, for the use of the owner or owners; but if such owner shall not within twelve months appear and prove his property in such waif or stray, in the manner herein after mentioned and directed, then  
the

the said moiety shall by the said justice be paid to the Overseer of the Poor of the hundred where the offence was committed, for the use of the poor thereof; and the other moiety to the person or persons who shall sue for the same; and if such offender or offenders shall not be able to pay such forfeitures as aforesaid, he or they shall and may be bound by such two justices of the county where such offence shall be committed as aforesaid, to any person or persons, as such two justices shall think proper, for any term not exceeding twelve months, to make satisfaction for the forfeitures as aforesaid.

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Mode of recovery, and appropriation of forfeitures.

SECT. 5. *And be it enacted,* That it shall and may be lawful to and for any person or persons to take up any marked horse, gelding, mare, colt, horned or other cattle; running at large, not trespassing on the person or persons so taking them up, the owner or owners not being known to him, her, or them, and carefully keep the same for the space of one month next after such taking up; and if within that time no person or persons shall claim his, her, or their property thereto, by the oath or affirmation of the person or persons so claiming and one other credible witness, to be taken before some Justice of the Peace of the county where such taking up shall happen, or otherwise to the satisfaction of such justice, such taker up shall and may carry them to the tanger of the hundred where such horse, gelding, mare, colt, horned or other cattle, shall be taken up as aforesaid; to be disposed of as trespassing strays, and as by this act hereafter is directed.

Any person may take up cattle running at large (the owners being unknown) and keep them one month, unless the owner appears; and then take them to the ranger.

SECT. 6. *Provided always,* That the person or persons so taking up any such horse, gelding, mare, colt, horned or other cattle, shall within five days next after such taking up, put up, or cause to be put up, five advertisements in writing at the most public places in the hundred where such taking up may happen, describing them in the manner and form as tangers are required and directed by this act to advertize strays, delivered to them.

but must advertise them in five days.

SECT. 7. *And be it enacted,* That it shall and may be lawful to and for any person or persons, at the end of one month next after the taking up and ad-

And at the end of one month shall take them before a Justice of the Peace.

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who shall make  
an allowance for  
trouble, &c.  
which shall be  
paid by the  
ranger to the  
taker up.

vertising of any waif or stray, not trespassing, and no owner or owners appealing and proving his, her, or their property, within that time in manner as aforesaid, to take, lead, or drive the same; and all trespassing strays, immediately after taking up the same, the owner or owners not being known, to the next Justice of the Peace of the county where the same shall be so taken up; and shall upon oath or affirmation declare, *That he, she, or they, do not know who is or are the owner or owners thereof*; and in the case of the said trespassing strays, shall also declare on oath or affirmation, *That such trespassing horse, gelding, mare, colt, horned or other cattle, did trespass upon him, her, or them, without his, her or their default*; which oath or affirmation such justice is hereby impowered and required to administer, and shall award to such person or persons, for his, her, or their trouble of taking up, keeping, advertizing, leading, or driving to the ranger of the hundred such stray or strays, such satisfaction as to the said justice shall seem reasonable; for doing whereof, administering the said oath or affirmation, and certifying the same under his hand and seal, the said justice shall receive the sum of Two Shillings and Six-pence, and no more; and the sum awarded by such justice, together with the said sum of Two Shillings and Six-pence, shall by such ranger be paid to the said person or persons, his, her, or their executors or administrators, when the said stray or strays shall by such ranger be delivered to the owner or owners thereof, or sold in manner as herein after is directed; and the person or persons so taking up any such horse, gelding, mare, colt, horned or any other cattle, shall, together with the justice's certificate, deliver the same to such ranger, in order to be entered in his books.

Duty of the  
rangers,

SECT. 8. *And be it enacted*, That every ranger hereafter to be appointed within this state in manner aforesaid, shall, and is hereby required to receive into his custody every horse, gelding, mare, colt, horned or other cattle brought to him with such certificate as before mentioned, and shall enter the same in a fair book by him for that purpose only to be kept, and there in a fair and legible hand writing, shall insert and set forth the colour and marks, brands, age, and size,

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size, as near as can be, of all and every stray and strays, which any ranger shall take up, or which shall be brought to him, with the time, which he took up the same; or they were brought to him, and shall within six days next after his taking up, or receipt of any such stray or strays, fix or set up one advertisement in the most public place of each hundred in his county, and five in the hundred for which he is ranger, describing such stray or strays as herein before is directed to enter the same in his books; and if, within six months next after the taking up or receipt of any such stray or strays by such ranger, the owner or owners thereof shall come to the ranger, and prove their property in the same, as by this act is before directed, and shall pay to him for his trouble the sum of Fifteen Shillings, and his reasonable charges for keeping the same, to be ascertained and determined by any Justice of the Peace of the county as before directed, and also the sum awarded to the taker or takers up, and justice's fee before mentioned, then the ranger shall deliver to such owner or owners the said stray or strays; but in case the owner or owners of such stray or strays shall refuse to pay the fees and charges aforesaid, or shall not appear and prove his, her, or their property within the aforesaid term of six months, then the ranger shall cause such stray or strays to be sold, at public vendue, to the highest bidder, having first advertised the time and place of sale, at least ten days before the same, and out of the money arising by such sale, shall first pay to the taker up the justice's fee, and charges awarded to him, her, or them as before mentioned; and shall be allowed for his trouble at the rate of Two Shillings in the Pound, according to such sale, and his aforesaid fee and charge for keeping the same, directed or given by this act: The ranger shall account with two of the most convenient Justices of the Peace of the county, and the Overseer or Overseers of the Poor of the hundred of which he is ranger, in the month of February next after his appointment, and shall immediately pay over all the balances remaining in his hands, by virtue of this act, to the Overseer or Overseers of his hundred, to be by him or them applied for the use of the poor as aforesaid;

and their re-  
ward.

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said; and if any of the said rangers shall happen to die, or be removed for any cause whatsoever, they, or their executors, or administrators, shall deliver over to their respective successors, all books and papers relating to said office, together with monies, waifs or strays that may be in their possession at the time of their death or removal as aforesaid.

Sales of strays by them made shall be good in law.

SECT. 9. *And be it enacted*, That the rangers of the several hundreds as aforesaid within this state, shall, and are hereby required, at every Court of Quarter Sessions to be held for the counties to which they respectively belong, to fix up at the Court House door advertisements of all strays entered in their books respectively, thereby describing them in manner as herein before they are directed and required to enter the same in their said books; and all sales of any strays to be made by virtue of this act, shall be good and available in law to all intents and purposes whatsoever; and that the buyer or buyers of any such strays shall and lawfully may hold and retain the same to his and their proper use, as his and their proper goods and chattels, without any lett, interruption, vexation, suit, or trouble of the former owner or owners, or any other person or persons whatsoever.

Any person taking a stray, without leave, out of a ranger's custody, shall be deemed a felon.

SECT. 10. *And be it enacted*, That if any person or persons shall, without leave first had and obtained, take any stray or strays, waif or waifs, entered in the book of any ranger within this state, to be appointed by virtue of this act, out of the inclosure, custody, or possession of such ranger, every such offender shall be deemed a felon, and being convicted thereof, shall be punished as the laws of this state in such like cases direct and appoint.

The act for erecting a pound in New-Castle to remain in force.

SECT. 11. *Provided always*, That nothing in this act contained shall be construed, deemed or taken to repeal an act of General Assembly of this state, intituled, *An act for the erecting a pound in the town of New-Castle*, or any part thereof.

This act to be publicly read at the Court of Quarter Sessions.

SECT. 12. *And be it enacted*, That this act shall be publicly read by the Sheriffs of the several counties respectively, or their deputies, in every Court of General Quarter Sessions of the Peace which shall be hold-  
en

en: in this state in the month of May next, during the reading of which all other business shall cease in the said courts.

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*Passed: February 2, 1786.*

C H A P. CXXXI. b.

*An ACT for devising and establishing seals to be made use of by divers officers in the respective counties of this state.*

1786.

**W**HEREAS by an act of Assembly of this state, Preamble, passed on the twenty-fourth day of March, in the year One Thousand Seven Hundred and Seventy, intituled, *An act for regulating and establishing fees*, the several officers in the said act mentioned, to whom any fee for affixing the seal of their said office to any writing, and not having any seal then appropriated to their office, were directed to procure seals, to be engraven with the arms of the King of Great Britain, or of the Proprietaries of the counties of this state, or such other devices as the justices of courts should order and direct. (a) *And whereas* divers of the seals so appropriated in the county of New-Castle, were captured by the British Army, in their route through that county in the month of September, in the year One Thousand Seven Hundred and Seventy-seven; *And whereas* by the act of Assembly, passed in the month of December following, intituled, *An act to remedy the loss of divers public seals of office in the county of New-Castle*, provision was only made to authenticate the process of courts and other writings, to which seals of office were usually annexed, by attesting the same with the hand of the officer only: (b) Now, to the end that seals of office generally within the state may  
be

(a) In chap. 204, a. sect. 36.

(b) Chap. 14. b.

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Seals to be pro-  
cured by public  
officers.

Seals establish-  
ed.

Successors in of-  
fice to reimburse  
their predeces-  
sors for such  
seals.

be provided, and engraven anew, with arms or devices more suitable to our present government, as an independent state,

SECTION 2. *BE it enacted by the General Assembly of Delaware,* That the respective officers within this state, to whom any fee is allowed for affixing the seal of their said office to any writing, (the Great Seal of the state excepted) shall within four months after the publication of this act, procure a seal of silver, steel, or copper, to be made of the diameter of one inch at the least, and cause the same to be engraven with the arms of the Delaware State, or parts of the same, or such other device instead thereof, as the justices of the court of which they are Clerks or officers shall order and direct, and a motto or inscription to describe the office to which such seal belongs; (c) which said seals shall be thenceforth taken, adjudged, and deemed, the seals of the said offices respectively, and may and shall be made use of, and affixed to, all writings and copies to which a seal of office ought to be affixed.

SECT. 3. *And be it enacted,* That the said officers, their executors, or administrators, shall deliver the said seals to their successors in the said offices respectively, from time to time, whole and undefaced, common wear excepted, under the penalty of Twenty Pounds, to be recovered by the person who shall hereafter be lawfully appointed to hold the said office, by an action of debt; wherein no effoign, protection, or wager of law, or more than one imparlance, shall be allowed; and that the successor or successors in the said offices shall, upon the delivery of the said seals in manner aforesaid, reimburse and pay to the former officer, his executors or administrators, the sum the said seals originally cost.

SECT. 4. *And whereas* divers common recoveries for the barring estates tail in the said county of New-Castle, have been suffered in the Court of Common Pleas there, and exemplifications of them made, which necessarily must be tested of the term in which the same common recoveries were suffered, and the same

(c) See chap. 5. c. sect. 13, passed Feb. 2, 1793, further provision as to seals of certain offices.

same exemplifications become one of the muniments of a title to the said lands; therefore for the further attestation of the same,

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SECT. 5. *Be it also enacted*, That it shall and may be lawful for the Prothonotary or Clerk of the Common Pleas in the said county of New-Castle for the time being, and he is hereby authorized and required to affix his seal of office, when procured as aforesaid, to all and every exemplification of any common recovery there suffered, or which may be suffered before the time such his seal be procured for use, which shall or may be brought to him for that purpose, noting under his hand, that the same affixing of the seal was done in pursuance of the authority given in this act.

Exemplifications of common recoveries suffered before seals obtained, how to be attested.

SECT. 6. *And be it enacted*, That so much as well of the said act, intituled, *An act for regulating and establishing fees*, (d) as of the act, intituled, *An act to remedy the loss of divers public seals of office in the county of New-Castle*, (e) as is hereby altered, contradicted, or supplied, shall be repealed and become null and void, and that all other parts of the same acts, not heretofore altered or supplied, shall remain, continue, and be as in full force and virtue, as if this act had not been made.

Parts of former laws repealed.

Passed February 2, 1786.

C H A P. CXXXII. b.

An ACT for the recovery of the sum of One Thousand Five Hundred and Fifty-three Pounds Eighteen Shillings and Six-pence, due from the estate of John Vining, esquire, deceased, formerly one of the Trustees of the Loan Office for the county of Kent.—Repealed by chap. 201. b. post.—chaps. 149. b. and 171. b. supplements hereto.

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(d) Chap. 204. a. sect. 36, 37.

(e) Chap. 14. b.

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C H A P. CXXXIII. b.

*An ACT for continuing the powers of sundry Collectors.—  
Temporary and expired.*

C H A P. CXXXIV. b.

1786.

*An ACT for cutting canals and improving the navigation  
of Main Duck-creek.*

Preamble.

**W**HEREAS the navigation of Main Duck-creek is greatly obstructed by shoals, and its course is exceedingly crooked and circuitous, whereby the transportation of produce to market is rendered very difficult and tedious ; and application has been made to the General Assembly for permission to remedy the same, by cutting canals across three several points of marsh, cripple or low grounds adjoining said creek, between the Eagle's Nest landing and the head of the tide-waters of the said creek, and otherwise to improve the navigation thereof ;

Commissioners  
appointed.

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, That Thomas Collins and Silas Snow, of Kent county, esquires ; and Marinas Haughey, of New-Castle county, gentleman, be, and they are hereby appointed Commissioners, who are authorized and required to go and view the grounds through which the said three canals may be cut, being first duly qualified for that purpose before some Justice of the Peace of this state, and to mark and lay out the same in such manner and in such places, between the Eagle's Nest landing and the head of the tide-water on the said creek, as they, or any two of them, shall think most proper and convenient for the shortening the distance and avoiding the shoals in said creek, and also to direct such ways and means to be taken as they may judge most effectual to remove obstructions, and prevent the washing of sand into the said creek, and otherwise to secure and improve the navigation thereof ; and the said Commis-*  
sioners,

Their power  
and duty.

tioners, or any two of them, are hereby further directed and required to award such damages as they shall find any person or persons hath or have sustained, or may sustain, by reason of the cutting and making such canals or other improvements as aforesaid, or any that hath, or have heretofore been cut or made.

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SECT. 3. *And be it enacted,* That it shall and may be lawful for the inhabitants of Kent or New-Castle counties, or any of them, after payment of such damages as may be awarded as aforesaid, to cut said canals across such points of marsh, cripple, or low grounds, or make the improvement in the navigation aforesaid, as the said Commissioners, or any two of them, shall direct; and in case of the death or refusal to act of either of the said Commissioners, the President for the time being, is hereby impowered and required to appoint some suitable person or persons to fill any vacancy or vacancies that may happen by reason of such death or refusal to act as aforesaid.

Damages to be paid before any improvement shall be made.

Vacancy occasioned by the death, &c. of any Commissioner, how supplied.

SECT. 4. *And be it enacted,* That if any person or persons after the said canal or canals be cut in pursuance of this act, shall fill up or otherwise designedly or intentionally injure, or obstruct the navigation thereof, he or they so offending, shall forfeit and pay any sum not exceeding One Hundred Pounds, for the use of the state, to be recovered in the name of the Delaware State, by such person or persons as shall sue for the same, in any Court of Record within this state, by action of debt, bill, plaint, or information.

Penalty for obstructing the navigation.

SECT. 5. *And be it further enacted,* That if the inhabitants of the said counties of New-Castle and Kent, or any of them, shall cut any such canals, or make other improvement in the navigation of the said creek as aforesaid, before the damages that may be awarded by the Commissioners as aforesaid, if any, be paid and discharged, or a legal tender thereof and refusal, he or they so offending, shall forfeit double the amount of such damages, to be recovered by the person or persons to whom such damages are payable, by action or suit, in any Court of Record within this state.

Persons cutting canals, &c. before payment of damages, shall forfeit double the amount.

Passed February 3, 1786.

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CXXXV.

C H A P. CXXXV. b.

1786.

*An ACT to supply the defect occasioned by the loss of certain articles of agreement made between John Brinckle, late of Kent county, since deceased, and James Partridge, of New-Castle county, for the exchange of their lands, &c. in the respective counties aforesaid.*

*Passed February 2, 1786.—Private act.*

C H A P. CXXXVI. b.

1786.

*An ACT to enable the owners and possessors of the tract of meadow, marsh, and cripple, situate at Swanwick in the hundred and county of New-Castle, to keep the banks, dams, canals, sluices, and flood-gates in repair.*

*Passed February 2, 1786.—Private act.*

C H A P. CXXXVII. b.

1786.

*An ACT to enable the present Trustee of the Loan Office of New-Castle county to convey unto Joseph Dickinson, of the said county, his heirs and assigns, a certain tract or parcel of land purchased by the said Joseph, of the late Trustees of the said office.*

*Passed February 2, 1786.—Private act.*

C H A P. CXXXVIII. b.

1786.

*An act for raising Twenty-three Thousand Six Hundred and Twenty-five Pounds for the service of the year One Thousand Seven Hundred and Eighty-six.*

Preamble,

**W**HEREAS Congress, by their resolution of the twenty-seventh day of September last, have called upon the United States for sums of money sufficient

sufficient to make up three quarters of the remaining moiety of Eight Millions of Dollars, called for by the resolutions of Congress of the thirtieth day of October, and the second day of November One Thousand Seven Hundred and Eighty-one, for the purpose of paying the arrears of interest due on the debts of the said United States to the end of the year One Thousand Seven Hundred and Eighty-four, and for the service of the year One Thousand Seven Hundred and Eighty-five; and also, by their resolution of the twelfth day of October last, have further earnestly called upon the said states to complete, without delay, the whole of their quotas of One Million Two Hundred Thousand Dollars of the requisition of the fourth of September Seventeen Hundred and Eighty-two; this state's computed quotas whereof being Sixty-one Thousand Six Hundred and Eighty-six Dollars: *We*, the Representatives of the freemen of this state, taking into our serious consideration the necessity of complying with the said requisitions of Congress, have agreed to give the sum of Twenty-three Thousand Six Hundred and Twenty-five Pounds, and desire that it may be enacted;

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1786.

SECTION 2. *And be it enacted by the General Assembly of Delaware;* That the sum of Twenty-three Thousand Six Hundred and Twenty-five Pounds lawful money of the Delaware State, shall be raised, levied, and paid into the state treasury, within the time herein after directed, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say*, For the county of New-Castle, the sum of Nine Thousand Pounds; For the county of Kent, the sum of Seven Thousand Eight Hundred and Seventy-five Pounds; and, For the county of Suffex, the remaining sum of Six Thousand Seven Hundred and Fifty Pounds.

Twenty-three  
Thousand Six  
Hundred and  
Twenty-five  
Pounds to be  
raised.

Each county's  
proportion there-  
of.

SECT. 3. *And be it enacted;* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court, on or before the twenty-third day of August next, in the counties aforesaid respectively,

Special Court  
to be held to  
ascertain the  
sum on the  
Pound rate.

at

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:786.

Warrant to be  
issued to Col-  
lectors.

Collectors ap-  
pointed;

who shall give  
bond,

which shall be  
recorded, &c.

at the places in the said counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection and supposeable delinquencies, the aforesaid several sums herein before directed to be assessed, raised, and levied in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each county herein after named, or who may be appointed agreeable to the directions in this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorising and requiring him forthwith to demand and receive from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums as aforesaid.

SECT. 4. *And be it enacted*, That James Delaplain, of the county of New-Castle, Joseph Taylor, of the county of Kent, and Jonathan Boyce, of the county of Sussex, (a) be, and hereby are appointed, Collectors of the tax aforesaid in their respective counties; and each and every of them shall appear before the Justices at the Special Court to be holden as aforesaid, and enter into bond with good and sufficient securities, such as the said justices, or any three of them, shall approve, in double the sum to be collected, with condition, *That if the above bond*

*shall well and faithfully execute and perform the several duties required of him, as a Collector of the tax for* county, according to law, *then the above obligation to be void, else to remain in full force*; and the said justices, or some two of them, shall witness the execution of such bond, and, immediately after, deliver the same to the Clerk of the Peace, who shall record the said bond, and as soon after as conveniently may be, transmit the same to the Auditor, to be by him safely kept in his office; and

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(a) See chap. 157. b. stating the refusal of the Sussex county Collector here named to accept of the appointment and the nomination of another in his stead; and extending the time for collection. See also chap. 165. b. sects. 3, 4. further provision.

an attested copy of the said record shall be as good evidence in law as if the same bond was actually proved in court; and if any person appointed a Collector as aforesaid shall, after five days notice of his appointment, neglect to appear, not having a reasonable excuse in the judgment of the said justices; or appearing, shall refuse to take upon him the office of Collector; or shall refuse or neglect to give bond as aforesaid, the said justices, or any five of them, may remove him from his said office, and shall immediately, on any vacancy by death or removal, or by refusal to act, neglect to appear, or give bond as aforesaid, appoint some other Collector for their county, who will give bond as aforesaid; and to this end, the Justices of the Peace of each county, or any five of them, are hereby authorized and required, so often as occasion may be, to meet at the usual place of holding Levy Courts in their county, and then and there open and hold a special session for the purposes aforesaid.

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Vacancies  
how supplied.

SECT. 5. *And be it enacted,* That each Collector may appoint one or more deputies to assist him in collection, for every of whom he shall be answerable.

May appoint  
deputies.

SECT. 6. *And be it enacted,* That the said Collectors and their deputies shall proceed, without delay, to collect the assessment imposed by this act; and if any person rated as aforesaid, not having a fixed residence in the county, shall neglect or refuse to pay, and if any person so rated, having a fixed residence there, shall neglect or refuse to pay by the space of ten days after demand made, it shall and may be lawful for the said Collectors respectively, to levy by distress and sale of the goods and chattels of the person or persons so neglecting or refusing to pay as aforesaid, the said several sums of money such person or persons stand charged with; of which sale five days notice, exclusive of the day of notice and sale, shall be given; but if no distress can be found by the Collector or deputy, and the party assessed refuse or neglect to shew goods or chattels of his own forthwith to be levied upon to satisfy such assessment with reasonable charges; then such Collector or deputy shall take the body of every such neglecting or refusing person, and bring

Their power.

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Provision for securing the payment of the tax in certain cases.

bring him to the county gaol, and deliver him to the Sheriff, or keeper of the said gaol, who is hereby authorized and required to receive and detain him in safe custody, until payment with costs be made.

SECT. 7. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years; whereby it may be difficult to recover, or collect the tax assessed on the said land, *Be it therefore enacted*, That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the said tax so paid, out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owners by an action or suit in any court where the same shall be cognizable, together with costs of suit; and all parents, guardians or tutors making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

In what cases Collector may sell the land, &c.

SECT. 8. *And be it enacted*, That in all cases where the Collector can find no effects on the land belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same if distrained, and no rate can be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for that county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at auction, as may be necessary to pay the assessment.

Collectors to pay over the tax to the State Treasurer,

SECT. 9. *And be it enacted*, That the said Collectors respectively shall, on or before the last day of October next, pay to Joshua Clayton, esq. who is hereby appointed

appointed and declared to be Treasurer of the Delaware State from and after the tenth day of July next, or to his successor in office, one moiety of the tax by this act to be raised, and the other moiety thereof on or before the twenty-fifth day of December next; and each Collector shall, on or before the first day of December next, appear in the Auditor's Office, and then and there lay before the Auditor an accurate and fair account of his collection of the half part of the rate aforesaid, under the penalty of One Hundred Pounds lawful money, and the said Auditor shall immediately proceed to adjust his said account, and shall upon such settlement, allow to the said Collector a commission of four *per centum* on the whole collection of the assessment then made by him and paid to the State Treasurer, or on the sum the said Auditor shall then adjudge him to be answerable for, and each Collector shall, on or before the first day of February which will be in the year One Thousand Seven Hundred and Eighty-seven, in like manner appear and lay before the Auditor his account of the collection of the other half part of the rate aforesaid, under the like penalty; and the Auditor shall forthwith proceed to settle and adjust the said final accounts, charging or crediting therein the balance found on the first account aforesaid; and every Collector shall pay to the State Treasurer, on or before the last day of the same month of February in the year last aforesaid, the whole balance of the quota of his county herein before ascertained and set down, and the surpluse of his collection, if any, shall be paid to the Treasurer of the same county; and the said Auditor shall transmit an account of his settlement with the Collectors aforesaid to the Clerks of the Peace respectively, who shall file the same, and deliver a copy thereof to the Treasurer of his county, to enable him to receive of the Collector such surpluse as aforesaid, where the same may happen; and each of the Collectors aforesaid shall attend the Levy Court of his county, at their next sitting after such his settlement with the Auditor, when his account transmitted as aforesaid, together with any list of delinquencies or errors then to be exhibited by the said Collector, may and shall be final-

ly

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1786.

and to account  
with the Audi-  
tor,

who shall allow  
a commission of  
four Per Cen-  
tum.

Surpluse of  
collection how  
appropriated.

Lists of delin-  
quencies to be  
adjusted by the  
Levy Courts.

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Collectors  
chargeable with  
ten Per Cent.  
upon failure of  
payment.

Clerks of the  
Peace to trans-  
mit duplicates to  
the Auditor, &c.

Collectors fees  
upon distress or  
execution.

23, 1321. 58.  
appropriated to  
the use of the  
United States.

ly settled and adjusted by and with the said Levy Court; and upon failure of payment by any Collector, the President or Commander in Chief, being certified thereof by the State Treasurer; shall direct the Attorney General to commence a suit or suits on the bond of such delinquent Collector, to compel the payment of the money due, with an interest of ten *per centum* from the said last day of February, in the year last aforesaid, in which suit or suits there shall be but one imparlance.

SECT. 10. *And be it enacted*, That the Clerks of the Peace of the respective counties in this state shall, on or before the twenty-fifth day of October next, transmit into the Auditor's Office certified copies of the duplicate of the assessments and annexed warrant herein before directed to be issued, and delivered to each Collector; and the said Auditor shall forthwith after each settlement made by him with any Collector, transmit an account of the balances, as well to the President or Commander in Chief as to the State Treasurer; and the State Treasurer shall, on or before the tenth day of April, which will be in the year One Thousand Seven Hundred and Eighty-seven, certify and transmit to the President or Commander in Chief how much of such balances are then unpaid.

SECT. 11. *And be it enacted*, That if any Collector shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is intitled to by law for the like service: And any person whose property shall be liable to payment of the said assessment, or any part thereof, may discharge the same at any time before sale of the property distrained, and in such case the Collector shall receive for his or his deputy's trouble, one half of the fees he would be intitled to on sale, and no more.

SECT. 12. *And be it enacted*, That the sum of Twenty-three Thousand One Hundred and Thirty-two Pounds Five Shillings, part of the said sum of Twenty-three Thousand Six Hundred and Twenty-five Pounds, to be raised by this act, shall within twenty days after receipt thereof by the State Treasurer, or any parts thereof, be paid over to the Commissioners  
of

of the Continental Loan Office within this state, or to such person as may be duly authorised by the Board of Treasury of the United States to receive this state's quota of the Continental taxes, taking duplicate receipts therefor; one of which receipts shall be a sufficient voucher for the payment of the sum of money therein specified in the settlement of such Treasurer's account with the Auditor of this state, and the other of which said receipts shall by the said State Treasurer be forthwith carefully forwarded to the Board of Treasury of the United States, to the end that the state may have credit for the amount specified therein, and the officer receiving it charged therewith; and the remaining part of the said Twenty-three Thousand Six Hundred and Twenty-five Pounds, shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, entered and certified in the Auditor's Office, agreeable to the laws of this state: And it is hereby declared, that the said State Treasurer shall not, on any pretence whatsoever, apply any part of the monies hereby directed to be paid into his hands, until the aforesaid Twenty-three Thousand One Hundred and Thirty-two Pounds Five Shillings, are paid as aforesaid for the use of the United States; nor shall the said sum be subject to any of the draughts aforesaid.

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Residue subject  
to the draughts  
of the General  
Assembly, &c.

SECT. 13. *And be it enacted,* That the said State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact state, as well of all the monies by him received, with the names of the persons by whom paid, and time of payment, as of the monies by him paid, to whom, on what account or order, and the time when; and the said State Treasurer, at the expiration of each and every year, shall appear in the said Auditor's Office, and then and there lay a general account, stating all his transactions for the year, before the Auditor, who shall forthwith proceed to adjust the said account; and the said State Treasurer shall discharge himself of all monies which shall come to his hands in pursuance of his office aforesaid.

The State Treasurer to account  
with the Auditor.

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His commif-  
fions.

Upon the death  
or removal of  
any State Trea-  
furer, the mo-  
nies, books, and  
papers to be de-  
livered to his  
fucceffor.

State Trefurer  
to tranfmit to  
the Board of  
Trefury a  
monthly abftract  
of monies paid  
on account of  
this ftate.

Sales, &c. by  
delinquent Col-  
lectors or Trea-  
furers void, un-  
lefs, &c.

State Trefurer  
to give bond.

faid by virtue of this act, or otherwife, and fhall be allowed Commiffions for the monies fo received and duly accounted for, at the rate of Twelve Shillings and Six-pence for every Hundred Pounds, and no more. And where the prefent or any future State Trefurer fhall be removed from office, he fhall deliver up to his fucceffor all monies whatfoever in his hands belonging to this ftate, and alfo all the books and papers relating to the public accounts of the faid office, whole, entire, and undefaced; and upon the death of any State Trefurer, his executors or administrators fhall deliver up in like manner all monies whatfoever belonging to this ftate, which were in the hands of their reftator or intefstate at his death, and alfo all fuch books and papers to the fucceeding Trefurer.

SECT. 14. *And be it enacted,* That the faid State Trefurer is hereby authorized and required to tranfmit to the Board of Trefury of the United States, a monthly abftract of all monies paid on account of this ftate to the Commiffioner of the Continental Loan Office thereof, diftinguifhing the dates and amounts of the refpective payments, and the fums paid in actual money from thofe in intereft certificates.

SECT. 15. *And be it enacted,* That all gifts, grants and fales which fhall be made by any delinquent Collector or Trefurer of any of their real eftates, after the time they fhould have paid the monies arifing from the faid affeffments, (unlefs their remaining eftate be fufficient to anfwer what they are then in arrear) are hereby declared fraudulent, and fhall not prevent or avoid the feizing and felling the fame eftates on any judgment that may be had on fuits to be brought for the recovery of the monies fo in arrear.

SECT. 16. *And be it enacted,* That the faid State Trefurer, before the firft day of Auguft next, fhall become bound unto the Delaware State, with two or more fufficient fureties, to be approved of by the Prefident or Commander in Chief for the time being, in an obligation of Forty-two Thousand Pounds, conditioned for the true obfervation of this act, and the duty which to the faid office doth appertain; and in cafe of neglect or refufal of the faid State Trefurer

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so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid; and the obligation so to be taken as aforesaid by the special direction of the President or Commander in Chief for the time being, shall be delivered to the Clerk of the Peace of the county wherein the said State Treasurer resides, and the execution thereof being proved by one or more of the witnesses thereto, before the said Clerk of the Peace, he shall record the same obligation and its probate, and after transmit the same to the Auditor, to be by him safely kept in his office, the attested copy wherof shall be evidence as in the case of the obligation to be given by the county Collector herein before is declared.

His place how  
supplied in case  
of delinquency,  
&c.

SECT. 17. *And whereas* it appears by the requisition of Congress of the twenty-seventh day of September last, that for the more easy payment of the aforesaid three quarters of the remaining moiety of the said Eight Millions of Dollars, Congress are willing to receive two thirds of each state's quota thereof in certificates to be given for interest due to citizens of the said states on monies loaned to Congress, and other liquidated debts of the United States; and also it appears, by the requisition of Congress of the fourth day of September One Thousand Seven Hundred and Eighty-two, that the quota of each state of the sum therein shall be applied towards paying the interest due on certificates issued from the Loan Office of such state, and other liquidated debts of the United States contracted therein, before any part thereof shall be paid into the public treasury.

SECT. 18. *Be it therefore enacted*, That for the ease and convenience of paying the aforesaid tax, it shall and may be lawful for the citizens and inhabitants of this state, who are owners or possessors of any certificates, of liquidated debts of the United States, other than Loan Office certificates, to produce the same to any one Justice of the Peace within this state, and upon making oath or affirmation before him, *That the said certificate or certificates is, or are, bona fide*

Certificates of  
interest due on  
liquidated debts  
of the United  
States how ob-  
tained,

the

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*the property of this state, or of a citizen or citizens thereof, or of some corporate body or charitable institution within the same, or of some person who is not a citizen of any of the United States, describing also in said oath or affirmation, the number, place, and date of each certificate, with the sum mentioned therein, the name of the person to whom given, and also the name of the Commissioner who subscribed the same; the said Justice of the Peace is hereby authorized and required to certify under his hand, to the Commissioner of the Continental Loan Office of this state, that the owner or possessor of such certificate or certificates did take the said oath or affirmation before him; and the said Commissioner of the Continental Loan Office, upon his receiving any certificate or certificates of liquidated debts of the United States, together with such certificate of a Justice of the Peace as aforesaid, or upon his administering the said oath or affirmation himself to the person offering the same, which he is hereby authorized and empowered to do, or if any Continental Loan Office certificate, obtained from the Loan Office of this state, shall be produced to him without such oath, he is hereby required to settle and adjust the interest due thereon to the last day of the year One Thousand Seven Hundred and Eighty-four, and to give certificates for the same, conformably to such instructions as he shall receive from the Board of Treasury respecting the form of certificates to evidence the interest due as aforesaid, and as to the checks the said Board of Treasury shall from time to time judge necessary to prevent counterfeited certificates of debts from obtaining a settlement of interest, and to detect counterfeit evidences of interest; and the said certificates of interest on Loan Office certificates and other liquidated debts of the United States, shall be receivable by the Collector of each county of this state, on account of the monies to be raised by this act, in the proportion of three fourths to one, every taxable being held to pay his part of the Continental tax in the said proportion; and the said Collector shall pay the same into the hands of the Treasurer of this state in lieu of so much money, which said certificates, or so many of them as shall not exceed the sum of Seventeen*

to be taken in  
payment of  
taxes, in the  
proportion of  
three fourths to  
one of specie,

and the same,  
not exceeding  
17,521. 10s. in  
value, to be paid

teen

teen Thousand Five Hundred and Twenty-one Pounds Ten Shillings in value, shall be paid over by the said Treasurer to the Commissioner of the Continental Loan Office, as part of the said sum of Twenty-three Thousand One Hundred and Thirty-two Pounds Five Shillings, or to such person as shall be duly authorised by the Board of Treasury of the United States to receive this state's quota of the Continental taxes.

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over by the Treasurer to the Commissioner of the Continental Loan Office, in lieu of so much money.

SECT. 19. *And* forasmuch as the said Collectors may receive more specie than the aforesaid proportion of one fourth to three, and it is but just and necessary that the whole of such specie should be paid over to the State Treasurer for the purposes herein directed, *Be it therefore enacted*, That the said Collectors respectively, shall give to all and every of the taxables aforesaid, receipts for the taxes by them paid, specifying therein how much in specie, and how much in interest certificates shall have been so paid by such taxable, and the amount of specie so received shall by the several Collectors be paid into the state treasury, and at the times of making the payments of the first and second portions of the tax by this act to be raised as aforesaid, the said Collectors respectively shall lay before the Auditor duplicates, containing true accounts thereof, specifying as well the names of the persons from whom the same was received, as also the sums of money in such certificates so received by him as aforesaid, to the truth of which said duplicates the said Collectors respectively shall make oath or affirmation before the said Auditor, which oath or affirmation he is hereby empowered and required to administer, and that before he shall adjust a settlement with any such Collector as aforesaid. *Provided always*, That nothing herein before contained shall be deemed or construed to prevent any one taxable from paying the taxes of divers persons with one or more of his interest certificates, so that the proportion of one fourth in specie at the least, in all such cases is preserved.

Collectors to give receipts, specifying the sums paid in specie, and in interest certificates ;

shall lay before the Auditor duplicates containing the same specification ; and shall account therefor upon oath.

Proviso.

Deficiency of certificates shall be collected in specie.

SECT. 20. *And be it further enacted*, That in case this state's quota of the said certificates to be issued as aforesaid, shall not be in the hands of the State Treasurer on or before the first day of January, which will be in the year One Thousand Seven Hundred and Eighty-

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1786.

Eighty-seven, the deficiency shall be collected and paid into the Continental Treasury in specie, to be appropriated to the redemption of surplus certificates, agreeably to the said act of Congress of the twenty-seventh day of September last.

SECT. 21. *And* to the end that the taxables within this state who may hold any certificates of liquidated debts of the United States, and that all holders of Loan Office certificates issued from the office in this state, may obtain certificates for all the interest due thereon to the last day of the year One Thousand Seven Hundred and Eighty-four, in a reasonable time after the passing of this act, for the purpose of discharging the three fourth parts of their tax therewith; and the General Assembly of this state considering the provisions in this act as a compliance with the first herein before recited requisitions of Congress, *Be it therefore enacted*, That if the Commissioner of the Continental Loan Office of this state shall refuse or neglect to settle and certify the interest due on any of the certificates aforesaid to the last day of the year One Thousand Seven Hundred and Eighty-four, upon reasonable application to him made at any time after one month from the passing of this act, that it shall and may be lawful for the President or Commander in Chief for the time being, and he is hereby authorized and required, upon any and every complaint to him made, and supported by an oath or affirmation of the party or any credible witness, of such refusal or neglect in the Commissioner of the Continental Loan Office aforesaid, forthwith to summon the Privy Council, notifying the Commissioner and the party complaining, to attend the meeting thereof, and then proceed into the enquiry of the fact of the refusal or neglect aforesaid, and if the same shall be made clearly to appear to the satisfaction of the President and Privy Council, the President is hereby authorized and required to make representation thereof to the Congress of the United States of America, or Committee thereof, stating such refusal or neglect, and if redress shall not be thereupon had within twenty days thereafter, then and in such case the President is hereby further authorized and required to issue his  
summons

Commissioner of the Continental Loan Office refusing or neglecting to issue interest certificates, representation thereof shall be made to Congress; and if redress be not obtained within twenty days, the President shall convene the General Assembly.

summons for a call of the General Assembly, to meet at the town of Dover within a reasonable and convenient time thereafter, to determine upon and take order thereon.

C H A P.  
CXXXVIII.  
1786.

SECT. 22. *And be it enacted*, That if any of the days appointed by this act for the performance of any of the duties hereby required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

SECT. 23. *Whereas* it appears that sundry Collectors of the state taxes directed to be raised for the service of the years Seventeen Hundred and Eighty-four and Eighty-five, have, through their indulgence, omitted to execute for those taxes within the times limited by law, and this General Assembly being willing, for the ease of the people, to give the same summary mode to the said Collectors to collect the arrearages of such taxes as they could have had under the several acts of Assembly passed for those purposes in the years Seventeen Hundred and Eighty-four and Eighty-five, *Be it enacted*, That the Collectors respectively of the said several state taxes be, and they are hereby empowered to collect all arrearages and balances due of the said taxes, by execution or otherwise, between the time of passing this act and the first day of January next, in as full and ample manner as heretofore could have been done, had the same been done within the time limited by law.

Summary mode  
for collecting the  
arreages of  
taxes extended.

ass. ed June 24, 1786.

C H A P. CXXXIX. b.

*A Supplementary ACT to an act, intituled, "An act to invest the Congress of the United States with the power to levy duties upon all goods, wares, and merchandises imported into this state from beyond the seas, for a limited time; and to establish a fund for the payment of interest arising on the public debt."*—Obsolete.

1788.

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CXL.

C H A P. CXL. b.

1786.

An ACT for the suppression of idleness, vice, and immorality.

Preamble.

**W**HEREAS it has been too much the practice, in some parts of this state, for people to assemble themselves together under the various pretences of horse-racing, foot-racing, cock-fighting, shooting-matches, &c. which are frequently made with intent to vend and sell strong liquors; thereby promoting idleness, vice, and immorality; to the great prejudice of religion, virtue, and industry.

SECTION 2. *BE it enacted by the General Assembly of Delaware,* That from and after the passing of this act, if any public house-keeper, or other retailer of strong liquors, or any other person or persons within this state, shall promote or encourage any such races, cock-fightings, or shooting-matches, or shall sell, or otherwise dispose of, directly or indirectly, any wine, rum, brandy, beer, cyder, or other strong liquors whatsoever, to any such person or persons so assembled together as aforesaid, he, she, or they shall forfeit and pay for every such offence; the sum of Ten Pounds, upon conviction of the party offending; by confession or otherwise, in any Court of Quarter Sessions of the county where such offence may be committed within this state, and if a public house-keeper, his or her house shall be suppressed by the Justices of the Court of Quarter Sessions of the county to which he or she may belong: *Provided always,* That every information or suit against any offender before mentioned, shall be made or prosecuted within three months after the time of committing the said offence.

*Passed June 24, 1786.*

CHAP

## C H A P. CXLII. b.

C H A P.  
CXLII.

1786:

*A Supplementary ACT to an act, intituled, An act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned. (a)*

**W**HEREAS there are divers sums of money due <sup>Preamble</sup> on mortgage deeds in the several counties of this state to the respective Loan Offices of the same, and the right or equity of redemption in such mortgaged lands and premises now belongs to persons who are under the age of twenty-one years; and no provision having been made by the above recited act for the renewal of such mortgages, great injury would accrue to such minors if their lands should be sold by the Trustees, under the said recited act. *And whereas* the time limited for the renewal of mortgages in the several counties of this state by the said recited act to which this is a supplement, is now expired, and many persons have neglected to renew the same; and from the alienation of the mortgaged premises, the present possessors, in some instances, were unacquainted with the mortgage thereon; it has therefore become necessary and expedient to give a further day for the benefit of such persons, who have not renewed their mortgages as aforesaid.

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware, That it shall and may be lawful for the Trustees of the Loan Offices in the respective counties of this state, to permit the guardian or guardians of such minors who now are, or hereafter may be, intitled to the equity of redemption in any lands so as aforesaid mortgaged, by and with the approbation of the Orphans Court of the county in which such guardian or minor may reside, first had, upon a full representation of circumstances to the said court*

*Guardians permitted to renew, with the approbation of the Orphans Court, mortgages of their wards lands.*

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made,

(a) For the original act see chap. 113. p. and for after supplementary acts see chap. 161. b.—chap. 192. b.—chap. 202. h.—chap. 219. b.

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C X L I.  
1786.

made, to renew the said mortgage, on or before the first day of May next, in the same manner, and upon the same terms, as are expressed and directed in other cases in the said recited act to which this is a supplement; and that any mortgage deed, made and executed by such guardian or guardians as aforesaid, shall be deemed and taken to be a renewal of the former mortgage, and be as binding upon the estate of such minors to all intents and purposes, as the former mortgage might or could have been.

Further time allowed for the renewal of mortgages.

SECT. 3. *And be it further enacted,* That the Trustees of the Loan Offices within this state, respectively, are hereby empowered and directed to permit such persons who have not renewed their mortgages, agreeably to the said recited act to which this is a supplement, to renew the same on or before the first day of May next, on the terms, and in the same manner, as by the above recited act is directed: *Provided,* That in all cases where suits have been instituted for the recovery of the mortgage monies, the costs thereof shall be previously discharged by the persons claiming a renewal of their mortgages under this act.

Proviso.

*Passed June 24, 1786.*

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C H A P. C X L I I. b.

1786.

*An ACT for continuing " An act for the auditing and arranging the accounts of this state, and for the more effectual settlement of the same."—Temporary and expired.—See next chap. 143. b.*

CHAP.

C H A P. CXLIII. b.

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CXLIII.

1787.

An ACT for the amending and continuing the provisions made in the act, intituled, An act for the auditing and arranging the accounts of this state, and for the more effectual settlement of the same. (a)

**W**HEREAS it is found, that the Auditor's Office, established by the act aforesaid, is useful and necessary for the better ordering the finances of this state; and the said act being a temporary one, and now near expiring;

Preamble.

SECTION I. *BE it therefore enacted by the General Assembly of Delaware,* That all the accounts of this state shall be audited, liquidated, and adjusted, by a person of known integrity, diligence, and capacity, resident within the state, who is, and shall continue to be, stiled, *The Auditor of Accounts,* and he is hereby authorized and impowered to liquidate and settle, according to law and equity, all claims against the state, for services performed, monies advanced, or articles furnished, by order of Legislative or Executive powers, for the use of the same, or for any other purpose whatsoever, and shall inspect and examine all vouchers, which shall be produced in support of such accounts or claims, and in all cases of doubt or difficulty, to call upon witnesses, examine them on oath or affirmation touching any charge or account, which it may be probable their evidence would tend to elucidate or explain, or in his discretion, where other testimony may not be obtained, require the oath or affirmation of the party making the charge against the state; which oath or affirmation the said Auditor is hereby authorized and impowered to administer; to judge of prices and charges, in all cases where such prices or charges have not been ascertained and fixed by persons duly authorized so to do; and generally, to call upon all persons, or their representatives, who shall be possessed of any mortgages, pledges,

Auditor's Office instituted.

The duty of the Auditor.

(a) Chap. 126. b.

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CXLIII.  
1787.

pledges, or other securities, monies, goods, or effects, belonging to this state, to account for the same; and shall cause to be entered in books by him to be provided for that purpose, at the expence of the state, fair and regular accounts of all sums of money by him to be allowed to any person or persons in pursuance of this act; and also of all sums of money heretofore allowed by the General Assembly of this state; in entering of which accounts, if he shall discover any substantial error in the calculations or additions thereof, he shall report the same to the General Assembly, who shall take order in the matter; and shall also keep fair, distinct, and clear accounts, of all the revenues and expenditures of the state of every kind and nature whatsoever. (b)

May, by summons, call before him public debtors or witnesses,

Public debtors, refusing to appear, or account, how proceeded against.

SECT. 2. *And be it enacted*, That it shall and may be lawful for the said Auditor, as often as there shall be occasion, to call before him by *subpena* or summons, any person who the said Auditor may reasonably suppose may be a debtor or accountant to the state, or for the appearance of any persons such Auditor may also reasonably suppose are capable of giving evidence or information concerning the said accounts, or any of them: And in case any person, who the Auditor shall have reason to believe may be a debtor to the state, on whom such *subpena* shall be served, shall refuse to appear, as in such process shall be expressed and directed, or having appeared, shall refuse to account, the said Auditor is hereby in that case impowered to employ one or more Attorney or Attornies, who shall cause process to issue in any Court of Common Pleas, in the name of the Delaware State, (which is hereby declared to be a body politic and corporate) against the person or persons so refusing to account, and a declaration, expressing the cause of action, being filed with the Prothonatary of the Court before issuing the writ, and a copy of such declaration being delivered to the defendant or defendants, or left at his or their place of abode, ten days before

(b) See also chap. 26. c. passed June 15, 1793. "An act appointing an Auditor and for enjoining certain duties on the said officer."

before the return of such process, it shall and may be lawful for the justices of the said court to cause such defendant or defendants, to plead to issue, and shall proceed to trial or judgment the first court, and and shall not allow any imparlance, unless where evidence is wanted, without which the parties, or either of them, cannot safely go to trial; and if upon trial, the balance shall be found in favour of the defendant or defendants, no cost whatever shall be adjudged to him or them.

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SECT. 3. *And be it enacted*, That if judgment shall be obtained for any sum or sums of money, due to the state from any person or persons refusing to account in manner aforesaid, it shall and may be lawful for the Auditor to cause execution to issue by *feri facias, capias ad satisfaciendum*, or otherwise, on the judgment; and the Sheriff shall proceed thereon as is usual in other cases.

How execution shall issue upon judgment.

SECT. 4. *And be it enacted*, That all persons, who shall be summoned as witnesses by the said Auditor, and every Sheriff, Coroner, or other officer, to whom he shall direct his precepts or writs, shall be allowed like fees for their attendance and services as witnesses summoned to appear in the Courts of Justice, and Sheriffs, Coroners and other officers are entitled to in the said courts; (c) such costs together with further charges accruing to be recovered from the several delinquents by the said Auditor by warrant, in like manner as debts under Forty Shillings are recoverable: (d)

Witnesses and officers allowed the usual fees;

how recovered.

SECT. 5. *Provided always, and be it enacted*, That in case of refusal or neglect of any witness to appear, or after to disclose his knowledge of such claims and accounts, the said Auditor may issue process of contempt and commitment, as is usual in the Courts of Law within this state; and in case of neglect or refusal on the part of the Sheriff, Coroner, or other officer, to execute the precepts or writs issued by the Auditor, as herein before prescribed, the said Auditor may and shall

Auditor may issue process of contempt and commitment;

and may amerce officers for neglect, &c.

(c) For which see chap. 27. c. sects. 9, 24, 28, &c.—passed June 15, 1793, and chap. 104. c. passed February 9, 1796.

(d) As in chap. 73. a.

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Amercements  
how recovered.

Public accounts  
to be liquidated  
by the Auditor,  
who shall report  
the balances.

Warrants for  
payment thereof  
to be entered in  
his office.

Balances due to  
the state to be  
recovered by  
him.

Persons aggrieved  
may appeal.

Monies recover-  
ed shall be paid  
into the state  
treasury.

Penalty for ne-  
glect.

Sureties of  
sheriff's liable.

shall amerce such delinquent officer, as in the said Courts of Law it is used and practised; and such amercements are hereby made, and declared to be, recoverable by action of debt, to be brought therefor in any of the Courts of Common Pleas, or Supreme Court of this state, and after to be paid into the treasury of the state for the public use.

SECT. 6. *And be it enacted,* That all accounts between this state and any officer of the same, and all and every other person or persons, shall be rendered into the said office in the first instance, where they shall without delay be liquidated, adjusted, and settled, and the balances due on such settlements, the said Auditor shall report to the General Assembly at their next sitting thereafter, in order that warrants may be drawn upon the State Treasurer for the same, in favour of the persons to whom such balances appear to be due; which warrants shall, as soon as reasonably may be, after the same are drawn, be delivered to the said Auditor, who shall make an entry in his books of such warrants, and having certified the same on the back thereof, shall forthwith deliver them to the parties entitled to receive such balances; and if upon any settlement before the Auditor, a balance shall be found due to the state, the said Auditor shall take the most effectual steps for the speedy recovery of the same on behalf of the state. *Provided,* That where any person shall deem him or herself aggrieved by any settlement to be made as aforesaid, he or she may appeal to the General Assembly, at their said next sitting for redress, who shall determine finally thereon.

SECT. 7. *And be it enacted,* That the money so recovered shall be paid by the Sheriff or Coroner, who shall receive the same, into the hands of the State Treasurer for the use of the state, within thirty days after such receipt; and in case of neglect or refusal so to do, the said Sheriff or Coroner shall forfeit and pay to the state, for every such neglect or refusal, as well the principal monies so as aforesaid received by him, as also ten *per cent.* on the same; to be recovered by the said Auditor in like manner as is directed for the recovery of balances due to the state: *And it is hereby enacted and declared,* That the sureties of Sheriffs, hereafter

hereafter entering into obligations for the faithful execution of their trust, shall be deemed liable for the said principal monies, and the ten *per cent.* thereon.

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SECT. 8. *And be it enacted,* That the several accounts, which have been heretofore exhibited to the General Assembly for allowance and settlement, together with all vouchers attending the same, and now remaining among the papers of the Council, or House of Assembly, shall be collected by the respective Clerks of the two Houses aforesaid, and by them delivered, whole and entire, into the said Auditor's Office; and the said Auditor shall proceed, without delay, to liquidate and settle such of those accounts as stand open for settlement, and to examine such as may have been settled, and report all substantial errors or omissions, which he may discover in the calculations or additions thereof, to the General Assembly of this state, who shall determine thereon.

Auditor to report errors in accounts heretofore settled.

SECT. 9. *And be it enacted,* That the respective Clerks of the Peace, Clerks of the Oyer and Terminer, and General Gaol Delivery, or Clerks in any other of the Courts of Justice within this state, wherein any fines or forfeitures have been, or shall be assessed, and which by the act of the twenty-second of February, Seventeen Hundred and Seventy-seven, (e) are declared, or which by any other act hath been or shall be declared, to belong to, and be for the use of the state, shall, and they are hereby required and enjoined, once in every three months, to enter in the Auditor's Office, all and every such fine and forfeiture, specifying the time of assessing or forfeiting of the same, the name of the offender, and of the officer by whom the same fines and forfeitures are to be levied and received, and also the name of the Treasurer of the county for the time being, where such fine shall be imposed, or forfeiture happen; which County Treasurer shall also once in every six months, certify under his hand, into the said office, the several sums of money by him received for such fines and forfeitures, specifying the time of such his receipt, with the name of the officer or other person, by whom the same

Estreats of fines to be certified into the Auditor's Office.

County Treasurers to certify accounts of moneys received.

(e) Chap. 6. b.

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same was so paid, and the name of the offender; (f) and the said County Treasurer shall in like manner, once in every three months, certify into the said office an account of all the monies which he may then have received for the general state tax, from the Collectors of hundreds in his county, specifying the sum received of each Collector, with the name of the Collector annexed thereto, and the time of such receipt; and the said Auditor shall cause fair entries to be made of the contents of such returns and certificates, and shall open an account, as well against the respective officers by whom the said fines and forfeitures have been, or are to be, levied and received, as against the County Treasurer; and the said County Treasurer, at least once in every year, shall settle his account of the said fines and forfeitures, and of the said state tax, once in every six months, with the Auditor; in which the joint draughts of the Speakers of the two Houses of the General Assembly, or receipt of the State Treasurer, shall be received and accepted by the said Auditor, as the only sufficient vouchers in such County Treasurer's settlement, who is hereby discharged from any accounting with any Committee of the Levy Court, or Court of Appeal, so far as relates to the state tax, other than for any overplus of the specific sum directed to be raised in the annual tax acts, occasioned by an excess of rate laid to supply deficiencies and the charge of collection; any law, usage, or custom, to the contrary notwithstanding: And in case of neglect or refusal, on the part of any County Treasurer, or in case of his death, his executors or administrators, to certify and account for the state tax as aforesaid, the said Auditor is authorized and required, to commence one or more actions against him or them, within one month after such default made.

and shall account with the Auditor.

How proceeded against for neglecting to certify and account.

SECT. 10. *And be it enacted*, That the Auditor shall particularly

(f) See chap. 28. c. sect. 2, passed June 15, 1793; all such fines and forfeitures made payable to the State Treasurer within sixty days, by every officer who may have the collection of the same—and in sect. 5, appropriated to the discharge of the salaries of the Chancellor and the Judges.—and also, sect. 7, repealing so much of sect. 9, above as directs the payment of fines and forfeitures to County Treasurers, together with that part of sect. 5, in chap. 6. b. before.



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The Auditor -  
shall lay before  
the Legislature  
a state of all  
debts due from  
the public ;

that the General Assembly, and their constituents, should be well and regularly informed of the receipt, as well as the expenditure of all monies, the appropriations thereof, and how far each appropriation may be satisfied : *Therefore be it enacted*, That the Auditor prepare and state a general account of all debts due by the state, arranging the same under the following heads, *to wit*, debts due to foreigners, as well the principal as interest thereon ; debts due to Congress, whether arising from deficiencies in this state's quota of the annual requisition, or from whatever other cause ; debts originating from special contracts, or loans, or otherwise, within the state ; and debts due to the officers and soldiers of the army, citizens of this state ; all which accounts are hereby required to be laid before the General Assembly, at their next meeting, and at their annual meeting of the General Assembly in every year afterwards.

also a general  
account of all  
debts due to the  
state,

SECT. 13. *And be it enacted*, That the Auditor prepare and state a general account of all debts due to the state, arranging the same under the following heads, *to wit*, the money or monies due to this state from the individuals thereof, or elsewhere ; the quantity of confiscated property sold, and by whom monies due therefor ; and from whom all arrearages arising from taxation, distinguishing the Collectors, the years, and the counties ; all arrearages for fines, forfeitures, duties, or imposts ; and all special debts originating from the sales of specifics, or any article, or thing, sold by the state ; and an account of such debts as may not come under any of the aforesaid heads.

and a state of the  
public engage-  
ments :

SECT. 14. *And be it enacted*, That that the Auditor lay before the General Assembly, on the first week of every session, a state of the engagements of the public to be speedily complied with, such as the quota of the annual requisition of Congress ; the interest on certificates ; the civil list ; and all other debts then due, or soon to become due ; with a counter account of the disbursements made, in consequence of the annual requisitions of Congress ; the disbursements made to the civil list ; the interest paid on certificates ; and all other monies paid ; and also the money in the treasury ; so that the whole may shew the demands against the

the state, and wherewithal the state has to answer the said demands, and how far the funds for each particular appropriation have been productive, and how far each appropriation remains unsatisfied: And the said Auditor is also hereby directed to furnish to the Supreme Executive Power of this state, at all times when he shall be thereunto required, a state or abstract of the public accounts aforesaid, or any of them.

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So that the whole may shew the public demands, and the funds for the discharge thereof. Executive to furnish with like statements when require

Books of the Auditor's Office to be open to Committees of Assembly.

SECT. 15. *And be it enacted,* That the books, papers, and transactions, of the Office of the Auditor, shall be open to the inspection and examination of Committees appointed by the General Assembly, or either House thereof, for that purpose; and to that end, the said Auditor is hereby directed and required to attend at the time and place of every meeting of the General Assembly, with all the said books and papers, and there continue during the sitting of either House.

SECT. 16. *And be it enacted,* That the salary of the Auditor shall be the sum of One Hundred and Twelve Pounds and Ten Shillings, payable half-yearly, by warrant drawn on the State Treasurer for that purpose, by the president or Commander in Chief of this state. (b)

His salary.

SECT. 17. *And be it enacted,* That the said Auditor shall, before he enters on the duties of said office, give bond, with one or more sufficient sureties, in the sum of Five Hundred Pounds, to the President or Commander in Chief, in the name of the Delaware State, for the faithful performance of the duties of his office, and shall likewise take and subscribe the following oath or affirmation, to wit, *I do swear or affirm, that I will faithfully execute the office of Auditor for the Delaware State, and will do equal right and justice to all men, to the best of my judgment and abilities, according to law and equity.*

To give bond,

and take oath.

SECT. 18. *And be it enacted,* That Eleazer M'Comb, esquire, be, and he is hereby appointed Auditor for the term of five years, and from thence to the end of the

E. M'Comb, esq. appointed Auditor.

next

(b) See chap. 65. c. passed February 8, 1794.—and chap. 81. c. passed Feb. 7, 1795, increasing the said salary to Five Hundred Dollars for those two years.

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Vacancy hap-  
pening how  
supplied.

next sitting of the General Assembly, and no longer, if so long he shall behave himself well in the said office :  
(i) *Provided*, That if the said Auditor shall happen to die, or be incapacitated for discharging the duties aforesaid, in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief of this state, with the advice of the Privy Council, to appoint some other fit person as an Auditor in his place or stead, until the next meeting of the General Assembly, who upon giving bond, and taking the oath or affirmation aforesaid, shall have the same powers and reward, as if appointed by this act.

Books to be de-  
livered up to  
successor in of-  
fice.

SECT. 19. *And be it enacted*, That when the Auditor, aforesaid, or any other hereafter appointed, shall be removed from office, he shall deliver up to his successor all the books and papers of the said office, whole, entire, and undefaced ; and upon the death of any Auditor, his executors or administrators shall deliver up in like manner, all such books and papers to the succeeding Auditor.

*Passed February 3, 1787.*

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C H A P. CXLIV. b.

1787.

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

Preamble.

**W**HEREAS petitions have been presented from sundry religious societies or congregations, for acts of incorporation for the better transacting the temporal concerns of said societies or congregations ; and this General Assembly, considering it their duty to countenance and encourage virtue and religion, by every

(1) See chap. 251. b. passed May 5, 1792, extending the time for his continuance in office.

every means in their power, and in the most expedient manner, desire that it may be enacted :

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

Religious societies may chuse Trustees; which Trustees and their successors, are constituted bodies politic and corporate.

SECT. 2. *And be it enacted,* That the Trustees, elected and chosen as aforesaid by any religious society, or congregation, upon taking upon themselves any name, and certifying the same under their hands and seals, and causing such certificate to be recorded in the office of the Recorder of Deeds of the county, in which such society or congregation shall usually assemble for public worship, such Trustees, and their successors in office forever, shall be known and distinguished in law, in all cases whatsoever, by the name they shall have so taken and recorded as aforesaid, as fully to all intents and purposes, as though they were herein particularly named; and by such name they are hereby respectively constituted, and shall, forever thereafter, be authorized in law to purchase, take, hold, receive,

Trustees so elected, assuming a name, and having the certificate thereof recorded, shall be known by the same;

and may purchase lands, &c. for the use of their society.

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receive, and enjoy, any messuages, lands, tenements, rents, and other hereditaments, and real estate, in fee-simple or otherwise; and also goods and chattels, sum and sums of money, and personal estate whatsoever, to and for the use of their respective societies or congregations.

What gifts,  
grants, &c. to  
such societies  
shall be valid.

SECT. 3. *Provided always nevertheless, and be it enacted,* That all gifts, grants, bargains, sales and conveyances, of and for any messuages, lands, tenements, rents, and other hereditaments, corporal or incorporeal whatsoever, and of and for any sum or sums of money, goods, chattels, stocks in any public funds; securities for money, or any other personal estate, to be laid out, or disposed of, in the purchase of any lands, tenements, rents, or other hereditaments, shall, from and after the passing of this act, be made by deed indented, sealed, and delivered, in the presence of two or more credible witnesses, twelve calendar months, at least, next before the death of the vendor, donor, grantor, or bargainor, and be recorded in the office for recording of deeds for the proper county, within one year next after the execution thereof, and the same to take effect, for the use intended, immediately from the making thereof, and be without any power of revocation, reservation, trust, condition, limitation, clause, or agreement whatsoever, for the benefit of the vendor or bargainor, donor or grantor, or of any person or persons claiming under him; otherwise such gifts, grants, bargains, sales, and conveyances, made in any other manner, shall be void.

Not to extend  
to Bona Fide  
purchases.

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

All lands, &c.  
granted to, or in  
trust for such  
societies, before  
20th October,

SECT. 5. *And be it further enacted,* That all lands, tenements, hereditaments, and real estate, *bona fide* given, granted, conveyed, or transferred, by any last will in writing, deed of gift, bargain and sale, or other

ther lawful conveyance, to any religious society or congregation, or to any person or persons in trust for them, and to their use, before the twentieth day of October, in the year of our Lord One Thousand Seven Hundred and Forty-four, (a) the said congregation, or any person in trust for them, or expressly for their use, having hitherto continued in the peaceable and quiet possession of the same hereditaments and real estate, and for the recovery whereof no action or actions hath, or have, been brought by any person or persons against any such religious societies, or congregations, or their Trustees, shall be, and hereby are declared to be, to and for the use of the same, according to the purport and effect, true intent and meaning of such last will, deed of gift, or bargain and sale, or other lawful conveyance, and to and for no other use, intent or purpose whatsoever.

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1744, to be for  
the use of the  
same.

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

The yearly profits of the real estate of each society not to exceed 100l.

of personal estate 200l.

SECT. 7. *And be it enacted,* That all the estate, right, title, interest, use, possession, property, claim, and demand whatsoever, of the said societies or congregations respectively, or any person or persons whatsoever in trust for them, or for their use, as well in equity as in law, at the time of passing this present act, of, in, and to, any lands, tenements, hereditaments, goods, chattels, effects, sum and sums of money, or other personal estate, shall be and become vested in the said Trustees, to be chosen according to the direction of this act, in trust nevertheless, and

All the estate, &c. of societies, or of persons in trust for them, shall be vested in the Trustees under this act, for the use of their societies.

TO

(a) See chap. 108. a. 17 Geo. II. "An act for the enabling religious societies of Protestants within this government to purchase lands for burying-grounds, churches, houses for worship, schools, &c."

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Corporate powers of Trustees: May grant, demise, &c. for the use of their society:

May sue and be sued, &c.

Shall use a common seal, and may change the same.

Succession of Trustees how perpetuated.

to and for the use of their societies or congregations respectively.

SECT. 8. *And be it enacted,* That the said Trustees of each respective society or congregation, which shall be chosen as aforesaid, and their successors, by the name to be taken and recorded as aforesaid, shall and may give, grant and demise, assign, sell and otherwise dispose of, all or any of their messuages, houses, lands, tenements, rents, possessions, and other hereditaments, and real estate, and all other goods, chattels, and other things aforesaid, as to them shall seem meet, for the use and benefit of the society or congregation to which they shall respectively belong: And also, that the said Trustees of each respective society, or congregation, which shall be chosen as aforesaid, by the name to be taken and recorded as aforesaid, forever thereafter shall be able in law, and capable, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all Courts of Judicature whatsoever; and also, that the said Trustees of each respective society or congregation, to be chosen as aforesaid, for the time being, and their successors, shall and may forever hereafter, have and use a common seal, with such device or devices as they shall think proper, for sealing all and singular deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers, and all and singular other affairs, touching and concerning the said corporation; and also that the said respective Trustees, and their successors forever hereafter, may as often as they shall judge expedient, break, change, and new-make the same, or any other their common seal.

SECT. 9. *And be it enacted,* That for perpetuating a line of succession in the Trustees of each respective society or congregation as aforesaid, it shall and may be lawful for the members of the said respective societies, or congregations, from time to time, to meet and assemble, at any time they may think proper, giving notice of such meeting as herein before directed for electing the first Trustees, and then and there, at such meeting and meetings, to elect other Trustees in the place and stead of those, or either, or any of those before

before elected, in case they shall see cause for removing any of the said Trustees, provided such removal shall not be in less than one year after their appointment; and also to fill up vacancies of their Trustees, occasioned by death, resignation, or removal.

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

They may chuse a chairman, who shall keep the common seal, &c.

and have power to call meetings of the Trustees;

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

a majority of whom must agree.

SECT. 12. *And be it enacted,* That all the proceedings of the Trustees of each society, elected and appointed as herein before directed, shall, from time to time, be fairly entered in a book or books to be kept for that purpose by the Chairman of the Trustees, for the time being, of each respective society; which book or books, together with the common seal of the corporation to which they belong, and all charters, deeds, securities, and writings whatsoever, and also all monies in hand belonging, or in any wise appertaining, to the said corporation, shall be delivered

Proceedings to be duly entered.

Common seal, &c. to be delivered over to each successive Chairman.

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over by the former Chairman to the Chairman of the Trustees of such corporation newly elected for the time being, as such chairman shall from time to time be successively chosen, to be regularly filed, and safely kept, by each Chairman, for the mutual benefit of the society to which he may respectively belong, unto which books and muniments any member of said society shall have free access, at all reasonable times, upon application to the Chairman keeping the same.

Societies consisting of less than fifteen families, not to have the benefit of this act.

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

Repeal.

SECT. 14. *And be it enacted*, That so much of an act, intituled, *An act for enabling religious societies of Protestants within this government to purchase lands for burying grounds, churches, houses for worship, schools, and so forth*, passed in the seventeenth year of the reign of George the Second, (b) as by this present act is altered or amended, is hereby repealed, made null and void.

*Passed February 3, 1787.*

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C H A P. CXLV. b.

1787.

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

Preamble.

**W**HEREAS the General Assembly have received information, that sundry Negroes and Mulattoes, as well freemen as slaves, have been exported, and sold into other states, contrary to the principles

(b) Chap. 108. 2.

principles of humanity and justice, and derogatory to the honour of this state :

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SECTION 1. *BE it enacted by the General Assembly of Delaware*, That if any person or persons, after the passing of this act, shall export, sell, or carry out for sale, or attempt to export, sell, or carry out for sale, any Negro or Mulatto slave from this state to either of the Carolinas, Georgia, or the West Indies, without a licence or permit first had and obtained therefor, from any three Justices of the Peace in the county where the owner or owners of such Negro or Mulatto slave resides, shall forfeit and pay, for every Negro or Mulatto slave so exported, sold, or carried out of this state for sale, or attempted so to be, the sum of One Hundred Pounds lawful money, one moiety thereof to be applied for the use of the state, and the other moiety to such person or persons who will sue for the same, to be recovered in any Court of Record in this state by action of debt, bill, plaint, or information. (a)

Persons exporting a slave, without permit, shall forfeit 100l.

SECT. 2. *And be it enacted*, That if any person or persons shall seize and export, sell, or carry out of this state for sale, or attempt so to do, any Negro or Mulatto, who either hath by contract enjoyed his freedom and liberty, or is hereafter to enjoy the same, shall, for every such offence, forfeit the sum of One Hundred Pounds lawful money, to be applied to the use aforesaid, and recovered in manner before directed.

Exporting a negro or mulatto, who is or may be entitled to freedom, the penalty.

SECT. 3. *And whereas* some doubts have arose, whether a Negro or Mulatto slave, heretofore manumitted by his master or mistress, by writing, last will, or otherwise, without having entered into the security to indemnify the county, required by the several laws of this state, (b) could be entitled to his or her freedom; to remove all such doubts, *Be it enacted*, That where

(a) See an additional supplementary act hereto, chap. 194. b. sect. 2, passed Feb. 3, 1789, where further and other provision is made—and see also chap. 22. c. sect. 3, passed June 14, 1793, that a permit to export a slave is grantable by the Justices of the Court of General Quarter Sessions of the Peace and Gaol Delivery, or any two of them—and in sect. 5, it is provided that every slave exported, &c. without a permit, is declared free; and in sect. 2, that persons prosecuted for offences under this act (chap. 145. b.) shall give bail, &c.

(b) For which see chap. 77. a. sect. 10.—and chap. 188. a. sect. 2.

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Slaves heretofore  
manumitted,  
without security  
given, declared  
free.

where any master or mistress may have heretofore manumitted and set free any Negro or Mulatto slave, that is now above the age of twenty-one years, and who at the time of such manumission was not above the age of thirty-five years, and who was healthy and no ways decrepit, or rendered incapable of getting his or her living, without having given the securities to indemnify the county, required by the laws of this state, shall and is hereby declared to be absolutely free, in as full and ample a manner to all intents and purposes, as if the security aforesaid, required by the laws aforesaid, had been given.

No such manumission to affect creditors;

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

or to discharge  
the estates of  
masters from  
supporting those  
who are decrepit.

SECT. 5. *Provided also*, That nothing in this act contained shall extend, or be construed to extend, to discharge the estate or estates of such masters or mistresses, who may have manumitted any Negro or Mulatto slave as aforesaid without having given the security required by law, from maintaining and supporting any such Negro or Mulatto, who may now be decrepit, or incapable of getting his or her livelihood; any thing in this act to the contrary notwithstanding.

Future manumissions valid,  
without giving  
security.

SECT. 6. *And be it enacted*, That any master or mistress, after the passing of this act, may by any last will in writing, or otherwise, manumit and set at liberty any Negro or Mulatto slave above the age of eighteen years, and under the age of thirty-five years, who is healthy, and no ways decrepit, or rendered incapable of getting his or her living, without giving the security required by any of the laws of this state; any law, usage, or custom to the contrary in any wise notwithstanding.

Persons bringing  
a slave into this  
state shall forfeit  
20l. and the  
slave be free.

SECT. 7. *And be it enacted*, That if any person or persons shall, after the passing of this act, bring any Negro or Mulatto slave into this state for sale, or otherwise, the said Negro or Mulatto slave is hereby

by declared free to all intents and purposes, and the person or persons bringing the said Negro or Mulatto slave into the state as aforesaid, shall forfeit and pay the sum of Twenty Pounds, to be recovered in any Court of Record in this state, by action of debt, bill, plaint, or information, one moiety thereof to be applied to the use of the state, and the other to the person or persons who will sue for the same. (c)

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SECT. 8. *And be it enacted,* That no slave manumitted agreeable to the laws of this state, or made free in consequence of this act, or the issue of any such slave, shall be entitled to the privilege of voting at elections, or of being elected or appointed to any office of trust or profit, or to give evidence against any white person, or to enjoy any other rights of a freeman, other than hold property, and to obtain redress in law and equity for any injury to his or her person or property. (d)

Privileges of manumitted slaves and their issue.

SECT. 9. *Provided also nevertheless, and be it enacted,* That any Negro or Mulatto slave, who may obtain his or her freedom, or have the same confirmed by this act, or who have heretofore, or hereafter may, come into this state from any other state or county, and be convicted in any court or jurisdiction impowered to hear, determine, and convict, any Negro or Mulatto of horse stealing, in lieu of the punishment prescribed by the laws of the state for such offences, shall by the said court or jurisdiction, be adjudged to be transported to the West Indies, or some other place where they may be received, and there disposed of for a term not exceeding fourteen years, which adjudication the Sheriff of the county, where the same may happen, is hereby directed to execute within three months after the adjudication, and to pay over to the Treasurer of the state, for the use of the state, the neat proceeds of such sale, after deducting the necessary expences attending such transportation,

Being convicted of horse-stealing shall suffer transportation,

and be there sold for a term of years.

Monies arising from the sale shall be appropriated.

(c) See a supplementary act hereto, chap. 193. b. passed Feb. 3, 1789, with exceptions to the generality of the provision in this section.

(d) See chap. 22. c. passed June 14, 1793, for punishing such persons as shall feloniously kidnap, take, and carry away any free negro or mulatto from this state into any other state, their aiders or assistants.

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portation, and ten *per cent.* on the neat proceeds of such sale for his trouble therein; and in case the Sheriff shall neglect or refuse to account and pay as aforesaid, then the State Treasurer, for the time being, is hereby impowered and directed to recover the same from such Sheriff by action or suit, in the name of the Delaware State, for money had and received as aforesaid.

To whom this act shall not extend,

SECT. 10. *Provided always,* That nothing in this act shall be construed to extend, or affect, any person or persons who may move into this state, from any other state, with his or her family, and become residents thereof, or who may be travelling through the same with his or her servants or slaves, or any inhabitants of this state moving with his or her family into any other state. (*e*)

Repeal of former laws.

SECT. 11. *And be it enacted,* That so much of all and every of the laws of this state, as are hereby altered and changed, are hereby repealed, and made null and void.

*Passed February 3, 1787.*

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C H A P. CXLVI. b.

1787.

*An ACT to compel executors to give security for the faithful discharge of the duty reposed in them by their testators, and for other purposes.*

Preamble.

**W**HEREAS it has been found by experience, that orphans, as well as creditors and others, have and do frequently suffer on account of the undue administration of executors, they not being compelled to give any security, upon obtaining letters testamentary, for their faithfully administering the goods, chattels, and credits of their testator, according to the tenor and effect of the last will and testament, and according to law; for remedy whereof,

## SECTION

(*e*) See also chap. 193. b. Post, for other exceptions there made.

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SECTION I. *BE it enacted by the General Assembly of Delaware, That the Registers of the several counties in this state, having power to grant letters testamentary to any person or persons, appointed and named executor or executrix of any last will and testament, duly proved, approved, and exhibited before them, shall, upon their granting such letters testamentary, take sufficient bond or obligation, with one or more able and sufficient freeholders sureties, in the name of the Delaware State, respect being had to the value of the estate, with a condition, and in manner and form following, viz. The condition of this obligation is such, that if the within bounden*      *execut*      *of the last will and testament of*      *late of*      *county, deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of the said*      *or into the hands and possession of any other person or persons for*      *and the same so made do exhibit, or cause to be exhibited, into the Register's Office of the county of*      *at or before the*      *day of*      *next ensuing, and the same goods, chattels, and credits, and all other the goods, chattels, and credits, of the said deceased, at the time of*      *death, which at any time after shall come to the hands or possession of the said*      *or into the hands and possession of any other person or persons do well and truly administer according to law, viz. shall pay the debts of the said deceased so far forth as the said goods, chattels, and credits will extend, and the law will charge, and do make, or cause to be made, a true and just account of*      *said administration, at or before the*      *day of*      *next; and all the rest and residue of the said goods, chattels, and credits, which shall be found remaining upon the said execut*      *account, the same being first examined, adjusted, and allowed of, by the Orphans Court of the county where the said letters testamentary are granted, do distribute or dispose of according to law, and the true intent and meaning of the last will and testament of the said deceased, then this obligation to be void and of none effect, or else to remain in full force*      *and*

Registers to take bond, upon granting letters testamentary.

The condition.

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No suit to be prosecuted on testamentary or administration bonds, unless, &c.

or where other remedy cannot be had;

and shall be commenced within six years; saving, &c.

*and virtue: (a)* Which said bonds are hereby declared and enacted to be good, to all intents and purposes, and may be put in suit, in the name of the Delaware State, against the obligor or obligors for the use of any creditor or creditors, legatee or legatees, or person or persons, who may be interested in the said testator's estate; so always and provided, that no suit be prosecuted on any such testamentary, or on any administration bond, for any debt or damages due from, or recovered against, any testator or intestate, or their effects, before two returns of *non est inventus* upon two writs of *capias ad respondendum* or a *nihil habet* on a summons, be returned against the executor or administrator, or a *feri facias* returned *nulla bona* by the Sheriff of the county where such executor or administrator lives, or where the effects of such deceased lie, or such other apparent insolvency or insufficiency of the person or effects of such executor or administrator, as shall in the judgment of the court that hears the cause, render such creditor or creditors remediless by any other reasonable means, save that of suing such bonds, on pain that such person or persons that shall cause such bonds to be sued, contrary to the true intent and meaning hereof, shall be condemned in full costs of suit, to be adjudged by the said court to the defendant or defendants that shall be so sued, against the person or persons that shall cause the same to be sued, and shall award execution thereof as used in other cases.

SECT. 2. *Provided also*, That all actions upon such testamentary bonds hereafter executed, shall be commenced within six years after the passing the said bonds, and not after; saving the right of any person or persons who shall be within age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond sea, or out of this state, of bringing such action or actions within

(a) See the act to revive and perpetuate this act, passed Feb. 2, 1793, chap. 7. c. wherein further provisions are also made, to wit, that bonds of an infant executor or executrix, being above the age of seventeen, shall be valid.—Also in what manner letters testamentary may be granted to a Feme Covert, &c.—That testamentary guardians shall give bond—and that all such bonds be taken in the name of the State of Delaware.—No judgments against executors or administrators to bind the deceased's real estate but upon report of Auditors confirmed by the court, or on verdict of jury, &c.

within three years after their coming to, or being of full age, discoverture, of sound memory, at large, or returning into this state.

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SECT. 3. *And be it enacted,* That all letters testamentary hereafter to be granted by any Register within this state, to any person or persons, without first having taken a bond, with condition as by this act is directed, are hereby declared to be null and void to all intents and purposes whatsoever.

Letters testamentary granted without bond, to be void.

SECT. 4. *And be it enacted,* That the several Orphans Courts within this state, when petitioned by the sureties in any testamentary bond, or their representatives, and upon making it appear, that they are in danger of suffering by such surety, are hereby empowered and required to cause the executor to give the petitioners sufficient counter security to indemnify them from such bonds, in the same and in as full and ample a manner as administrators can or may be there-to compelled by the act, intituled, *An act for the amending the laws relating to testamentary affairs, and for the better settling intestates estates,* passed the first day of November One Thousand Seven Hundred and Sixty-six. (b)

Remedy for sureties in testamentary bonds.

SECT. 5. *And whereas* several litigious or negligent executors and administrators, having sufficient in their hands to satisfy all the just debts of the deceased, in violation of their duty and the trust in them reposed, have suffered themselves to be sued, presuming that the deceased's estate must be burthened with all the unnecessary cost they vexatiously or negligently occasion, which has too frequently happened to the great delay of many honest creditors, and the great injury of the legal representatives; for remedy whereof in future, *Be it enacted,* That no executor or administrator shall hereafter be allowed any costs of suit, in any action to be recovered against such executor or administrator, out of the deceased's estate, unless the court before whom the action is brought, shall certify that the executor or administrator had just or probable cause or reason for withstanding such suit, or that

Executor or administrator shall not be allowed costs of suit, unless, &c.

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(b) Chap. 186. s. sect. 15, 16.

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the same was commenced before reasonable time given to such executor or administrator to discharge the debt thereby demanded, after probate made in common form, and notice thereof.

Limitation.

SECT. 6. *And be it further enacted,* That this act shall continue and be in force for the term of five years, and from thence to the end of the next Session of Assembly, and no longer. (c)

*Passed February 3, 1787.*

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C H A P. CXLVII. b.

1787. *An ACT for the support of officers, soldiers, or seamen, citizens of this state, who have been disabled in the service of the United States.—Obsolete. The subjects of this act provided for by the Congress of the United States from March 4, 1789—see vol. I. of their laws p. 149. chap. 24. &c. &c.*

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C H A P. CXLVIII. b.

1787. *An ACT appointing deputies from this state to the Convention, proposed to be held in the city of Philadelphia, for the purpose of revising the Federal Constitution.*

Preambles

**W**HEREAS the General Assembly of this state are fully convinced of the necessity of revising the Federal Constitution, and adding thereto such further provisions as may render the same more adequate to the exigencies of the Union; *And whereas* the Legislature of Virginia have already passed an act of that commonwealth, appointing and authorising certain Commissioners to meet, at the city of Philadelphia, in May next, a Convention of Commissioners or Deputies from the different states: And this state being

(c) Made perpetual in chap. 7. c. with further provisions, see before in note. (a)

being willing and desirous of co-operating with the commonwealth of Virginia, and the other states in the confederation, in so useful a design;

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SECTION 1. *BE it therefore enacted by the General Assembly of Delaware, That* George Read, Gunning Bedford, John Dickinson, Richard Bassett, and Jacob Broom, esquires, are hereby appointed Deputies from this state to meet in the Convention of the Deputies of other states, to be held at the city of Philadelphia on the second Day of May next. And the said George Read, Gunning Bedford, John Dickinson, Richard Bassett, and Jacob Broom, esquires, or any three of them, are hereby constituted and appointed Deputies from this state, with powers to meet such Deputies as may be appointed and authorised by the other states to assemble in the said Convention at the city aforesaid; and to join with them in devising, deliberating on, and discussing, such alterations and further provisions, as may be necessary to render the Fœderal Constitution adequate to the exigencies of the Union; and in reporting such act or acts for that purpose to the United States in Congress assembled, as when agreed to by them, and duly confirmed by the several states, may effectually provide for the same: So always and provided, that such alterations, or further provisions, or any of them, do not extend to that part of the fifth article of the confederation of the said states, finally ratified on the first day of March, in the year One Thousand Seven Hundred and Eighty-one, which declares, that in determining questions in the United States in Congress assembled, each state shall have one vote.

Deputies appointed.

Their powers.

Restriction.

SECT. 2. *And be it enacted, That* in case any of the said Deputies, hereby nominated, shall happen to die, or to resign his or their appointment, the President or Commander in Chief, with the advice of the Privy Council, in the recess of the General Assembly, is hereby authorised to supply such vacancies.

Vacancies happening, how supplied.

Passed February 3, 1787.

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*A Supplement to an Act, intituled, "An act for the recovery of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, due from the estate of John Vining, esq. deceased, formerly one of the Trustees of the Loan Office for the county of Kent."—Original act, chap. 132. b. Ante, repealed by chap. 201. b. Post.*

C H A P. CL. b.

1787.

*An ACT to provide for defraying the expences of the Justices of the Supreme Court and Court of Oyer and Terminer.—Altered and supplied in chap. 6. c. passed Feb. 2, 1793.*

C H A P. CLI. b.

1787.

*An ACT for the settlement of the accounts of the Wilmington lottery.  
Passed February 3, 1787.—Private act.*

C H A P. CLII. b.

1787.

*An ACT to appoint Edward Oldham and Mary his wife Trustees to take care of the property of Joseph Ensor, an idiot.  
Passed February 3, 1787.—Private act.*

C H A P. CLIII. b.

1787.

*An ACT relinquishing the right of this state to the confiscated property late of James Welsh, deceased.  
Passed February 3, 1787.—Private act.*

CHAP.

## C H A P. CLIV. b.

C H A P.

CLIV.

1787.

An ACT for granting and securing to John Fitch the sole and exclusive right and advantages of making, constructing and employing the steam-boat, by him lately invented, for a limited time.

Passed February 3, 1787.—Private act.

## C H A P. CLV. b.

An ACT for enabling Sydenham Thorne to erect a mill-dam across Missillion creek, and for the condemnation of a small piece of fast land, on the Sussex side of the said creek, for the use of a grist-mill.

1787.

Passed February 3, 1787.—Private act.

## C H A P. CLVI. b.

An ACT for raising Ten Thousand Five Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-seven.

1787.

**W**HEREAS Congress, by their resolution of the Preamble. twentieth day of October last, have called upon the United States for their respective quotas of the sum of Five Hundred and Thirty Thousand Dollars, in specie, for the pay and support of the troops of the United States upon the present establishment, this state's computed quota whereof being Seven Thousand Nine Hundred and Fifty Dollars; which quota the General Assembly of this state consider to be much greater, than what the same ought to be on any known and acknowledged principle of Fœderal taxation; nevertheless, in full confidence, that this state will not in future be thus unequally overrated by Congress, it is agreed to provide for the said quota.

SECTION I. *AND* whereas it is necessary to make provision for supplying the wants of the state, which  
added

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Ten Thousand  
Five Hundred  
Pounds to be  
raised.

Each county's  
proportion  
thereof.

Special Court to  
be held to ascer-  
tain the sum on  
the Pound rate.

Warrants to be  
issued to Collec-  
tors.

added to the aforesaid sum is computed to Ten Thousand Five Hundred Pounds; *We* the Representatives of the freemen of this state, taking into our serious consideration the necessity of complying with the requisition of Congress above mentioned, and for making provision to supply the wants of the state, have agreed to give the said sum of Ten Thousand Five Hundred Pounds for the purposes above mentioned: *Be it therefore enacted by the General Assembly of Delaware, That the sum of Ten Thousand Five Hundred Pounds, lawful money of the Delaware State, shall be raised, levied, and paid into the state treasury within the time herein after directed, and shall be assessed and taxed in the several counties of this state in the following proportions, That is to say:* For the county of New-Castle, the sum of Four Thousand Pounds; For the county of Kent, the sum of Three Thousand Five Hundred Pounds; and For the county of Suffex, the remaining sum of Three Thousand Pounds.

SECT. 2. *And be it enacted,* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court, on or before the twenty-third day of the present month of February, in the counties aforesaid respectively, at the places in the said counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection and supposeable delinquencies, the aforesaid several sums herein before directed to be assessed, raised, and levied, in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrants to the Collector of each county herein after named, or who may be appointed agreeable to the directions in this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorizing and requiring him forthwith to demand and receive from the persons

tons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums aforesaid.

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SECT. 3. *And be it enacted*, That Jesse Higgins, of the county of New-Castle, Joseph Taylor, of the county of Kent, and Israel Holland, of the county of Suffex, be, and hereby are appointed Collectors of the tax aforesaid in their respective counties, and each and every of them shall appear before the Justices at the Special Court to be holden as aforesaid, and enter into bond, with good and sufficient securities, such as the said justices, or any three of them, shall approve, in double the sum to be collected, with condition, *That if the above bound shall well and faithfully execute and perform the several duties required of him, as a Collector of the tax for county, according to law, then the above obligation to be void, else to remain in full force*; and the said justices, or some two of them, shall witness the execution of such bond, and immediately after deliver the same to the Clerk of the Peace, who shall record the said bond, and as soon after, as conveniently may be, transmit the same to the Auditor, to be by him safely kept in his office; and an attested copy of the said record shall be as good evidence in law, as if the same bond was actually proved in court; and if any person, appointed a Collector as aforesaid, shall, after five days notice of his appointment, neglect to appear, not having a reasonable excuse in the judgment of the said justices, or appearing, shall refuse to take upon him the office of Collector, or shall refuse or neglect to give bond as aforesaid, the said justices, or any five of them, may remove him from his said office, and shall immediately, on any vacancy by death, or removal, or by refusal to act, neglect to appear, or give bond as aforesaid, appoint some other Collector for their county, who will give bond as aforesaid; and to this end, the Justices of the Peace of each county, or any five of them, are hereby authorized and required, so often as occasion may be, to meet at the usual place of holding Levy Courts in their county, and then and there open and hold a Special Session for the purposes aforesaid.

Collectors appointed;

who shall give bond;

which shall be recorded, and transmitted to the Auditor, &c.

Vacancies how supplied.

SECT. 4. *And be it enacted*, That each Collector may appoint deputies.

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Their powers.

may appoint one or more deputies to assist him in collection, for every of whom he shall be answerable.

SECT. 5. *And be it enacted*, That the said Collectors and their deputies shall proceed, without delay, to collect the assessment imposed by this act; and if any person rated as aforesaid, not having a fixed residence in the county, shall neglect or refuse to pay, and if any person so rated, having a fixed residence there, shall neglect or refuse to pay by the space of ten days after demand made, it shall and may be lawful for the said Collectors respectively, to levy by distress and sale of the goods and chattels of the person or persons so neglecting or refusing to pay as aforesaid, the said several sums of money such person or persons stand charged with; of which sale five days notice, exclusive of the day of notice and sale, shall be given; but if no distress can be found by the Collector or deputy, and the party assessed refuse or neglect to shew goods or chattels of his own forthwith to be levied upon to satisfy such assessment with reasonable charges, then such Collector or deputy shall take the body of every such neglecting or refusing person, and bring him to the county gaol, and deliver him to the Sheriff or Keeper of the said gaol, who is hereby authorized and required to receive and detain him in safe custody, until payment with costs be made.

Provision for securing the payment of the tax in certain cases.

SECT. 6. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover, or collect the tax assessed on the said land; *Be it therefore enacted*, That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenant or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the said tax so paid, out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owners by an action or suit, in any court where the same shall be cognizable, together with costs of suit; and all parents,

rents, guardians, or tutors, making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts :

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SECT. 7. *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant :

SECT. 8. *And be it enacted*, That in all cases where the Collector can find no effects on the land belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same if distrained, and no rate can be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county, where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for that county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at auction, as may be necessary to pay the assessment.

In what cases the Collector may sell land, &c.

SECT. 9. *And be it enacted*, That the said Collectors respectively shall, on or before the last day of June next, pay to the State Treasurer, or to his successor in office, one moiety of the tax, by this act to be raised, and the other moiety thereof on or before the twentieth day of October next ; and each Collector shall, on or before the first day of August next, appear in the Auditor's Office, and then and there lay before the Auditor an accurate and fair account of his collection of the half part of the rate aforesaid, under the penalty of One Hundred Pounds lawful money ; and the said Auditor shall immediately proceed to adjust his said account, and shall, upon such settlement, allow to the said Collector a commission of four per cent. on the whole collection of the assessment then made by him, and paid to the State Treasurer, or on the sum the said Auditor shall then adjudge him to be answerable for ; and each Collector shall, on or before the first day of November next, in like manner appear and lay before the Auditor his account of the collection of the other half part of the rate aforesaid, under the like penalty ; and the Auditor shall forthwith proceed to settle and adjust the said final accounts, charging or crediting therein the

Collectors to pay over the tax to the State Treasurer,

and to account with the Auditor,

who shall allow a commission of four Per Centum,

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Surplusage of  
collection how  
applied.

Collectors char-  
geable with ten  
Per Cent. upon  
failure of pay-  
ment.

Clerks of the  
Peace to trans-  
mit duplicates,  
&c.

Balances to be  
certified to the  
President.

Collectors fees  
upon distress or  
execution.

balance found on the first account aforesaid; and every Collector shall pay to the State Treasurer, on or before the last day of the same month of November next, the whole balance of the quota of his county herein before ascertained and set down, and the surplusage of his collection, if any, shall be paid to the Treasurer of the same county; and the said Auditor shall transmit an account of his settlement with the Collectors aforesaid, to the Clerks of the Peace respectively, who shall file the same, and deliver a copy thereof to the Treasurer of his county, to enable him to receive of the Collector such surplusage as aforesaid, where the same may happen; and each of the Collectors aforesaid, shall attend the Levy Court of his county, at their next sitting after such his settlement with the Auditor, when his account transmitted as aforesaid, together with any list of delinquencies or errors, then to be exhibited by the said Collector, may and shall be finally settled and adjusted by and with the said Levy Court; and upon failure of payment by any Collector, the President or Commander in Chief, being certified thereof by the State Treasurer, shall direct the Attorney General to commence a suit or suits on the bond of such delinquent Collector, to compel the payment of the money due, with an interest of ten *per centum* from the said last day of November next, in which suit or suits there shall be but one imparlance.

SECT. 10. *And be it enacted*, That the Clerks of the Peace of the respective counties in this state, shall, on or before the first day of March next, transmit into the Auditors Office, certified copies of the duplicate of the assessments, and annexed warrant herein before directed to be issued and delivered to each Collector; and the said Auditor shall, forthwith after each settlement made by him with any Collector, transmit an account of the balances, as well to the President or Commander in Chief, as to the State Treasurer; and the State Treasurer shall, on or before the first day of December next, certify and transmit to the President or Commander in Chief how much of such balances are then unpaid.

SECT. 11. *And be it enacted*, That if any Collector shall be obliged to enforce the collection of the assessment

ment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is entitled to by law for the like service: And any person whose property shall be liable to payment of the said assessments, or any part thereof, may discharge the same at any time before sale of the property distrained, and in such case the Collector shall receive for his or his deputy's trouble, one half of the fees he would be entitled to on sale, and no more.

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SECT. 12. *And be it enacted,* That the sum of Two Thousand Nine Hundred and Eighty-one Pounds, Five Shillings, part of the said sum of Ten Thousand Five Hundred Pounds to be raised by this act, shall within twenty days after receipt thereof by the State Treasurer, or any parts thereof, be paid over to the Commissioner of the Continental Loan Office within this state, or to such person as may be duly authorized by the Board of Treasury of the United States to receive this state's quota of the Continental taxes, taking duplicate receipts therefor, one of which receipts shall be a sufficient voucher for the payment of the sum of money therein specified, in the settlement of such Treasurer's account with the Auditor of this state, and the other of which said receipts shall, by the said State Treasurer, be forthwith carefully forwarded to the Board of Treasury of the United States, to the end that the state may have credit for the amount specified therein, and the officer receiving it charged therewith; and the remaining part of the said Ten Thousand Five Hundred Pounds shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, entered and certified in the Auditor's Office, agreeable to the laws of this state. And it is hereby declared, that the said State Treasurer shall not, on any pretence whatsoever, apply any part of the monies hereby directed to be paid into his hands; until the aforesaid Two Thousand Nine Hundred and Eighty-one Pounds, Five Shillings, are paid as aforesaid for the use of the United States, nor shall

Two Thousand  
Nine Hundred  
and Eighty-one  
Pounds Five  
Shillings appro-  
priated to the  
use of the Unit-  
ed States.

Residue subject  
to draughts of  
the General As-  
sembly, &c.

Requisition of  
Congress to be  
first satisfied.

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The State Treas-  
urer to account  
with the Audi-  
tor.His commis-  
sions.Monies, books,  
and papers, to  
be delivered up  
to each successive  
Treasurer.Monthly ab-  
stract of monies  
paid to be trans-  
mitted to the  
Board of Treas-  
ury.shall the said sum be subject to any of the draughts  
aforesaid: (a)

SECT. 13. *And be it enacted,* That the said State  
Treasurer shall, once in every three months, trans-  
mit into the Auditor's Office an exact state, as well  
of all the monies by him received, with the names of  
the persons by whom paid, and time of payment, as  
of the monies by him paid, to whom, on what ac-  
count or order, and the time when; and the said  
State Treasurer, at the expiration of each and every  
year, shall appear in the said Auditor's Office, and  
then and there lay a general account, stating all his  
transactions for the year, before the Auditor, who  
shall forthwith proceed to adjust the said account; and  
the said State Treasurer shall discharge himself of all  
monies which shall come to his hands in pursuance  
of his office aforesaid, by virtue of this act, or other-  
wise, and shall be allowed commissions for the monies  
so received, and duly accounted for, at the rate of  
Twelve Shillings and Six-pence for every Hundred  
Rounds, and no more: And where the present or  
any future State Treasurer shall be removed from of-  
fice, he shall deliver up to his successor all monies  
whatsoever in his hands belonging to this state, and  
also all the books and papers, relating to the public  
accounts of the said office, whole, entire, and unde-  
faced; and upon the death of any State Treasurer;  
his executors or administrators, shall deliver up in  
like manner all monies whatsoever belonging to this  
state, which were in the hands of their testator or  
intestate at his death, and also all such books and pa-  
pers to the succeeding Treasurer.

SECT. 14. *And be it enacted,* That the said State  
Treasurer is hereby authorized and required to trans-  
mit to the Board of Treasury of the United States,  
a monthly abstract of all monies paid on account  
of this state to the Commissioner of the Continental  
Loan Office thereof, distinguishing the dates and a-  
mounts of the respective payments.

(a) See after in chap. 165, b, a special appropriation of the whole sum to be  
raised under this act, beyond the sum of Three Hundred Pounds, then paid there-  
out, any thing herein to the contrary notwithstanding.

SECT. 15. *And be it enacted,* That all gifts, grants, and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessments (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment, that may be had on suits to be brought for the recovery of the monies so in arrear.

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1787.

Sales, &c. by delinquent Collectors or Treasurers void, unless, &c.

SECT. 16. *And be it enacted,* That the said State Treasurer, before the first day of April next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Twenty-one Thousand Pounds, conditioned for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid; and the obligation so to be taken as aforesaid, by the special direction of the President or Commander in Chief for the the time being, shall be delivered to the Clerk of the Peace of the county wherein the said State Treasurer resides, and the execution thereof being proved, by one or more of the witnesses thereto, before the said Clerk of the Peace, he shall record the same obligation and its probate, and after transmit the same to the Auditor, to be by him safely kept in his office; the attested copy whereof shall be evidence as in the case of the obligation to be given by the County Collector herein before is declared.

State Treasurer to give bond.

His place how supplied in case of delinquency, &c.

SECT. 17. *And be it enacted,* That if any of the days appointed by this act, for the performance of any of the duties hereby required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

*Passed February 6, 1787.*

CHAP.

C H A P.  
CLVII.

1787.

C H A P. CLVII. b.

*An ACT for extending the time for collection of the unpaid State Tax directed to be raised in the year One Thousand Seven Hundred and Eighty-six.*

Preamble.

**W**HEREAS it appears, that the inhabitants of Suffex county, by the refusal of the Collector appointed by law to collect the last year's tax; and the omission of the justices in the said county to appoint another in his place, agreeably to the *Act for raising Twenty-three Thousand Six Hundred and Twenty-five Pounds for the service of the year One Thousand Seven Hundred and Eighty-six*, passed at Dover, the twenty-fourth day of June last, (a) had it not in their power, however willing, to discharge the said tax. *And whereas* also many of the citizens of the counties of Newcastle and Kent, in the last week of the collection of the said tax, would have, and actually did offer to discharge the same, but from the great number of citizens then attending the respective Collectors for settlement, many were prevented from the payment of their tax within the time limited by law; and this General Assembly being willing, for the ease of the people, to extend the time for the collection of the said tax, and receiving the indents in the proportion mentioned and expressed in the said act, and to give the same summary mode to the said Collectors to collect the arrearages of such taxes, as they could have had under the said act;

SECTION 1. *BE it enacted by the General Assembly of Delaware,* That the Collectors respectively of the said state tax heretofore appointed, and who accepted of the same, and Israel Holland who is appointed by this act Collector for Suffex county, be, and they are hereby impowered to collect all arrearages and balances due of the said tax, receiving indents in the proportion mentioned and expressed in the said above recited act, by execution or otherwise, between the time of passing this act, and the first day of May next, in as full

(a) Chap. 138. b.

full and ample manner as heretofore could have been done, had the same been done within the time limited by law. (b)

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1787.

SECT. 2. *Provided always nevertheless,* That if Congress shall not allow the Commissioner of the Continental Loan Office to receive the indents which may be collected by virtue of this act, all loss or losses that may be thereby sustained shall be borne by the respective counties, in proportion to the sums so received; any thing in this, or the above recited act contained, to the contrary in any wise notwithstanding.

*Passed February 6, 1787.*

C H A P. CLVIII. b.

*An ACT to alter the judgment at Common Law against persons convicted of petit treason.*

1787.

**W**HEREAS by the rules and practice of the Common Law adopted by this state, the judgment pronounced against persons convicted of the crime of petit treason appears to this present General Assembly to be too severe, and contrary to the mild spirit of the constitution and laws of this state provided for the punishment of other offences: Preamble.

*BE it therefore enacted by the General Assembly of Delaware,* That from and after the passing of this present act, when any person or persons shall be duly convicted of the said crime of petit treason, the judges before whom such conviction shall be had, shall give or pronounce the same or like judgment, against the person or persons so convicted, as by law is provided against any person or persons convicted of a felony of death,

(b) See also chap. 165. b. and chap. 170. b. —further provision for the collection of the Sussex county quota.

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CLVIII.  
1787.

death, and no other; any law, usage, or custom, to the contrary thereof in any wise notwithstanding: (a)

Passed June 5, 1787.

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C H A P. CLIX. b.

1787. *A further Supplementary ACT, to the act, intituled, "An act for the more easy and speedy recovery of small debts."*  
—Repealed and supplied by chap. 177. b.

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C H A P. CLX. b.

1787. *An ACT for appropriating the sum of Ten Thousand Five Hundred Pounds*—Repealed and supplied after in chap. 165. b.

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C H A P. CLXI. b.

1787. *A further Supplement, to an Act, intituled, An act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned. (b)*

Preamble.

**W**HEREAS there are divers sums of money due on mortgage deeds, in the several counties of this state, to the respective Loan Offices of the same, and the right or equity of redemption, in such mortgaged lands and premises, now belongs to persons who are

(a) In chap. 84. a. 15 Geo. II. this crime of petty treason among others was punishable according to the laws and statutes of that part of Great Britain called England.

(b) Chap. 113. b.

are under the age of twenty-one years; and no provision having been made by the above recited act for the renewal of such mortgages, great injury would accrue to such minors if their lands should be sold by the Trustees, under the said recited act. *And whereas* the time limited for the renewal of mortgages in the several counties of this state, by the said recited act to which this is a supplement, is now expired, and many persons have neglected to renew the same, and from the alienation of the mortgaged premises, the present possessors, in some instances, were unacquainted with the mortgage thereon, it has therefore become necessary and expedient to give a further day for the benefit of such persons, who have not renewed their mortgages as aforesaid. *And whereas* a supplementary act to the first recited act did pass, at Dover, on the twenty-fourth day of June last past, to remedy the above inconveniencies, which said supplementary act did expire on the first day of May last past; (c) and this General Assembly being desirous to grant further relief in the premises:

SECTION 2. *BE it therefore enacted by the General Assembly of Delaware,* That it shall and may be lawful for the Trustees of the Loan Offices in the respective counties of this state, to permit the guardian or guardians of such minors who now are, or hereafter may be, entitled to the equity of redemption in any lands so as aforesaid mortgaged, by and with the approbation of the Orphans Court of the county in which such guardian or minor may reside first had, upon a full representation of circumstances to the said court made, to renew the said mortgages, on or before the first day of June next, in the same manner, and upon the same terms, as are expressed and directed in other cases in the said recited act to which this is a supplement; and that any mortgage deed made and executed by such guardian or guardians as aforesaid, shall be deemed and taken to be a renewal of the former mortgage, and be as binding upon the estate of such

CHAP.  
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1787.

Guardians permitted, with the approbation of the Orphans Court, to renew mortgages of their wards lands.

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minors.

CHAP.  
CLXI.

1787.

Further time allowed for the renewal of other mortgages.

Proviso.

minors, to all intents and purposes, as the former mortgage might or could have been.

SECT. 3. *And be it further enacted*, That the Trustees of the Loan Offices within this state, respectively, are hereby impowered and directed to permit such other persons who have not renewed their mortgages, agreeably to the said recited act to which this is a supplement, to renew the same on or before the first day of June next, on the terms, and in the same manner, as by the above recited act is directed: *Provided*, That in all cases where suits have been instituted for the recovery of the mortgage monies, the costs thereof shall be previously discharged by the persons claiming a renewal of their mortgage under this act. (d)

Passed June 8, 1787.

## C H A P. CLXII. b.

1787.

An ACT to enable the owners and possessors of a certain parcel of marsh meadow and cripple, herein after described, situate on Little St. George's creek, in St. George's hundred, in New-Castle county, fronting the river Delaware, to keep the banks, dams, sluices and flood gates thereof in repair.

Passed, June 8, 1787—Private act.

## C H A P. CLXIII. b.

1787.

An ACT for altering the quorum of the House of Assembly:—Supplied in art. 2, sect. 6, of the constitution of this state adopted in June, 1792.

CHAP.

(d) For after supplementary acts. see chap. 192. b.—chap. 202. b.—chap. 229. b.

C H A P. CLXIV. b.

C H A P.  
CLXIV.

1787.

An ACT for vesting the powers heretofore given to three Justices of the Courts of Common Pleas and Orphans Courts, in the respective counties of this state, in a less number.—The provisions of this act rendered null and void by the sixth article of the constitution of this state adopted in June, 1792.

C H A P. CLXV. b.

1787.

An ACT to alter and supply certain parts of an act, intituled, An act for raising Ten Thousand Five Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-Seven, (a) and to repeal an act, intituled, An act for appropriating the sum of Ten Thousand Five Hundred Pounds, (b) and for other appropriation thereof, and other purposes.

**W**HEREAS in and by the said first mentioned Preamble. act, passed on the sixth day of February last past, it was enacted, in the twelfth section thereof, that the sum of Two Thousand Nine Hundred and Eighty-one Pounds Five Shillings, part of the said sum of Ten Thousand Five Hundred Pounds, directed to be raised by the same act, should, within twenty days after receipt thereof, or any parts thereof, by the State Treasurer, be paid over by him to the Commissioner of the Continental Loan Office within this state, or to such person as might be duly authorized by the Board of Treasury of the United States, to receive this state's quota of the Continental taxes, he taking duplicate receipts therefor, in order to discharge this state's quota of the sum of Five Hundred and Thirty Thousand Dollars in specie, called for by Congress, by their special requisition of the twentieth day

(a). Chap. 156. b.

(b) Chap. 160. b.

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1787.

day of October, in the year One Thousand Seven Hundred and Eighty-six, for the pay and support of the troops of the United States upon the then establishment; and that the remaining part of the said Ten Thousand Five Hundred Pounds should be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly; and that the State Treasurer should not apply any part of the monies by the said act directed to be paid into his hands, until the aforesaid Two Thousand Nine Hundred Eighty-one Pounds, Five Shillings, were paid as aforesaid for the use of the United States.

*And whereas* Congress afterwards, on the third day of May last, so far repealed their special requisition aforesaid, as to resolve; that all monies accruing from the same, or advanced by any of the states for the recruiting, subsisting, or cloathing of the troops aforesaid, be credited to such states on the specie requisition of One Thousand Seven Hundred and Eighty-four, One Thousand Seven Hundred and Eighty-five, or One Thousand Seven Hundred and Eighty-six, at the option of the states respectively.

*And whereas* the General Assembly of this state by their act aforesaid, for appropriating the said sum of Ten Thousand Five Hundred Pounds, passed on the eighth day of June last, (c) reciting the said resolve of Congress of the third of May last, declared, that the before mentioned sum of Two Thousand, Nine Hundred, and Eighty-one Pounds, Five Shillings, when paid into the Continental Treasury, in the manner as by the said first recited act is directed, be applied to this state's quota of the specie part of the annual requisition of Congress of the second of August, One Thousand Seven Hundred and Eighty-six: And further; that so much of the said Ten Thousand Five Hundred Pounds, as would discharge two years interest on the certificates issued to the officers and soldiers

(c) Chap. 160. b.

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diers of the late Delaware Regiment, the officers of the hospital and medical departments, and such other officers and soldiers as are credited to this state in its quota of the land forces, and which would be due on the first day of August then next, be appropriated for that purpose; and the State Treasurer was thereby directed and required, to pay and discharge the said two years interest accordingly; and that the residue of the said Ten Thousand Five Hundred Pounds be continued subject to the draughts of the President, Council and Assembly, as in the said first recited act of the sixth of February last is mentioned.

*And whereas* no more of the said Two Thousand Nine Hundred and Eighty-one Pounds, Five Shillings, had been advanced by this state, than the sum of Three Hundred Pounds, under the said special requisition of the twentieth of October, One Thousand Seven Hundred and Eighty-six, until notice of the repeal thereof as aforesaid; and that as the General Assembly of this state have not as yet made other provision for a compliance with the said annual requisition of Congress, of the twenty-first of August, One Thousand Seven Hundred and Eighty-six, the Continental Loan Officer declined to receive from the Treasurer of this state any further or other part of the Two Thousand Nine Hundred and Eighty-one Pounds, Five Shillings, in discharge of so much of this state's quota of the specie part of the said last mentioned annual requisition.

*And whereas* from the great deficiencies in the collection of the taxes of former years in this state, and the before recited appropriation of so great a part of the aforesaid sum of Ten Thousand Five Hundred Pounds for the payment of a two years interest, not then become due on the depreciation certificates aforesaid, great numbers of the citizens of this state, who are creditors thereof, of a long standing, and whose demands have long since been ascertained, and orders for their payment issued, are, and must be unreasonably delayed in such their payments, and with which appropriation last mentioned, great numbers of the good people of this state have signified, in petitions to the General Assembly of this state, much dissatisfaction

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CLXV.

1787.

Order establish-  
ed for the pay-  
ment of public  
debts.

faction, and therein have prayed a revision of the law making that appropriation: Therefore,

SECTION I. *BE it enacted by the General Assembly of Delaware;* That in aid of the surpluses of former tax acts, it shall and may be lawful for the Treasurer of this state, and he is hereby authorized and required, to apply all and every part of the said sum of Ten Thousand Five Hundred Pounds, directed to be raised, levied, and paid into the state treasury, by the act first before recited, beyond the said Three Hundred Pounds already paid thereout, towards the payment and discharge of the debts and expences of the state, in the order following, *to wit*; the civil list of the state, including the expences of legislation, and allowances to Delegates to Congress, and Conventions authorized by resolves of the General Assembly or laws of the state; interest on depreciation certificates, due on the first day of August One Thousand Seven Hundred and Eighty-five, and yet unpaid; monies borrowed on the credit of the state; monies due on certificates issued by the late Receivers of Supplies within the state; liquidated claims against the state, previous to the eighth day of June last, having respect to the dates of the draughts therefor, and time of presentment at the treasury; the allowance to pensioners provided for by this state in compliance with the resolves of Congress; the two years interest, due on the first day of August last, upon all such certificates as have been granted by this state for the depreciation of pay, as at the time of passing this act, remain unalienated and not transferred from the original owners to whom they have been issued, their wives, or children, or their executors, or administrators, or in the hands of alienees or purchasers, who have paid the full amount of the principal sum specified in such certificate, to be ascertained by the oath or affirmation of the holder, his agent, or attorney, which oath or affirmation the State Treasurer is hereby authorized to administer and certify; then the two years interest due, on the said first day of August, on such depreciation certificates as may have been alienated and transferred for less than the principal sum specified therein; and lastly, claims against the state, liquidated

dated since the said eighth day of June last; any thing in the said first recited act, passed on the sixth day of February last; to the contrary notwithstanding.

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SECT. 2. *And be it enacted*, That the said act, intituled, *An act for appropriating the sum of Ten Thousand Five Hundred Pounds*, passed on the eighth day of June last, (d) be, and the same is hereby repealed.

Repeal of former act.

SECT. 3. *And whereas* it is represented, That Israel Holland of the county of Suffex, in the said first recited act (e) appointed Collector of that county's proportion of the said sum of Ten Thousand Five Hundred Pounds, and by the act, intituled, *An act for extending the time for collection of the unpaid state-tax, directed to be raised in the year One Thousand Seven Hundred Eighty-six*, passed on the said sixth day of February last, (f) also appointed Collector of the said county's proportion of the state tax for the year One Thousand Seven Hundred and Eighty-six, had declined that trust, for that the time so extended was too short a one for him to make the collection of the said county's proportion of state tax for both those years: Therefore, *Be it enacted*, That the said Israel Holland be, and he is hereby impowered and authorized to collect all arrearages and balances due of the taxes directed to be raised within the county of Suffex by the act, intituled, *An act for raising Twenty-three Thousand Six Hundred and Twenty-five Pounds for the service of the year One Thousand Seven Hundred and Eighty-six*, and also by the act, intituled, *An act for raising Ten Thousand Five Hundred Pounds for the year One Thousand Seven Hundred and Eighty-seven*, receiving indents in the proportion mentioned and expressed in the first of the said recited acts, between the time of passing this act and the first day of June next, in as full and ample manner as heretofore could have been done, had the same been done within the time limited by the said acts; but before said Israel Holland shall enter upon the said duty, he shall give bond, with security, as by the said acts are directed; and he shall be allowed commissions for receiving and paying over the monies by him to be collected

Israel Holland appointed Collector of Suffex county.

To give bond.

His Commissions.

(d) Chap. 160. b.

(e) Chap. 156. b.

(f) Chap. 157. b.

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1787.

collected as aforesaid, the sum of *four per centum*; which allowance shall be made him upon settlement with the Auditor, as prescribed by the acts aforesaid.

Summary mode  
for collection of  
the arrearages of  
taxes.

SECT. 4. *And this General Assembly being willing to give the same summary mode to the other Collectors of the several counties in this state to collect the arrearages of state taxes, that they had under the acts directing the raising and levying of such taxes; Be it therefore enacted, That the Collectors of the several counties in this state respectively, heretofore appointed, or hereafter to be appointed for that purpose, are hereby impowered to collect all arrearages and balances due of the taxes, directed to be raised and collected by the several acts of Assembly passed in the years One Thousand Seven Hundred and Eighty-four, One Thousand Seven Hundred and Eighty-five, One Thousand Seven Hundred and Eighty-six, and One Thousand Seven Hundred and Eighty-seven, (g) between the passing of this act and the first day of June next, in as full and ample manner, to all intents and purposes, as heretofore could have been done within the time limited by the said acts.*

The President  
to appoint a  
Collector of Suf-  
sex county, if  
Israel Holland  
shall refuse to  
accept.

SECT. 5. *And be it enacted, That if the aforesaid Israel Holland shall decline, or refuse to accept, or execute, the duties hereby committed to him, the President or Commander in Chief is hereby impowered upon such refusal to appoint another fit person to supply his place; who, upon giving bond, as by the aforesaid acts is directed, shall have the same powers, and be intitled to the same reward, that are by this act given to the said Israel Holland. (h)*

State Treasur-  
er may de-  
mand receipt of  
taxes, and pay-  
ment of monies,  
from Collectors,  
so often as he  
thinks necessary.

SECT. 6. *And be it enacted, That the State Treasurer be; and he is hereby authorized, and impowered, to order and direct the several County Collectors of taxes respectively, so often as he shall think necessary, to lay before him the accounts of assessments and receipt of taxes, and pay over the monies in their hands by virtue of their office; and in case of their, or any of their, refusal to produce his or their accounts, or pay over the monies in his or their hands, or which they ought*

(g) See chaps. 107. b—124. b—138. b—156. b.

(h) See after in chap. 170. b. further provision made.

ought to have collected, it shall be lawful for the State Treasurer to proceed against such delinquent Collector by way of action or suit, in the name of the Delaware State, in which there shall be but one imparlance, for the recovery of the monies which may be due from such delinquent Collector.

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CLXV.  
1787.

*Passed November 10, 1787.*

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C H A P. CLXVI. b.

*An ACT for altering the place of election for the county of Sussex for the present year, One Thousand Seven Hundred and Eighty-seven.—Expired.*

1787.

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C H A P. CLXVII. b.

*An ACT granting to Oliver Evans, for a term of years, the sole and exclusive right of making and selling within this state the machines herein described.*

1787.

**W**HEREAS Oliver Evans, of the county of Preamble.  
New-Castle, in this state, miller, hath represented, that he hath invented, discovered, and introduced into exercise, two machines for the use of merchant mills; one of which, denominated by the said Oliver Evans an elevator, is calculated by its own motion to hoist the wheat or grain from the lower floor, and the meal or flour from the stones of any mill to the upper floor or loft of such mill; the other denominated an hopper-boy, so constituted as to spread the meal over the floor of a mill to cool, gather it up again to the boulding-hopper, and attend the same regularly, without the assistance of manual labour; And as the said inventions of the said Oliver Evans will greatly tend to simplify, and render cheap, the manufacture of flour, which is one of the principal staples of this state; in order to make adequate com-

CHAP.  
CLXVII.

1787.

Exclusive right  
of making and  
vending certain  
machines secur-  
ed to Oliver  
Evans for fifteen  
years.

Penalty for in-  
terfering with  
that right.

Saving the right  
of the Legisla-  
ture of this state  
to abolish this  
privilege on  
terms.

Penalty for a  
second interfer-  
ence in such ex-  
clusive right.

penensation to the said Oliver Evans for his ingenuity, trouble, and expence in the said discoveries,

SECTION 1. *BE it enacted by the General Assembly of Delaware,* That from and after the passing of this act, the said Oliver Evans, his heirs, and assigns, shall have the sole and exclusive right of making and selling within this state the said machines above described, agreeable to his new method of constructing and making the same, for and during the full space and term of fifteen years from thence next ensuing, and fully to be completed and ended.

SECT. 2. *And be it further enacted,* That if any person or persons shall make, sell, or use, or cause to be made, sold, or used, within this state, any hopper-boy or elevator, upon the plan of the said Oliver Evans, and constructed as the said hopper-boy or elevator of the said Oliver Evans is, or in the form, similitude, or likeness thereof, during the said term of fifteen years, without the consent of the said Oliver Evans, his certain attorney, heirs, or assigns, first had and obtained in writing, he, she, or they, so offending, shall forfeit and pay to the said Oliver Evans, his heirs, or assigns, for every such machine so made, sold, or used, or caused to be made, sold or used, respectively, the sum of One Hundred Pounds lawful money of this state, to be recovered with costs of suit by action of debt, bill, plaint, or information, in any competent Court of Record in the county in which the offence shall be committed, wherein no essoin, protection, or wager of law, or more than one imparlance shall be allowed.

SECT. 3. *Provided always,* That nothing in this act contained shall prevent any future Legislature of this state from abolishing this exclusive right, granted to the said Oliver Evans by this act, upon their paying to him, his executors, administrators, or assigns, the sum of One Thousand Pounds in gold or silver money of this state.

SECT. 4. *And be it further enacted,* That if any person or persons, who shall be convicted of having made, sold, or used, within this state, either of the aforesaid machines, without the consent of the said Oliver Evans, his heirs, or assigns, in writing, shall afterwards

wards without such consent, make, sell, or use, such machine or machines again, he, she, or they, so offending, shall forfeit and pay to the said Oliver Evans, his heirs, or assigns, the sum of One Hundred and Fifty Pounds like lawful money, to be recovered in like manner as aforesaid, and so *toties quoties*.

C H A P.  
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1787.

SECT. 5. *Provided always, and be it enacted*, That nothing in this act contained shall be construed to prevent Marshall and Stroud, of the county of New-Castle, millers, from using certain machines of the similitude or likeness of those herein before described, which they now have erected and in exercise in the mill at present occupied by them in the county aforesaid.

with a saving in favour of Marshall and Stroud.

*Passed November 10, 1787.*

C H A P. CLXVIII. b.

*An ACT for repealing all acts, or parts of acts, repugnant to the treaty of peace between the United States and his Britannic Majesty, or any article thereof.*

1788.

**W**HEREAS certain laws, or statutes made and passed in some of the United States, are regarded and complained of as repugnant to the treaty of peace with Great Britain; by reason whereof, not only the good faith of the United States, pledged by that treaty, has been drawn into question, but their essential interests under that treaty greatly affected. *And whereas* justice to Great Britain, as well as regard to the honour and interests of the United States, require that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do, or may be construed to proceed from the laws of this state, be effectually removed; therefore,

Preamble.

*BE it enacted by the General Assembly of Delaware, and it is hereby enacted by the authority of the same,* That such of the acts, or parts of acts, of the Legislature of this state, as are repugnant to the treaty of

of

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CLXVIII.  
1788.

of peace between the United States and his Britannic Majesty, or any article thereof, shall be, and hereby are repealed. And further, that the Courts of Law and Equity within this state be, and they hereby are, directed and required in all causes and questions, cognizable by them respectively, and arising from or touching the said treaty, to decide and adjudge according to the tenor, true intent, and meaning of the same; any thing in the said acts, or parts of acts, to the contrary thereof in any wise notwithstanding.

*Passed February 2, 1788.*

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C H A P. CLXIX. b.

1788. *An ACT to establish a Court of Appeals in this state—  
Repealed in chap. 19. c. sect. 12, passed June 14,  
1793.*

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C H A P. CLXX. b.

1788. *A Supplementary ACT to the act, intituled, An act to alter and supply certain parts of an act, intituled, An act for raising Ten Thousand Five Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-seven; and to repeal an act, intituled, An act for appropriating the sum of Ten Thousand Five Hundred Pounds, and for other appropriation thereof, and other purposes. (a)*

Preamble.

**W**HEREAS by the said act to which this is intended to be a supplement, the President or Commander in Chief of this state, is impowered to appoint a fit person to supply the place of Israel Holland, in the said act named and authorised to collect all arrearages and balances due of the taxes, directed to be raised within the county of Suffex by the act, intituled,

(a) Chap. 165. b.

intituled, *An act for raising Twenty-three Thousand Six Hundred and Twenty-five Pounds for the service of the year One Thousand Seven Hundred and Eighty-six, (b)* and also by the act, intituled, *An act for raising Ten Thousand Five Hundred Pounds for the year One Thousand Seven Hundred and Eighty-seven, (c)* if the said Israel Holland should decline or refuse to accept or execute the duties committed to him by the said act to which this is intended as a supplement, but no special provision is therein made to authorise the President or Commander in Chief to take bond, with good and sufficient security, from such persons so by him to be appointed as aforesaid; and some delays injurious to the public interest of the state may entue for the want thereof;

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1788.

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware, That the President or Commander in Chief is hereby authorized to demand, accept, and take bond, with good and sufficient security, such as he shall approve, from any person he may appoint to supply the place of the said Israel Holland, in the duties aforesaid, in case of his refusal or neglect to accept or execute the said duties, with condition, That if the above bound*  
*shall well and faithfully execute and perform the several duties, required of him, as a Collector of the tax for Sussex county, according to law, then the above obligation to be void, else to remain in full force:*

President authorized to appoint a Collector for Sussex county, and to take bond;

And the execution of the said bond being witnessed by the President or Commander in Chief, he shall cause the same to be delivered to the Clerk of the Peace of the county where taken, who shall record the said bond, and as soon after as conveniently may be, transmit the same to the Auditor, to be by him safely kept in his office; and an attested copy of the said record shall be as good evidence in law as if the same was actually proved in court; and thereupon the person so appointed and giving bond, shall have the same powers that by the same act to which this is intended as a supplement, are given to the said Israel Holland, and shall be allowed commissions for receiving

which shall be recorded, &c.

powers of the Collector.

commissions.

(b) Chap. 138. b.

(c) Chap. 156. b.

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1788.

ceiving and paying over the monies and indents, by him to be collected under the said recited acts, the sum of five *per centum*, which allowance shall be made him on settlement with the Auditor as prescribed by the said acts.

President on any vacancy, to make further appointments.

Collector to account, and pay over monies on or before Dec. 1, 1788.

SECT. 2. *And be it enacted*, That the President or Commander in Chief is hereby further authorized, on any vacancy by death or removal, or by refusal or neglect to act, of any person by him appointed as aforesaid, to appoint some other Collector for the said county of Suffex, taking bond and security as aforesaid, who shall have like powers and reward as herein before are expressed; and each and every person so appointed by the President, or Commander in Chief, shall account for all monies by him received under the powers given by this act, at the places in the several before recited acts mentioned, and pay over the same to the State Treasurer, on or before the first day of December next; and in case of neglect or refusal, shall be subject to the like penalties and forfeitures as other Collectors, in the same acts named are subject to.

*Passed February 2, 1788.*

C H A P. CLXXI. b.

1788. *A further Supplement to an act, intituled, "An act for the recovery of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, due from the estate of John Vining, esquire, deceased, formerly one of the Trustees of the Loan Office for the county of Kent—Original act chap. 132. b. Ante repealed by chap. 201. b. Post—See also chap. 149. b.*

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## C H A P. CLXXII. b.,

C H A P.  
CLXXII.

1788.

An additional Supplementary ACT, to an act, intituled,  
 “An act for stopping St. George’s creek, and for em-  
 banking and draining a quantity of marsh and cripple  
 on both sides of the said creek, being deemed about three  
 thousand acres, situate in Redlion and St. George’s  
 hundreds, and county of New-Castle, and for keeping  
 the dykes and drains belonging to the same in good order  
 and repair.”

Passed February 2, 1788.—Private act.

## C H A P. CLXXIII. b.

An ACT for continuing an act, intituled, “An act for  
 the settlement of the accounts of the Wilmington Lot-  
 tery.” 1788.

Passed February 2, 1788.—Private act.

## C H A P. CLXXIV. b.

A Supplementary ACT to the act, intituled, An act for  
 naturalization. (a) 1788.

**W**HEREAS for the encouragement of aliens or Preamble.  
 foreigners already settled, or that may here-  
 after come to settle within this state, it is become ne-  
 cessary, since the change of government, that further  
 provision should be made for enabling them to enjoy  
 the rights and privileges of natural-born subjects of  
 this state;

SECTION I. BE it therefore enacted by the General As-  
 sembly of Delaware, That any alien or foreigner alrea-  
 dy settled, or inhabiting within this state, or who shall  
 hereafter

(a) Chap. 5. s. 12. W. III.—See also chap. 57. b. passed April 15, 1780, speci-  
 al provision in favour of the subjects of France.

CH A P.  
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1788.

Aliens or foreigners, who shall take and subscribe the oath or affirmation, prescribed by the 22d article of the constitution, before the President or Supreme Court, shall become naturalized.

Proviso.

The Secretary shall return lists of the names of such persons to the Clerks of the Supreme Court.

hereafter come to settle or reside therein, and shall before the President of the state, or before the Supreme Court in any of the counties of this state, take, repeat and subscribe, the oath or affirmation directed by the twenty-second article of the constitution or system of government of this state, (b) to be taken by Members of the General Assembly, or persons appointed to offices or places of trust, (which said oath or affirmation, and subscription thereof, the President or the Supreme Court are hereby impowered to administer,) shall thereupon and thereafter be deemed, adjudged and taken, to be a natural born subject of this state; and shall be thenceforth entitled to all the immunities, rights and privileges of a natural born subject of this state: *Provided*, That no person who shall become such a subject of the state, by virtue of this act, shall be appointed to any civil office, or eligible as President, Member of the Privy Council or General Assembly, unless such person shall have resided within this state five years previous to such election or appointment, and shall have the other qualifications of age and property, required by the constitution or system of government. (c)

SECT. 2. *And be it enacted*, That the Secretary of the state shall, before the session of every Supreme Court in each county, return a list of the names of the persons who shall take and subscribe the said oath or affirmation before the President, and the time when taken and made, to the Clerk of the Supreme Court of each county, to be entered by him among the minutes of the said court.

SECT. 3. *And be it enacted*, That a certificate by the Secretary, or by any Clerk of the Supreme Court of this state, of any person's having taken and subscribed

(b) Framed in September 1776—but altered by the constitution of this state as adopted in June 1792—and there supplied—see art. 1. sect. 2, and art. 9.

(c) See the constitution of the United States of America, adopted since the passing of this act, where, in art. 1. sect. 8, it is declared, "That the Congress of the said United States shall have power, Inter Alia, "to establish an uniform rule of naturalization, &c. throughout the United States"—And see this power exercised by an act of the second Session of First Congress—chap. 3. approved March 26, 1790—after repealed and supplied by an act of Second Session of Third Congress, approved Jan. 29, 1795.

scribed the said oath or affirmation, or a certificate by any of the said Clerks, that it appears by the return of the Secretary, entered among the minutes, of any person's having taken and subscribed the said oath or affirmation, shall be deemed, and taken to be, a sufficient testimony and proof thereof, and of his being a natural born subject, and as such shall be allowed in every court of this state; for which return, entry and certificate, the Secretary, or Clerks respectively, shall be entitled to receive Fifteen Shillings, and for any after certificate, the sum of Seven Shillings and Six-pence, and no more, to be paid by the party applying for the same.

C H A P.  
CLXXIV.

1788.

What certificate shall be sufficient testimony of naturalization.

Fees allowed to the Secretary and Clerks of Supreme Court,

Passed June 11, 1788.

C H A P. CLXXV. b.

An ACT to continue in force an act, intituled, "An act to increase the daily allowance to Grand and Petit Jurors, and witnesses."—Original act chap. 115. b. repealed in chap. 27. c. sect. 29, passed June 15, 1792.

1788.

C H A P. CLXXVI. b.

An ACT to regulate marriages.—Repealed and supplied in chap. 211. b. passed Jan. 29, 1790.

1788.

C H A P. CLXXVII. b.

An ACT to continue in force an act, intituled, A supplement to an act, intituled, "An act for the more easy and speedy recovery of small debts," passed February 5, 1785, and for other purposes.—The said original act chap. 112. b. and this chap. 177. b. repealed and supplied in chap. 259. b. passed Feb. 4, 1792.

1788.

C H A P.  
CLXXVIII.

1788.

C H A P. CLXXVIII: b.

An ACT directing the manner and form of securities to be given by Sheriffs for the due execution of their trust, and prescribing a time for their returns on writs of fieri facias.

Preamble.

**W**HEREAS it is found expedient and necessary for the security of the public, that the Sheriffs of the several counties of this state should give security in larger sums, than heretofore directed and appointed by law; and that the form of that security should be altered:

Repealed. See  
at note (b)

Sheriffs shall enter into recognizances, with sufficient sureties, at the next Court of Common Pleas after their appointment.

Condition of  
recognizance.

SECTION I. *BE it therefore enacted by the General Assembly of Delaware,* That every Sheriff hereafter to be commissioned within the several counties of this state, at the next Court of Common Pleas to be held in the respective counties thereof after his appointment, and within the first three days of the term, shall enter into a recognizance in the same court, with two or more good and substantial freeholders of the county, to be approved of by the said court, *That is to say,* The Sheriff of the county of New-Castle and his sureties, in the sum of Three Thousand Pounds; and the Sheriff of the county of Kent and his sureties, in the sum of Two Thousand Five Hundred Pounds; and the Sheriff of the county of Suffex and his sureties, in the sum of Two Thousand Pounds, lawful money of the Delaware State; upon condition, that if he the said Sheriff shall and do well and truly serve and execute all writs and procefs to him directed, without delay, and make return of the same according to law; and shall from time to time, upon request to him made for that purpose, well and truly pay, or cause to be paid, to the several suitors and parties interested therein, their lawful agents, factors or assigns, all and every sum and sums of money to them respectively belonging, which shall come to his hands; and shall and do from time to time, and at all times during his continuance in office of Sheriff, well and faithfully execute the said office, and perform in every thing the duty in him reposed; then  
the

the said recognizance to be void, otherwise to be and remain in full force and virtue: (a) Which said recognizances shall be, and are hereby declared to be, only in trust to and for the use and benefit of the state, or any individuals who shall be injured by any breach or neglect of duty in such Sheriffs respectively; whereupon the party grieved may proceed by way of *scire facias* or other legal process, and upon proving what damage hath been sustained, and a verdict found therefor, the court in such case shall give judgment for so much as the jury or inquest shall then find, and no more; and shall award execution for the same with costs: And the said recognizances so to be proceeded upon, are hereby declared still to remain cautionary for the satisfaction of such others as shall prove themselves damnified, and recover their damages as aforesaid by due course of law.

C. H. A. P.  
CLXXXVIII.

1788.

To be in trust  
for the use of  
the party griev-  
ed.

How to be pro-  
ceeded on.

To remain cau-  
tionary.

SECT. 2. *And be it enacted*, That if any Sheriff, hereafter to be commissioned, shall neglect or refuse to give such security at the time, and in the manner, as before directed, in every such case the Sheriff so neglecting or refusing shall forfeit his said office of Sheriff; and the President and Privy Council, for the time being, on a certificate from the said Court of Common Pleas of such neglect or refusal, shall commission some other sufficient person, being an inhabitant of the county where such forfeiture shall happen, to supply the place of such as shall so neglect or refuse as aforesaid, who shall act and continue in the office of Sheriff, on entering into recognizance with sureties as before required, until another be, as by the laws of this state it is directed, chosen in his stead. (b)

Repealed. See  
at note (b)

Sheriffs neglect-  
ing to give secu-  
rity shall forfeit  
his office.

How other shall  
be appointed.

SECT. 3. *Provided always, and be it enacted*, That all actions or suits, hereafter to be brought on Sheriffs recognizances hereafter to be entered into, shall be sued

Limitation of  
time for bring-  
ing suits on such  
recognizances;

(a) See before in chap. 143, b. sect. 7, where the sureties are made liable to a penalty often Per Cent. there imposed on Sheriffs for non-payment of monies, to the State Treasurer, received for the use of the state, on executions sued out by the Auditor of Accounts.

(b) See after in chap. 34. c. passed June 17, 1793; the two first sections of this act repealed, and other provision made.

C H A P.  
CLXXXVIII.

1785.

Saving the right  
of minors, &c.Limitation, as to  
Sheriffs bonds  
heretofore en-  
tered into, &c.

Chap. 189, a.

At what time  
execution pro-  
cess shall be re-  
turned.How return  
shall be made  
where the levy  
is of goods and  
chattels unfold.

sued or brought, within the space of seven years after the entering into such recognizance, and not afterwards, saving the right of any person or persons who shall be within the age of twenty-one years, *feme covert, non compos mentis*, or imprisoned beyond sea, of bringing such actions or suits within one year after such impediment removed: And all actions hereafter to be brought on Sheriffs bonds heretofore entered into, shall be brought and commenced within the four years from the date of such bonds, saving the right of any person or persons within the age of twenty-one years, *feme covert, non compos mentis*, imprisoned beyond sea, or out of this government, of bringing such action or actions within the three years after their coming to, or being of full age, discovery, of sound memory, at large or returning into this government, as by the *act for obliging the Sheriffs within this government, to give sufficient sureties for the faithful execution of their trust*, passed the thirty-first day of October, in the year Seventeen Hundred and Sixty-seven, and hereby intended to be repealed, it is provided.

SECT. 4. And to prevent the ill consequences arising from the want of an actual and regular return of the execution process, usually directed to Sheriffs, for levying the sums of money mentioned therein of the lands, goods, and chattels of defendants, *Be it enacted*, That the respective Sheriffs of each of the counties in this state shall, before the rising of the court to which such process shall be returnable, on the second day after the return day in such process mentioned, make actual return of each writ of  *fieri facias*, with his, the said Sheriffs certificate of what he hath done thereon, in usual and legal form; and where the levy, or seizure, by virtue thereof, shall have been of goods and chattels unfold at such return day, the said Sheriff shall annex to such writ a schedule or inventory of each article of those goods and chattels, with an appraisement of the same duly made and certified, so that their value may be judged of; and where such levy, or seizure, hath been of lands, the said Sheriff's return shall specify the principal improvements thereon, if any, as well as the known or com-  
puted

puted quantity; and situation of the same; and the said Sheriff shall also in such case annex to the said writ a schedule or inquisition; testifying whether the yearly rents and profits, beyond all reprises, of the lands and tenements, so taken in execution, be sufficient within seven years to satisfy the debt and damages in such executions, agreeable to the directions of the existing laws of the state. (c) And where the levy or seizure, in either of the cases aforesaid, shall be returned as made subject to prior executions, the said Sheriff shall in his indorsed or annexed return, set forth, as well the names of the plaintiffs in such prior executions as shall have come to his hands, as the sums thereby to be levied: And in case any Sheriff shall neglect or refuse to make such return of each writ of *feri facias* to him directed, within the time above limited, he shall be answerable for the debt, damages, and costs, in the said *feri facias* mentioned, in the same manner as if he had returned thereon levied to the value of the sum or sums of money therein mentioned, and may and shall be proceeded against accordingly.

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CLXXVIII.  
1788;

Where the levy is of lands.

Where subject to prior executions.

In case of neglect, Sheriff to be answerable for the debt, &c.

SECT. 5. And the better to enable each Sheriff, as aforesaid, to know, and set forth, the sum of principal and interest actually to be levied on each writ of execution issued to him, *Be it enacted*; That the plaintiff in every judgment for a penalty, or greater sum than the real debt and interest due, his agent, or attorney, shall in the order or *præcipe*, to the officer who is to issue execution thereon, set down in words and figures, the real sum of the principal debt and time from which the interest thereof (if any payable) commences, which the officer upon his making out such execution shall indorse on the back thereof in a plain, concise, intelligible manner. (d)

Real debt to be indorsed on the execution.

SECT.

(c) See chap. 103, c. passed Feb. 9, 1796, authorizing the holding of inquests as to the yearly rents and profits of lands which had been taken by virtue of any writs of *Fieri Facias*, either by the Sheriff in office, or the person who had so seized the same; and omitted to make such inquisition before return of his writ; with a saving of the responsibility of the officer under this act.

(d) See after chap. 189, b. passed October 28, 1788, declaring that *Venditionis Exponas* may issue to the Sheriff in office, or to his immediate predecessor, he having taken in execution goods and chattels, lands and tenements then unsold, at the elec-

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CLXXVIII.  
1788.

Former acts re-  
pealed, viz. chap.  
189. a. and  
chap. 19. a.

SECT. 6. *And be it enacted,* That as well the said act, intituled, *An act for obliging the Sheriffs within this government to give sufficient sureties for the faithful execution of their trust,* as so much of an act, intituled, *An act obliging the officers of this government to give security,* as relates to the securities to be given by the Sheriffs of the respective counties within this state, shall be and hereby is repealed, made null and void; any thing in either of the said acts contained to the contrary notwithstanding. (e)

Passed June 11, 1788.

C H A P. CLXXIX. b.

1788.

*An ACT to repeal an act,* intituled, *An act for the further security of the government.*

Preamble.

**W**HEREAS by the said recited act, the citizens of this state were required to take and subscribe the oath or declaration of fidelity therein prescribed, and upon refusal or neglect, are disabled and rendered incapable of holding any office of profit or trust; civil or military, and deprived of the right of suffrage at elections, and of being jurymen: *And whereas* during the course of a long and doubtful war, good policy might render the above recited law necessary to secure the fidelity and allegiance of many citizens; but the return of peace, and the establishment of the independence of these states, no longer require the provisions of the said act; which operates injuriously upon a particular part of the good and faithful citizens of this state, by laying upon them a grievous

tion of the plaintiff in such suit. And that deeds made for lands sold by virtue of such writs, shall be valid, without petition to, or order of, any Court of Common Pleas for making such deed.

(e) See the "act for the more easy and speedy recovery of small debts." chap. 250. b. sects. 8, 21, that executions to be issued by Justices of the Peace on their judgments under the said act may, at the election of the plaintiff therein, be directed to the Sheriff—Sect. 22, delineating his duties on such execution process—and sect. 23. made answerable for neglect of such duties.

grievous, burthen in sustaining the duties of Jurymen, Constables, Overseers of the Poor, of the Highways, and other appointments of that nature: In order to afford relief,

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1788.

*BE it therefore enacted by the General Assembly of Delaware, That the act, intituled, An act for the further security of the government, passed the eighteenth day of May, in the year One Thousand Seven Hundred and Seventy-eight, be, and the same is, hereby repealed, and made null and void.*

*Passed June 15, 1788.*

C H A P. CLXXX. b.

*An ACT to appropriate the perquisites arising from marriage and tavern licences.—Temporary and expired.*

1788.

C H A P. CLXXXI. b.

*An ACT for altering the place of holding the General Election for the present year, in the county of Sussex.—Expired.*

1788.

C H A P. CLXXXII. b.

*An ACT for continuing the powers of the Collectors of the state taxes.—Expired by its own limitation, to wit, Nov. 20, 1788; but again supplied by chap. 199. b. passed June 5, 1789.*

1788.

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1788.

CHAP. CLXXXIII. b.

An ACT directing elections of Members of the Council in certain cases of vacancies.—Obsolete, since the adoption of the constitution of this state in June 1792.

CHAP. CLXXXIV. b.

1788.

An ACT to enable John Warren, administrator de bonis non of Henry Killen, deceased, to convey unto Reynear Williams, administrator of Elijah Sipple, deceased, certain tracts of land, situate in Mispillion hundred, Kent county.

Passed June 11, 1788.—Private act.

CHAP. CLXXXV. b.

1788.

An ACT to supply the loss of a deed made to Benjamin Chandlee, by the administrators of Gouldsmith Edward Folwell, deceased.

Passed June 11, 1788.—Private act.

CHAP. CLXXXVI. b.

1788.

An ACT to authorize and empower the executors of the testament and last will of Richard M. William the younger, esquire, deceased, to convey in trust for the heirs and representatives of Patrick Lyons, deceased, a certain tract or parcel of land, situate in Appoquinimink hundred in the county of New-Castle.

Passed June 11, 1788.—Private act.

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## C H A P. CLXXXVII. b.

C H A P.  
CLXXXVII.  
1788.

An ACT to incorporate the members of the library company of Wilmington.

Passed June 11, 1788.—Private act.

## C H A P. CLXXXVIII. b.

An ACT directing the time, places and manner, of holding an election for a Representative of this state in the Congress of the United States; and for appointing Electors, on the part of this state, for choosing a President and Vice President of the United States.

1788.

**W**HEREAS the Constitution of the United States declares and directs, that the House of Representatives in the Congress of the United States, shall be composed of Members chosen every second year by the people of the several states; that the Electors in each state shall have the requisite qualifications of the Electors of the most numerous branch of the State Legislature; that until the enumeration of the citizens of the United States shall be made as therein pointed out, this state shall have one Representative; and that the times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the Legislature thereof.

Preamble.

*And whereas*, it is further declared and directed in and by the said constitution, that for the purposes of choosing a President and Vice President of the United States, each state shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the state may be intitled in the Congress.

*And whereas* the Convention which framed the said constitution, resolved, that as soon as the Conventions of nine states should have ratified the said constitution, the United States in Congress assembled, should fix a day on which Electors should be appointed

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1788.

ed by the states which should have ratified the same, and a day on which the Electors should assemble to vote for the President, and the time and place for commencing proceedings under the said constitution; and that after such publication, the Electors shall be appointed, and the Senators and Representatives elected.

*And whereas* a Convention duly appointed by the people of this state, did by their act of the seventh day of December, in the year One Thousand Seven Hundred and Eighty-seven, in the name of the said people, assent to and ratify the said constitution.

*And whereas* the said United States in Congress assembled, by their act of the thirteenth day of September in the present year, reciting that the said constitution had been ratified in the manner therein declared to be sufficient for the establishment of the same, did resolve, that the first Wednesday in January next be the day for appointing Electors in the several states, ratifying the said constitution before the said day; and that the first Wednesday in February next be the day for the Electors to assemble in their respective states, and vote for a President. (a)

The subsequent enacting clauses being temporary, are expired and hereafter supplied as to holding elections for a Representative in Congress. See chap. 214. b. passed October 26, 1790.

## CHAP.

(a) See in second vol. of the Laws of the United States, chap. 8, page 53, approved March 1, 1792, "An act relative to the election of a President and Vice President of the United States and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President," regulating the appointment of Electors in each state for the election of President and Vice President, the time of meeting and voting, and after certifying the same; and prescribing the duty of the Executive of each state thereon.

C H A P. CLXXXIX. b.

C H A P.  
CLXXXIX.

1789.

*A Supplement to an act, entitled, An act directing the manner and form of securities to be given by Sheriffs for the due execution of their trust, and prescribing a time for their returns on writs of fieri facias. (a)*

**W**HEREAS it may be inconvenient in many Preamble. cases, to direct writs of *venditioni exponas* to the Sheriff in office, where executions have been, or may be, laid by his predecessor, and no sales made, or actually had, of the property so taken in execution :

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That all writs of *venditioni exponas* hereafter to be issued in this state, for the sale of any goods and chattels, lands and tenements, that have been, or hereafter shall be, seized and taken in execution by virtue of any writ of *feri facias* issued, or to be issued, shall and may be issued and directed to the Sheriff in office, or his immediate predecessor, he having seized and taken in execution such goods and chattels, lands and tenements, at the election of the plaintiff or plaintiffs in such suits ; and all proceedings had, and sales made, in virtue thereof, shall be good and available in law. How writs of Venditioni Exponas may be directed in certain cases.

SECT. 2. *And be it enacted,* That every such person, to whom such writs of *venditioni exponas* shall or may be directed, in case of neglect or failure in the execution thereof, or making returns thereon, shall be subject to all such rules of court, suits, fines, and other process and proceedings, as any Sheriff is, or can be liable to in like cases. Neglects in the execution thereof how punished.

SECT. 3. *And be it enacted,* That all deeds made for lands sold, by virtue of such writs of *venditioni exponas*, by such predecessor shall be deemed good and valid in law, without petition to, or order of, any Court of Common Pleas for making such deed ; any law, usage, Deeds for lands sold in virtue of such writs, &c. valid, without order of Court.

(a) Chap. 178. b. Ante.

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CLXXXIX.  
1788.

usage, or custom, to the contrary notwithstanding. (b)

Passed October 28, 1788.

C H A P. CXC. b.

1789. An ACT for altering the manner of levying executions, to be issued by Justices of the Peace, in certain cases; and for lessening the number of Constables.

THE four first sections of this act altered and supplied in chap. 250. b. sects. 21, 22, 23, 24, and particularly repealed in sect. 28.

Number of Constables for each county.

SECT. 5. *And be it enacted*, That for the several counties in this state, the following number of Constables shall be appointed within the districts hereafter mentioned, and no more; *That is to say*, For Newcastle county, two in each hundred thereof; For Kent county, two in Duck Creek hundred, one in Little Creek hundred, one in Saint Jones's hundred, three in Murderkill hundred, and two in Mispillion hundred; For Suffex county, two in each hundred thereof; to be appointed as by the laws of this state is directed. (c)

Now appointed.

SECT. 6. *And*, as there may be several Constables resident within an hundred, *Be it enacted*, That the Justices of the Court of Quarter Sessions, at their next May Session, shall appoint the number of Constables in each hundred, according to the directions of this act, from those persons who shall be returned by the respective Constables in each hundred. (d) *And* in case there should be any hundred wherein no Constable resides, then it shall be lawful for the said justices

(b) See chap. 46. a. directing the mode of proceeding in case of the death or removal of any Sheriff or other officer after a sale and before a title is made.

(c) See chap. 205. a. and the references there.

(d) See after chap. 219. b. this power of appointment extended to such other freeholders as the said courts may think best qualified.

justices to appoint such freeholder or freeholders as they think best qualified in each hundred; and in case of neglect or refusal in any such persons, so appointed as above, to qualify as is directed by an act, intituled, *An act obliging persons returned and appointed for Constables to serve accordingly, and for ascertaining their fees*, such person shall be liable to such penalty as is therein inflicted. (e)

C H A P.  
CXCI.  
1789.

Penalty for refusing to serve.

SECT. 7. *And be it enacted*, That no person shall be appointed a Constable for any hundred, within any of the counties in this state, who does not reside within the same hundred, and hath been resident therein six calendar months immediately preceding such appointment. (f)

To be resident before appointment.

*Passed February 3, 1789.*

C H A P. CXCI. b.

*An ACT for regulating and establishing fees.*

1789.

**F**OR preventing extortion, undue exaction of fees by the several officers within this state; and that all fees may be reduced to a certainty, and be established;

Preamble.

SECTION 1. *BE it enacted by the General Assembly of Delaware*, That the fees of the several officers within this state shall be as are herein after ascertained, limited, and appointed, viz.

SECT. 2. To the President of the state.

SECT. 3. To the Secretary.

SECT. 4. To the Justices of the Supreme Court.

SECT. 5. To the Justices of the County Court of Common Pleas.

SECT. 6. To the Justices of the Orphans Court.

SECT. 7. To the Justices of the Peace.

SECT.

(e) For the act here referred to see said chap. 205. a.

(f) See chap. 250. b. sect. 19, passed Feb. 4, 1792, that Constables thereafter appointed are to give bond, &c.

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CLXXXIX.  
1788.

usage, or custom, to the contrary notwithstanding. (b)

Passed October 28, 1788.

C H A P. CXC. b.

1789. *An ACT for altering the manner of levying executions, to be issued by Justices of the Peace, in certain cases; and for lessening the number of Constables.*

**T**HE four first sections of this act altered and supplied in chap. 250. b. sects. 21, 22, 23, 24, and particularly repealed in sect. 28.

Number of Constables for each county.

SECT. 5. *And be it enacted*, That for the several counties in this state, the following number of Constables shall be appointed within the districts hereafter mentioned, and no more; *That is to say*, For New-Castle county, two in each hundred thereof; For Kent county, two in Duck Creek hundred, one in Little Creek hundred, one in Saint Jones's hundred, three in Murderkill hundred, and two in Mispillion hundred; For Sussex county, two in each hundred thereof; to be appointed as by the laws of this state is directed. (c)

How appointed.

SECT. 6. *And*, as there may be several Constables resident within an hundred, *Be it enacted*, That the Justices of the Court of Quarter Sessions, at their next May Session, shall appoint the number of Constables in each hundred, according to the directions of this act, from those persons who shall be returned by the respective Constables in each hundred. (d) *And* in case there should be any hundred wherein no Constable resides, then it shall be lawful for the said justices

(b) See chap. 46. a. directing the mode of proceeding in case of the death or removal of any Sheriff or other officer after a sale and before a title is made.

(c) See chap. 205. a. and the references there.

(d) See after chap. 219. b. this power of appointment extended to such other freeholders as the said courts may think best qualified.

justices to appoint such freeholder or freeholders as they think best qualified in each hundred; and in case of neglect or refusal in any such persons, so appointed as above, to qualify as is directed by an act, intituled, *An act obliging persons returned and appointed for Constables to serve accordingly, and for ascertaining their fees*, such person shall be liable to such penalty as is therein inflicted. (e)

C H A P.  
CX C.  
1789.

Penalty for refusing to serve.

SECT. 7. *And be it enacted*, That no person shall be appointed a Constable for any hundred, within any of the counties in this state, who does not reside within the same hundred, and hath been resident therein six calendar months immediately preceding such appointment. (f)

To be resident before appointment.

Passed February 3, 1789.

C H A P. CXCI. b.

*An ACT for regulating and establishing fees.*

1789.

**F**OR preventing extortion, undue exaction of fees by the several officers within this state; and that all fees may be reduced to a certainty, and be established;

Preamble.

SECTION 1. *BE it enacted by the General Assembly of Delaware*, That the fees of the several officers within this state shall be as are herein after ascertained, limited, and appointed, viz.

SECT. 2. To the President of the state.

SECT. 3. To the Secretary.

SECT. 4. To the Justices of the Supreme Court.

SECT. 5. To the Justices of the County Court of Common Pleas.

SECT. 6. To the Justices of the Orphans Court.

SECT. 7. To the Justices of the Peace.

SECT.

(e) For the act here referred to see said chap. 205. a.

(f) See chap. 250. b. sect. 19, passed Feb. 4, 1792, that Constables thereafter appointed are to give bond, &c.

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- SECT. 8. To the Attorney General.  
 SECT. 9. To the Recorder of Deeds.  
 SECT. 10. To the Sheriff of each county.  
 SECT. 11. To the Clerk of the Supreme Court.  
 SECT. 12. To the Prothonotary or Clerk of the  
Common Pleas.  
 SECT. 13. To the Register in each of the Courts  
of Chancery in this state.  
 SECT. 14. To the Clerk of the Quarter Sessions.  
 SECT. 15. To the several Registers in this state.  
 SECT. 16. To the several Clerks of the Orphans  
Courts.  
 SECT. 17. Attorney at law.  
 SECT. 18. To the Notary or Tabellion Public.  
 SECT. 19. To the Clerks of the Legislative Coun-  
cil and House of Assembly.  
 SECT. 20. To the Serjeant at Arms.  
 SECT. 21. To the Door-keepers of the respective  
Houses.  
 SECT. 22. To the Coroner of each county.  
 SECT. 23. To the Cryer.  
 SECT. 24. To the Surveyors of lands.  
 SECT. 25. To the chain-carriers.  
 SECT. 26. To the juries and inquests.  
 SECT. 27. A clause imposing of penalties for taking  
more or greater fees than there enumerated, &c.  
 SECT. 28. *And be it enacted*, That the act, inti-  
tuled, *An act for regulating and establishing fees*, so far  
as the same relates to the establishment of fees, and  
to punish extortion; and also an act, intituled, *An  
act to repeal so much of an act*, intituled, *An act for re-  
gulating and establishing fees*, as relates to the imposing  
a fine of Six-pence on defaulting jurors, be, and are  
hereby, repealed, made null and void. (a)

Parts of former  
acts repealed.

*Passed February 3, 1789.*

CHAP.

(a) The act of June 29, 1793, chap. 42. c. provides "That such acts and parts of acts as were repealed by the foregoing act (chap. 191. b.) shall be and continue repealed, and that the same act (chap. 191. b.) so far as it regards all fees and regulations, be also repealed.—So that every part of the preceding act is thereby repealed, save this 28th section.

C H A P . C X C I I . b .

C H A P .  
C X C I I .

1789.

*A Supplement to an act, intituled, An act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes.*

**W**HEREAS, by an act of Assembly of this state, intituled, *An act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned,* passed the fifth February, One Thousand Seven Hundred and Eighty-five, Simon Wilmer Wilson was constituted and appointed Trustee of the Loan Office of the county of Kent: *And whereas* the said Simon Wilmer Wilson has resigned his appointment, or office, as Trustee of the Loan Office of the county of Kent, which resignation was accepted by this General Assembly; it has therefore become necessary to appoint some other person to supply that vacancy: *(a)*

Preamble.

SECTION I: *BE it therefore enacted by the General Assembly of Delaware,* That Dyre Kearny is hereby constituted and appointed Trustee of the Loan Office of the county of Kent, in the place and stead of the aforesaid Simon Wilmer Wilson; which said Trustee shall and may have, hold, and enjoy, the said office, for and during the term of two months next after the passing of this act, and from thence until a new nomination and appointment shall be made by the General Assembly; and the said Trustee is hereby directed, authorised, and impowered, immediately after he enters upon the execution of the trust, to which he is hereby appointed, to do and perform all matters and things, enjoined and required to be done and performed by the several Trustees in their respective counties, by the act to which this is a supplement, as fully and amply, to all intents and purposes, as the present Trustees of the several Loan Offices with-

Dyre Kearny  
appointed Trustee in Kent.

His duty.

(a) The act referred to is chap. 113, b. sect. 14.

C H A P.  
CXII.

1789.

Fees and salary. in this state now can, or might, or would have done by virtue of the act to which this is a supplement; and the said Trustee shall be intitled to the same fees, and the same salary, as are allowed to the several Trustees by the act to which this is a supplement, out of the interest money arising under the same, during the continuance of his trust.

Shall give bond, SECT. 2. *And be it enacted*, That the Trustee appointed by this act, shall, before he enters on the execution of his trust, give and duly execute a bond to the President, or Commander in Chief of this state, in the name of the Delaware State, with two or more sufficient sureties, such as he shall approve of, in the sum of Ten Thousand Pounds, conditioned for the faithful execution of the trust, and performance of the several matters and things enjoined him by this or the said act, to which this is a supplement; and shall also take the oath or affirmation, required to be taken by the Trustees of the Loan Offices of this state, by an act of Assembly, intituled, *An act for emitting the sum of Thirty Thousand Pounds in bills of credit on loan, and providing a fund for the payment of public debts*; which said oath or affirmation shall be indorsed on such bond; and the said bond with the indorsement aforesaid, shall be delivered to the Secretary of this state, to be by him recorded; and if the said bond shall in anywise be forfeited, the same shall be sued and prosecuted, and the penalties thereof be recovered, for the benefit, advantage, and use of the state.

and take oath.

Bond to be recorded.

Late Trustee shall deliver up all deeds, &c.

One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny unaccounted for.

SECT. 3. *And be it enacted*, That the said Simon Wilmer Wilson, late Trustee of the Loan Office of the county of Kent, is hereby enjoined and required forthwith to deliver up, to the Trustee in this act appointed, all mortgage deeds, bonds, and warrants of attorney, plate, bills of credit, and other money remaining in the said office, together with the books and papers which to the same do belong.

SECT. 4. *And whereas* it appears to this General Assembly, by a report made by their joint Committee of Finance, that upon a settlement made by them with the aforesaid Simon Wilmer Wilson, Trustee as aforesaid, he hath received, during the time of his

his trust, considerable sums of money, for which he doth not account, to the amount of One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny, that being the balance found deficient on his part, and for which the said Simon Wilmer Wilson, and his sureties, are responsible; and the same ought to be obtained and applied to the use of this state: *Be it therefore enacted*, That the Trustee of the Loan Office of the county of Kent, in this act appointed; or his successor, is hereby impowered and directed to proceed to recover the said sum of One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny, with interest thereon, at the rate of six *per cent.* from the time of passing this act, by action upon the bond given by the said Simon Wilmer Wilson, and his sureties, in the name of the Delaware State, in any Court of Common Pleas of this state:

C H A P.  
CXCII.

1789.

How the same  
shall be reco-  
vered.

SECT. 5. *Provided always, nevertheless*, That if the sureties of the said Simon Wilmer Wilson, shall separately make and execute, to the Trustee of the Loan Office of Kent county, within twenty days after the commencement of his trust, a mortgage deed or deeds of lands within the said county, sufficient to secure the payment of the said sum of One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny, together with the interest becoming due as aforesaid, and payable in instalments to expire with the Loan Office mortgages; and shall execute separately a bond of double the mortgage money, to the said Trustees, conditioned for the payment of the mortgage money mentioned in the mortgage deed, with a warrant of attorney thereon in such manner and form, and to be proceeded on, as is directed in the act to which this is a supplement, that then and from thenceforth, upon payment of costs by the said Simon Wilmer Wilson, and his sureties, or any of them, such suits as aforesaid shall cease and determine; any thing herein before contained to the contrary in any-wise notwithstanding.

The sureties of  
the late Trustee  
may execute a  
mortgage, &c.  
for the payment  
of the said sum,  
by instalments.

SECT. 6. *And be it enacted*, That all suits which have been instituted, or brought, by any of the Trustees of the respective Loan Offices of this state, against

Suits brought by  
Trustees shall  
not be abated by  
death, &c.

CHAP.  
CXCLII.  
1789.

any mortgagors, or tenants of mortgaged lands or premises, shall and may be continued and prosecuted in the names of the present Trustees of the said Loan Offices, or their successors, in the same manner as if they had been originated and brought by him or them, and shall not be discontinued or abated by the resignation, death, or expiration of the office of any such Trustee.

Further time  
allowed for the  
renewal of mort-  
gages.

SECT. 7. *And be it enacted,* That it shall and may be lawful for the Trustees of the Loan Offices in the respective counties of this state, to permit such persons who have not renewed their mortgages agreeably to the said recited act, to which this is a supplement, as also the guardian or guardians of such minors who are, or hereafter may be, intitled to the equity of redemption in any land mortgaged in the respective Loan Offices of this state, who have not renewed their mortgages, by and with the approbation of the Orphans Court, of the county in which such guardian or minor may reside, first had, upon a full representation of circumstances to the said court made, to renew the said mortgages on or before the first day of October next, on the payment of costs, on or before the first day of April next, upon such suits as have been instituted (and not brought to judgment) for the recovery of monies due on mortgage deeds, in the same manner, and upon the same terms, as are expressed and directed in other cases in the said recited act to which this is a supplement; and that any mortgage deed, made and executed by such guardian or guardians as aforesaid, shall be deemed and taken to be a renewal of the former mortgage, and be as binding upon the estate of such minors, to all intents and purposes, as the former mortgage might or could have been; and that all mortgages so renewed shall be deemed the first lien, and have the priority of all judgments, mortgages, and other incumbrances whatever, obtained or had since the date of such original mortgages so hereafter to be received. (b)

Mortgages re-  
newed to be  
deemed the first  
lien.

*Passed February 3, 1789.*

CHAP.

(b) For subsequent supplements, see chap. 202. b. and chap. 229. b.

C H A P . CXCH. b.

C H A P .  
CXCH.

1789.

*A Supplement to an act, intituled, An act to prevent the exportation of slaves, and for other purposes.*

**W**HEREAS the act, intituled, *An act to prevent the exportation of slaves, and for other purposes,* operates, in some cases, injuriously to the citizens of this state; (a)

Preamble.

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That where any Negro or Mulatto slave or slaves have been, or hereafter shall be, devised, or devolve by heirship, or representation, to any citizen or citizens of this state, by any person or persons residing out of this state, such devisee, heir, or representative, or his, or her, executors or administrators, may bring into this state, and retain therein, such Negro or Mulatto slave or slaves, so devised or devolving as aforesaid; any thing in the said recited act, to which this is a supplement, to the contrary notwithstanding.

In what cases slaves may be brought into this state.

SECT. 2. *And whereas* the citizens or subjects of other states are frequently indebted within this state; and doubts have arisen, whether the Negroes or Mulatto slaves or servants, within this state, belonging to such debtors, are liable to be attached, or executed and sold, under the laws of this state, to satisfy such debts or demands: *Be it enacted,* That every Negro or Mulatto slave or servant, belonging to any citizen, or subject, of any other state, who may come into this state as a slave or servant, agreeably to the laws thereof, may be attached, or taken in execution, within this state, and sold by virtue thereof, to satisfy the debt or debts of such owner; and shall be deemed and considered as a slave, or bound to serve the purchaser, his executors, administrators, or assigns, for the time, term or terms of years, which they were bound to serve, when so attached or taken in execution.

Slaves belonging to citizens of other states may be attached for debt.

*Passed February 3, 1789.*

CHAP.

(a) For this see chap. 145. b.

C H A P.  
CXCV.  
1789.

## C H A P. CXCV. b.

*An additional Supplementary ACT to an act, intituled,  
An act to prevent the exportation of slaves, and for  
other purposes. (a)*

Preamble,

**W**HEREAS it is inconsistent with that spirit of general liberty which pervades the constitution of this state, that vessels should be fitted out, or equipped, in any of the ports thereof; for the purpose of receiving and transporting the natives of Africa to places where they are held in slavery; or that any acts should be deemed lawful, which tend to encourage or promote such iniquitous traffic among us:

Vessels equipped  
for the slave  
trade shall be  
forfeited.

SECTION I. *BE it therefore enacted by the General Assembly of Delaware,* That if any owner or owners, master, agent, or factor, shall fit out, equip, man, or otherwise prepare, any ship or vessel within any port or place in this state, or shall cause any ship, or other vessel, to sail from any port or place in this state, for the purpose of carrying on a trade or traffic in slaves, to, from, or between, Europe, Asia, Africa, or America, or any places or countries whatever, or of transporting slaves to, or from, one port or place to another, in any part or parts of the world; such ship or vessel, her tackle, furniture, apparel, and other appurtenances, shall be forfeited to this state, and shall be liable to be seized, and prosecuted, by any Officer of the Customs, by information to the Justices of the Court of Common Pleas for the county wherein such seizure shall be made; whereupon such proceedings shall be had, both unto, and after judgment, as in and by the laws of this state, relating to cases of seizure is directed: And moreover, all and every person and persons so fitting out, manning, equipping, or otherwise preparing, or sending away, any ship or vessel, intending that the same shall be employed in such trade or business, contrary to the true intent and meaning of this act, or anywise aiding or abetting therein, shall severally forfeit and pay the sum

Every person  
fitting out such  
vessel shall for-  
feit 500l.

(a) See before chap. 145. b.

C H A P.  
CXCV.

1789.

sum of Five Hundred Pounds; one moiety thereof to the use of the state, and the other moiety thereof to the use of him or her who will sue for the same, by action of debt, bill, plaint, or information.

SECT. 2. *And whereas* it has been found by experience, that the act, intituled, *An act to prevent the exportation of slaves, and for other purposes*, has not produced all the good effects expected therefrom; for remedy whereof, *Be it enacted*, That if any person or persons, after the passing of this act, shall export, or sell with an intention to export, to the places herein after prohibited, or shall carry out for sale any Negro or Mulatto slave from this state, to Maryland, Virginia, either of the Carolinas, Georgia, or the West-Indies, without licence or permit first had and obtained from five Justices of the Peace, of the county where the owner or owners of such Negro or Mulatto slave shall reside, (b) in open sessions, shall forfeit and pay for every Negro or Mulatto slave so exported, sold, or carried out of this state for sale, the sum of One Hundred Pounds; and for every attempt so to do, the sum of Twenty Pounds; one moiety thereof to be applied to the use of the state, and the other moiety to such person or persons who will sue for the same; to be recovered in any Court of Record in this state, by action of debt, bill, plaint, or information; any law, usage, or custom, to the contrary notwithstanding. (c)

Exporting a  
slave without  
permit,

or attempting  
the same, the  
penalty.

SECT. 3. *And whereas* it is but just and reasonable that Negro and Mulatto slaves should receive a trial by jury, in capital cases; *Be it therefore enacted*, That all Negro and Mulatto-slaves, after the passing of this act, shall be tried, for all capital offences, in the Court of General Quarter Sessions of the Peace for the several counties, where the same offences shall be committed,

Slaves shall be  
tried for capital  
offences, by  
jury.

(b) See chap. 22, c. passed June 14, 1793, sect. 3, that such permit is grantable by the Justices of the Court of Quarter Sessions of the Peace and Gaol Delivery, or any two of them—and in sect. 4, that every slave exported, &c. without a permit, declared free.

(c) See said chap. 22, c. sect. 2, that persons prosecuted for offences under this act are to give bail, &c. and in sect. 1, that persons feloniously kidnapping any free Negro or Mulatto are subjected to corporal punishment.

CHAP.  
CXCIV.

1789.

Expences of trial  
to be paid by the  
county.

Former act re-  
pealed.

mitted, by the usual mode of proceeding in the said courts for the punishment of crimes against the state, now cognizable in said courts.

SECT. 4. *And be it enacted*, That the expence of the trial of Negro or Mulatto slaves, for capital offences, shall be borne and paid by the county; any law, usage, or custom to the contrary notwithstanding.

SECT. 5. *And be it enacted*, That so much of an act, intituled, *An act for the trial of Negroes*, as gives to two Justices of the Peace, and six freeholders, the power of trying, determining, and convicting, any Negro, Mulatto, or other slave, and punishing the same with death, for any capital offence whatsoever, be, and the same is hereby repealed, and made void.

*Passed February 3, 1789.*

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C H A P. CXCIV. b.

1789.

*An ACT to incorporate the physicians of the Delaware State, and for other purposes therein mentioned.*

*Passed February 3, 1789.—Private act.*

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C H A P. CXCVI. b.

1789.

*An ACT to dissolve the marriage of James Hathaway with Mary his wife.*

*Passed February 3, 1789.—Private act.*

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C H A P. CXCVII. b.

1789.

*An ACT for altering the place of holding the annual elections of Sussex county for Representatives in the General Assembly, and Sheriffs, and Coroners for that county.*

*—Altered and supplied in chap. 222. b. sect. 7, and again in chap. 237. b.*

CHAP.

C H A P . C X C V I I I . b .

C H A P .  
C X C V I I I .

1789.

An ACT for raising Twelve Thousand Six Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-nine, in addition to the arrearages due on former taxes.

**W**HEREAS there are divers sums of money due from this state for money borrowed on the credit thereof, and for public services performed; *And whereas* it is necessary to make provision for the payment of one year's interest of depreciation certificates, due the first day of August last, and for defraying the expences that have arisen, or may arise, within this state for the service of the present year;

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That the sum of Twelve Thousand Six Hundred Pounds lawful money of the Delaware State, shall be raised, levied, and paid into the state treasury for the purpose aforesaid, within the time herein after directed, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say*; For the county of New-Castle, the sum of Four Thousand Eight Hundred Pounds; For the county of Kent, the sum of Four Thousand Two Hundred Pounds; and, For the county of Suffex, the sum of Three Thousand Six Hundred Pounds.

SECT. 2. *And be it enacted,* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court, on or before the twentieth day of July next, in the counties aforesaid respectively, at the places in the same counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised, and levied

Preamble.

Twelve Thousand Six Hundred Pounds to be raised.

Each county's proportion thereof.

Special Court to be held to ascertain the sum on the Pound rate.

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Warrants to be  
issued to Collec-  
tors.

Collectors ap-  
pointed ;

who shall give  
bond,

which shall be  
recorded, and  
transmitted to  
the Auditor, &c.

Vacancies how  
supplied.

ed in the counties aforesaid respectively ; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each county herein after named, or who may be appointed agreeably to the directions of this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorising and requiring him, forthwith to demand and receive from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums as aforesaid.

SECT. 3. *And be it enacted*, That Jesse Higgins, of the county of New-Castle, John Coombe, of the county of Kent, and Israel Holland, of the county of Suffex, be, and hereby are appointed, Collectors of the tax aforesaid in their respective counties ; and each and every of them shall appear before the Justices of the Special Court to be holden as aforesaid, and enter into bond with good and sufficient securities, such as the said justices, or any three of them, shall approve, in double the sum to be collected, with condition, *That if the above bound* *shall well and faithfully execute and perform the several duties required of him, as a Collector of the tax for* *county, according to law, then the above obligation to be void, else to remain in full force* ; and the said justices, or some two of them, shall witness the execution of such bond, and immediately after deliver the same to the Clerk of the Peace, who shall record the said bond, and as soon after as conveniently may be, transmit the same to the Auditor, to be by him safely kept in his office ; and an attested copy of the said record shall be as good evidence in law, as if the said bond was actually proved in court ; and if any person, appointed a Collector as aforesaid, shall after five days notice of his appointment, neglect to appear, not having a reasonable excuse in the judgment of the said justices, or appearing shall refuse to take upon him the office of Collector, or shall refuse or neglect to give bond as aforesaid, the President or Commander in Chief may remove him from his said office, and shall immediately, on any vacancy by death, or removal, or by refusal to act, neglect to appear, or give bond as aforesaid, ap-  
point

point some other Collector for such county, who shall give bond as aforesaid.

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SECT. 4. *And be it enacted,* That each Collector may appoint one or more deputies to assist him in collection, for every of whom he shall be answerable.

May appoint deputies.

SECT. 5. *And be it enacted,* That the said Collectors and their deputies shall proceed, without delay, to collect the assessment imposed by this act; and if any person or persons shall neglect or refuse to pay by the space of ten days after demand made, such person or persons being a freeholder, it shall and may be lawful for the said Collectors respectively, to levy by distress and sale of the goods and chattels of the person or persons so neglecting or refusing to pay as aforesaid, the said several sums of money such person or persons stand charged with; of which sale five days notice, exclusive of the day of notice and sale, shall be given; but if no distress can be found by the Collector or deputy, and the party assessed refuse or neglect to shew goods or chattels of his own forthwith to be levied upon, to satisfy such assessment with reasonable charges, then such Collector or deputy shall take the body of every such neglecting or refusing person, and bring him to the county gaol, and deliver him to the Sheriff or keeper of the said gaol, who is hereby authorized and required to receive and detain him in safe custody, until payment with costs be made.

Powers of the Collectors.

SECT. 6. *And whereas* some owners of lands may not reside in the county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on the said land; *Be it therefore enacted,* That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the tax so paid, out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from

Provision for securing the payment of the tax in certain cases.

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the owners by an action or suit, in any court where the same shall be cognizable, together with costs of suit; and all parents, guardians, or tutors, making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

In what cases  
the Collector  
may sell land,  
&c.

SECT. 8. *And be it enacted*, That in all cases where the Collector can find no effects on the land, belonging to the party chargeable with the assessment, or of his tenant, or person having the care thereof, sufficient to pay the same if distrained, and the rate cannot be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county, where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for that county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at auction, as may be necessary to pay the assessment.

Collectors to  
pay over the  
tax to the State  
Treasurer,

SECT. 9. *And be it enacted*, That the said Collectors respectively shall, on or before the first day of December next, pay to John Gordon, esquire, who is hereby appointed State Treasurer, one moiety of the tax by this act to be raised, and the other moiety thereof on or before the first day of June next; and each Collector shall on or before the first day of February next, appear in the Auditor's Office, and then and there lay before the Auditor an accurate and fair account of his collection of the half part of the rate aforesaid, under the penalty of One Hundred Pounds lawful money; and the said Auditor shall immediately proceed to adjust his said account, and shall, upon such settlement, allow to the said Collector a commission of five *per centum* on the whole collection of the assessment then made by him, and paid to the State Treasurer, or on the sum the said Auditor shall then adjudge him to be answerable for; and the said Auditor shall not allow the Collector any deductions of any part of the sums mentioned in the said duplicate of assessment, except only when it shall be made appear to him, by a certificate under the hands of any two justices

and to account  
with the Auditor,

who shall allow  
a commission of  
five Per Cent.

justices of the neighbourhood, where any delinquency may happen, that the Collector has used all lawful means for the levying and collecting the same; and each Collector shall, on or before the first day of August, which will be in the year One Thousand Seven Hundred and Ninety, in like manner appear and lay before the Auditor his account of the collection of the other half part of the rate aforesaid, under the like penalty; and the Auditor shall forthwith proceed to settle and adjust the said final accounts, charging therein the balance found on the first account aforesaid; and every Collector shall pay to the State Treasurer, on or before the last day of the same month of August in the year last aforesaid, the whole balance of his account adjusted by the Auditor, unless the whole sum levied by him, clear of delinquencies, charges of collection, and commissions, shall exceed the quota of his county herein before ascertained, in which case such surplussage shall be paid to the Treasurer of the same county; and the said Auditor shall transmit an account of his settlement with the Collector aforesaid, to the Clerks of the Peace respectively, who shall file the same, and deliver a copy thereof to the Treasurer of his county, to enable him to receive of the Collector such surplussage as aforesaid, where the same may happen; and each Clerk of the Peace shall also lay the said account before the Levy Court of his county; and upon failure of payment by any Collector, the President or Commander in Chief, being certified thereof by the State Treasurer, shall direct the Attorney General to commence a suit or suits on the bond of such delinquent Collector, to compel the payment of the money due, with an interest of ten *per centum* from the said last day of August in the year last aforesaid, in which suit or suits there shall be but one imparlance.

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Surplussage of collection how applied.

Collectors chargeable with ten Per Cent. upon failure of payment.

SECT. 10. *And be it enacted*, That the Clerks of the Peace, of the respective counties of this state, shall, on or before the first day of November next, transmit into the Auditor's Office certified copies of the duplicate of the assessments, and annexed warrant herein before directed to be issued and delivered to each Collector; and the said Auditor shall, forthwith

Clerks of the Peace to transmit duplicates, &c.

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Balances to be  
certified to the  
President, &c.

with after each settlement made by him with any Collector, transmit an account of the balances, as well to the President or Commander in Chief, as to the State Treasurer; and the State Treasurer shall, on or before the first day of September, which will be in the year One Thousand Seven Hundred and Ninety, certify and transmit to the President or Commander in Chief how much of such balances are then unpaid.

Collector's fees  
upon distress or  
execution.

SECT. 11. *And be it enacted,* That if any Collector shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is entitled to by law for the like service, in the recovery of debts under Forty Shillings: And any person whose property shall be liable to payment of the said assessments, or any part thereof, may discharge the same at any time before sale of the property distrained, and in such case the Collector shall receive for his or his deputy's trouble, one half of the fees he would be entitled to on sale, and no more.

The sum to be  
raised subject to  
the draughts of  
the General As-  
sembly, &c.

SECT. 12. *And be it enacted,* That the sum of Twelve Thousand Six Hundred Pounds to be raised by this act, shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, entered and certified in the Auditor's Office, agreeable to the laws of this state.

The State Treas-  
urer to account  
with the Audi-  
tor;

SECT. 13. *And be it enacted,* That the said State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact state, as well of all the monies by him received, with the names of the persons by whom paid, and time of payment, as of the monies by him paid, to whom, on what account or order, and the time when; and the said State Treasurer at the expiration of each and every year, shall appear in the said Auditor's Office, and then and there lay a general account, stating all his transactions for the year, before the Auditor, who shall forthwith proceed to adjust the said account; and the said State Treasurer shall discharge himself of all mo-  
nies

nies which shall come to his hands in pursuance of his office aforesaid, by virtue of this act, or otherwise, and shall be allowed commissions for the monies so received, and duly accounted for, at the rate of Twelve Shillings and Six-pence for every Hundred Pounds, and no more: And where any State Treasurer shall be removed from office, he shall deliver up to his successor all the books and papers, relating to the public accounts of the said office, whole, entire, and undeffaced; and upon the death of any State Treasurer, his executors or administrators shall deliver up in like manner all such books and papers to the succeeding Treasurer.

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his commissions.

Books to be delivered up to each successive Treasurer.

SECT. 14. *And be it enacted,* That all gifts, grants, and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessments (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment, that may be had on suits to be brought for the recovery of the monies so in arrear.

Sales, &c. by delinquent Collectors or Treasurers, void, unless, &c.

SECT. 15. *And be it enacted,* That the said State Treasurer, before the first day of November next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Twenty Thousand Pounds, conditioned for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

State Treasurer to give bond.

Vacancy how supplied.

SECT. 16. *And be it enacted,* That in all cases where bonds are directed to be given under this act, warrants of attorney shall be annexed to, or given with, such bonds respectively, for entering up judgments for the penalties mentioned in such bonds, if the same should become forfeited by neglect of duty.

Warrants of attorney to be executed with the bonds given under this act.

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SECT. 17. *And be it enacted*, That if any of the days appointed by this act, for the performance of any of the duties herein required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

Treasury notes  
or bills to be  
issued.

SECT. 18. *And whereas* the issuing of notes from the treasury of this state, of small denominations, would be very convenient to the people, and would greatly tend to facilitate the collection of the tax laid for the present year, and such arrearages as are now due upon the taxes of One Thousand Seven Hundred and Eighty-one, Eighty-two, Eighty-three, Eighty-four, Eighty-five, and Eighty-seven; *Be it therefore enacted*, That the Treasurer of this state shall and may issue to the amount of all such orders as may be due from this state to any of the inhabitants thereof, or to others, or for one year's interest of depreciation certificates issued by this state, due the first day of August last, all such notes or bills upon the treasury, of any denomination whatsoever, as he may think proper, payable and redeemable by any of the monies due to and for the use of this state, upon any of the arrearages of the taxes of One Thousand Seven Hundred and Eighty-one, One Thousand Seven Hundred and Eighty-two, One Thousand Seven Hundred and Eighty-three, One Thousand Seven Hundred and Eighty-four, One Thousand Seven Hundred and Eighty-five, and One Thousand Seven Hundred and Eighty-seven; and for the tax laid for the present year. The tenor of which said notes or bills shall be in manner and form following, *viz.*

How redeemable.

Form.

*This bill of* \_\_\_\_\_ *shall intitle the*  
*bearer to receive the like sum in specie, at the state treasury, to be paid out of the arrearages of the taxes appropriated to the payment of state debts, or shall be received as specie in the payment of such taxes, agreeable to an act of the General Assembly of Delaware, passed at Dover, June*  
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*Issued* \_\_\_\_\_ *Treasurer.*

Books and  
checks to be  
provided.

SECT. 19. *And be it enacted*, That it shall and may be lawful for the said Treasurer, and he is hereby directed, to provide a sufficient number of such printed notes or bills for the purpose aforesaid, as may be necessary

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necessary in the discharge of the arrearages of the taxes aforesaid, and the tax laid by this act; and that he be allowed a sufficient compensation for all such trouble or expence as he may incur in providing the said notes or bills, and all such proper checks and books as may be necessary, as well to prevent the same from being counterfeited, as for the better conducting and completing the said business.

SECT. 20. *And be it enacted,* That the Collectors in the respective counties of this state, are hereby authorized, empowered, and required, to receive the said notes or bills so as aforesaid to be given by the said Treasurer, from any person or persons in discharge of the taxes aforesaid, which notes so as aforesaid received by them, and paid into the said state treasury by the said Collector, shall be a good discharge on the settlement of their accounts for the amount mentioned or specified in said notes or bills.

Notes or bills made payable in discharge of taxes.

SECT. 21. *And be it enacted,* That all such treasury notes as shall be issued as aforesaid, and afterwards paid into the treasury as aforesaid, shall not be re-issued, but shall be retained therein, and being examined and counted in the presence of a Committee of the General Assembly, shall afterwards be burned and destroyed by them, and report thereof be made to both Houses; and a particular account, specifying the number and amount of each note, shall be returned to, and entered in the Auditor's Office.

When paid into the treasury shall not be reissued but destroyed.

SECT. 22. *And be it enacted,* That all and every judgment entered by the confession of the party, or mortgage, bond, bill, note, or other specialty, or contract in writing, whether having a warrant of attorney annexed thereto for the confession of judgment thereon, or without such warrant of attorney, had, obtained, taken, or entered into, by the said State Treasurer, or his successor, or any Collector of any of the taxes herein before mentioned, by, from, or with any person whatever, for or in consideration of any of the said notes or bills before mentioned to be issued, shall be utterly void and of no effect: And that the said State Treasurer or his successor, and every Collector of said taxes, shall upon each and every such judgment, or mortgage, bond, bill, note, or other specialty,

Judgments, mortgages, or specialties, taken, or entered into, by the Treasurer or Collectors, for or in consideration of the aforesaid notes or bills, declared void.

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All such judgments, mortgages, or specialties, whereby money is payable to any Treasurer or Collector, not having the real consideration indorsed, shall be void.

specialty, or written contract, whether having a warrant of attorney annexed thereto for the confession of judgment thereon, or without such warrant of attorney, whereby any person shall become bound and liable to pay unto the said State Treasurer or his successor, or any Collector as aforesaid, any sum or sums of money, indorse or enter the real cause or consideration thereof, which indorsement shall be signed by the said debtor, and witnessed by two credible witnesses, present at the signing such indorsement; and in case of neglect in such State Treasurer or Collector to indorse as aforesaid, upon each and every such judgment or mortgage, bond, bill, note, or other specialty or written contract, whether having a warrant of attorney annexed thereto for the confession of judgment thereon, or without such warrant of attorney, the real cause or consideration thereof, each and every such judgment, mortgage, bond, bill, note, or other specialty, or written contract, so neglected to be indorsed and signed as aforesaid, shall be utterly void and of no effect.

Treasurer or Collector buying, &c. the aforesaid notes shall forfeit sol.

SECT. 23. *And be it enacted*, That the said State Treasurer, or his successor, and each and every Collector of the aforementioned taxes, who shall buy, sell, exchange, or barter, any of the said notes or bills, from, to, or with any person whatever, shall forfeit and pay the sum of Fifty Pounds for each and every such offence, to be recovered by action of debt, bill, plaint, information, or otherwise, in any Court of Record in this state, one half to the informer, and the other half to the Delaware State.

Delinquent Collectors and their sureties to be sued;

SECT. 24. *Whereas*, judgments have been obtained in many cases, and executions issued, against defaulting creditors, and the goods and chattels, lands and tenements, taken in execution, remain unsold for want of buyers; and as it is necessary to adopt some effectual measures for the recovery of the outstanding taxes, which are now due from the several Collectors in this state, and to compel the sale of the property taken in execution; *Be it therefore enacted*, That each and every Collector of any tax who is in arrear, and hath not settled or paid into the treasury of this state, or unto the Treasurer of the respective counties, each  
and

and every sum of money committed to him for collection, at the time the same became due and payable, or since, shall together with his sureties, either jointly or severally as the case may require, be sued upon his and their bonds respectively forthwith, and the most speedy measures taken for obtaining judgments and issuing executions thereon.

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SECT. 25. *And be it enacted*, That the State Treasurer is hereby authorized, empowered, and required to attend, or appoint proper persons to attend, the sales of the goods and chattels, lands and tenements, of any defaulting Collector, and his surety or sureties, in the respective counties for which they are appointed, and to and for the use of the state, to bid, and at his discretion, to purchase such lands and tenements, or other articles, always having regard to the interest of the state.

and their property purchased for the state.

SECT. 26. *And as there have been, or may be,* judgments obtained against such Collectors and their sureties, prior to that of the state, *Be it enacted*, That in case the lands of any Collector, and his surety or sureties, shall be deemed by the Commissioner herein before appointed for the county where such sales shall be made, of greater value than such prior judgments and costs, so that the debt due to the state, or any part thereof, may be secured to the state, by purchasing the same, without suffering any loss thereon, that it shall and may be lawful on such purchase being made by the Commissioner, for the President of the state to draw an order on the State Treasurer, for which he shall be allowed on settlement, to the amount of such prior judgments and costs, in favour of such Commissioner, he to be accountable, out of any monies in his hands, to be applied in discharge of such prior judgments and costs, and the said Commissioner shall thereon take a receipt, and have satisfaction entered on the record, which receipt with an attested copy of such judgment and satisfaction, shall be a sufficient voucher for such Commissioner on the settlement of his accounts.

Prior judgments and costs how satisfied.

SECT. 27. *And be it enacted*, That upon each and every purchase made by the said State Treasurer, or any person by him to be appointed as aforesaid, the

Conveyances to be made for the use of the state.

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Sheriff, or person selling such lands, shall assure and convey the same to the Treasurer of this state by name, and his successors, in fee simple, or otherwise, as the case may be, by bargain and sale to and for the use of the state.

The property purchased as aforesaid to be sold for the benefit of the state.

What shall be received in payment.

Treasurer to account quarterly on oath.

Application of the monies arising on such sales.

SECT. 28. *And be it enacted,* That in case any purchase shall be made by virtue of this act, it shall and may be lawful for the State Treasurer to take order for the sale, or other disposal thereof for the interest and benefit of the state: And in case he shall direct a sale of the same, he shall cause due notice to be given by advertisement inserted for four weeks in the Delaware Gazette, and also in hand bills posted up in the most public places in the county, at least thirty days before the time appointed, in the case of real property, and such advertisements shall contain a full specification of the terms of sale and mode of payment; and the said Treasurer shall also give by advertisement, ten days notice in that of personal property; and he is hereby authorized and empowered to receive in payment, on such sales, gold and silver coin, certificates for debts due by the state of all and every denomination whatsoever, all orders given by the Legislature on the State Treasurer, treasury notes and bills, and every other species of liquidated debts due from the state; and the said State Treasurer is hereby authorized and empowered to make good and sufficient deeds, in the name of the state, to such purchaser or purchasers, as the case may require; and the said State Treasurer shall account in his quarterly settlement with the Auditor, on oath, for all sales or other disposition, actings, and doings under this act; and shall specify particularly the several species of money, certificates, orders, notes or bills, and debts due from the state, received and discounted by him.

SECT. 29. *And be it enacted,* That all monies, certificates for debts due by the state of all and every denomination whatever, all orders given by the Legislature on the State Treasurer, treasury notes and bills, and every other species of liquidated debts due from the state, which shall be received by the said State Treasurer, for the property sold by him as Commissioner under this act, shall be applied in discharge of such

such taxes in arrear and due from the respective Collectors, for which such property was purchased by the said Commissioner, so far as to the discharging the respective counties of that particular tax committed to such Collector for collection; and if any overplus should remain after the payment of such particular arrearage, the same shall be applied as hereafter may be directed: *Provided*, That no Collector shall have credit for any other sum, than to the amount for which the said Commissioners shall purchase in such Collectors property, and that of his surety or sureties.

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SECT. 30. *And be it enacted*, That the said State Treasurer and Commissioners shall be allowed a reasonable compensation for their trouble and services under this act.

Treasurer and  
Commissioners  
to receive com-  
pensation.

*Passed June 4, 1789.*

C H A P. CXCIX. b.

*An ACT for extending the powers of the Collectors of this state.—Temporary and expired.*

1789.

C H A P. CC. b.

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

1789.

**W**HEREAS the Congress of the United States Preamble.] have recommended to the Legislatures of the several states, to pass laws, making it expressly the duty of the keepers of their gaols, to receive and safe keep therein, all prisoners committed under the authority of the United States, until they shall be discharged by the due course of the laws thereof, under the like penalties as in the case of prisoners committed under the authority of such states respectively;

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ly; the United States to pay for the use and keeping of such gaols, at the rate of Fifty Cents *per* month for each prisoner that shall, under their authority, be committed thereto, during the time such prisoners shall be therein confined; and also to support such of said prisoners as shall be committed for offences: (a).

*BE it therefore enacted by the General Assembly of Delaware,* That the Sheriffs, gaolers, and other keepers of the public gaols in the several counties of this state, are hereby authorized, required and commanded, to receive and safe keep in the gaols of their respective counties, all prisoners which shall be committed under the authority of the United States, until they shall be discharged by the due course of the laws thereof, under the like pains and penalties as in the case of prisoners committed to their custody under the laws of this state: *Provided always nevertheless,* That the United States shall pay, or cause to be paid, for the use and keeping of such gaols, at the rate of Fifty Cents *per* month for each prisoner that shall, under their authority, be committed thereto, during the time such prisoners shall be therein confined; and also shall support such of said prisoners as shall be committed for offences.

*Passed October 24, 1789.*

C H A P. CCI. b.

1789.

*An ACT to authorize John Vining, esquire, one of the heirs of John Vining, esquire, deceased, to mortgage lands for securing the sum of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, with the interest thereon due.*

Preamble.

**W**HEREAS the estate of John Vining, esquire, late of Kent county, deceased, stands indebted

(a). For this resolution of Congress, see vol. I. of the Laws of the United States, page 152, approved September 23, 1789.

ed to the public, in the sum of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, together with interest thereon from the second day of February, Seventeen Hundred and Eighty-six; and from the peculiar circumstances of the case, it is adjudged, reasonable to allow longer time, than is limited by law, for the payment of that sum:

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*BE, it enacted by the General Assembly of Delaware, That if John Vining, son and one of the heirs of the said John Vining, deceased, shall make and execute to the Trustee of the Loan Office of Kent county, within six months from the passing of this act, a mortgage deed or deeds of lands within said county, of double the value of the said sum of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, with the interest due thereon, clear of all encumbrances, and payable in three equal instalments, at six per centum per annum, to expire in seven years from the fifth of August, Seventeen Hundred and Eighty-five; the first payment to be made on the fifth day of August next, and the remainder of the said sum in two equal and annual payments, and shall execute a bond, of double the mortgage money, to said Trustee, conditioned for the payment of the mortgage money mentioned, with a warrant of attorney thereon, in such manner and form, and to be proceeded on as in other cases in said Loan Office; then and in such case, and from that time, the act, intituled, *An act for the recovery of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, due from the estate of John Vining, esquire, deceased, formerly one of the Trustees of the Loan Office, for the county of Kent*, shall be repealed, made null and void. (a)*

Passed October 24, 1789.

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(a) See after chap. 227. b. wherein the surviving executors of the said John Vining, deceased, are released from the payment of the sum of money aforesaid with the interest due thereon from February 2, 1786, for that the said John Vining, the son had complied with the terms in this act.

And see chap. 91. c. "An act authorising the Trustee of the Loan Office of Kent county, to execute a release of a certain mortgage deed and bond therein mentioned," passed January 30, 1796.

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C H A P. CCII. b.

*A further Supplement to an act, entitled, An act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned.*

Depreciation certificates receivable in discharge of mortgages in the Loan Offices.

Trustees to account with Committees of the General Assembly,

SECTION I. **B**E it enacted by the General Assembly of Delaware, That the Trustees of the respective Loan Offices, and their successors, respectively, are hereby authorized, empowered and required, to receive all such depreciation certificates as have been issued by this state, (a) of and from all and every person or persons who hath or have mortgaged, or may hereafter by any law of this state mortgage, other than for money hereafter to be lent by any of the Trustees, any lands or tenements to the present or former Trustees of the Loan Offices, by virtue of any law of this state, or the former government thereof, and of their heirs, guardians, executors, administrators, and assigns, and of all and every person or persons who may have a right of redemption, or any interest or estate in the said mortgaged premises, and their heirs, guardians, executors, administrators or assigns, on or before the first day in August, which will be in the year of our Lord, One Thousand Seven Hundred and Ninety-seven, in discharge of such mortgage or mortgages, or any judgment or judgments, execution or executions, that have been or may be obtained on such mortgage or mortgages, and deliver up the said mortgage or mortgages; (b) which depreciation certificates, so received as aforesaid, shall be

(a) For the acts relating to such certificates, see chap. 33. b. sect. 33, &c.—chap. 77. b.—chap. 88. b.—and chap. 103. b.—and for the original act to which this chap. 202. b. is a further supplement, see before chap. 113. b. Anno, 1785, and for other supplements thereto, see chap. 141. b.—chap. 161. b.—chap. 192. b.—and chap. 229. b. in the 6th section whereof the Loan Officer is directed to deliver over all such depreciation certificates to the Auditor.

(b) And see also chap. 229. b. sect. 4, this extended to purchasers at Sheriff's sales at the suit of any of the Trustees.

be delivered over by the said Trustees, together with an account or accounts of the receipts and mortgages discharged, to such Committees of the General Assembly, as shall be appointed to settle their accounts; and the same shall be a good discharge for the amount mentioned or specified in said certificates, together with the interest thereon due at the time the same were received; and that the said Trustees, respectively, shall, on receipt of any such certificates, make or cause to be made, regular entries, in a book by each of them to be procured for that purpose, of the sum mentioned in each certificate, the number, the person to whom issued, and the interest thereon due, and also the particular mortgage, in discharge whereof the certificate was received, when received, and take a receipt for the amount of the principal and interest due on such certificates to the time they were received.

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and keep regular entries.

SECT. 2. *And be it enacted,* That from and after the passing of this act, the said Trustees, or their successors, respectively, are hereby authorized, empowered and required, to permit all and every such person or persons, who may have renewed or re-mortgaged, pursuant to the terms of the act to which this a supplement, and the supplementary acts thereto, and all and every person or persons, who may have an interest or estate in such renewed or re-mortgaged premises, their heirs, guardians, executors, administrators or assigns, and who shall or may neglect or refuse to discharge their mortgages in manner aforesaid, to renew the said mortgages; in which new deed or mortgage, shall be inserted the principal sum then due, together with the interest thereon, payable in seven years, from the first day of August next, in equal and annual portions, bearing an annual interest of six *per centum*.

Mortgages heretofore renewed, are still renewable.

SECT. 3. *And be it enacted,* That the said Trustees, respectively, and their successors, are hereby authorized, empowered, and required, to permit all and every such person or persons as aforesaid, who may have mortgaged any lands or tenements, by virtue of any law passed under the former government, and who have not re-mortgaged on the terms mentioned in the said act to which this is a supplement, and also

Terms upon which mortgages unrenewed, are renewable.

the

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the said supplementary acts, to renew the said mortgages; in which new deed shall be inserted the principal sum due, together with the interest thereon, at five *per centum per annum*, to the first day of August, One Thousand Seven Hundred and Eighty-five, deducting interest agreeably to the said act to which this is a supplement, and adding the remaining interest, at five *per cent.* on the principal sum and interest as aforesaid together, from the said first day of August in the year last aforesaid, to the time of such renewal, payable in seven years from the first day of August next, in equal and annual portions, bearing an annual interest of six *per centum.* (c)

Persons neglecting to renew or pay, how proceeded against.

SECT. 4. *And be it enacted,* That if any mortgagor or mortgagors, their heirs, executors, administrators, assigns, guardians, or other persons having the equity of redemption in the same, as aforesaid, shall neglect or refuse to renew, in manner aforesaid, or to pay the principal and interest thereon due, deducting interest as aforesaid, the Trustee of the Loan Office for the county in which the mortgaged premises be, shall forthwith proceed to recover the principal and interest that may be due on the said mortgages, in the manner directed by the laws of this state, respecting the recovery of monies due on the said mortgages, or as is herein after directed, upon judgment obtained by a warrant of attorney, upon any bond taken with any mortgage deed; and it shall and may be lawful to and for the Sheriffs of the respective counties in this state, on any execution to him directed, or sale by him made in virtue of this act, or any of the acts to which this is a supplement, to receive, from any and every person authorized to pay and discharge the same, the amount of the debt and interest due on the said mortgage or mortgages, in depreciation certificates; (d) and when the same shall be so received, to pay the same over to the Loan Officer for the counties respectively, levying

Sheriffs may receive the debt due on such mortgages in the certificates aforesaid.

(c) See chap. 229. b. allowing further time for the renewal of mortgages—and see chap. 247. b. sect. 3, any further loans prohibited.

(d) And so directed in chap. 229. b. sect. 4. as in note (b) before.

ing, nevertheless, the costs of suit in lawful money of the Delaware State.

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SECT. 5. *And be it enacted*, That no person or persons whatsoever, shall be permitted to renew any mortgage or mortgages as aforesaid, where there may be any incumbrance had or suffered, or any lien whatsoever on the mortgaged premises, between the date of the original mortgage, and the time of the proposed renewal, of which the said Trustees respectively, are hereby directed to make diligent inquiry, and conduct themselves accordingly: *Provided always nevertheless*, That nothing in this act shall be construed to extend to prevent any person from mortgaging other lands, with such lands so incumbered, where the value of the whole shall be double the sum for which the new mortgage is to be taken, clear of incumbrances, to be ascertained in both the cases aforesaid, as well by the oath of the person offering to mortgage, as by diligent searches and inquiry to be made by the said Trustees respectively.

No mortgage, where there is a subsequent lien, shall be renewed;

but other lands with these incumbered, may be mortgaged.

SECT. 6. *And be it enacted*, That each and every mortgage so received as aforesaid, upon any re-mortgage made before the third day of February, One Thousand Seven Hundred and Eighty-nine, and upon every original mortgage which hath not been renewed since the said third day of February, One Thousand Seven Hundred and Eighty-nine, shall be deemed the first lien, and have the priority of all judgments, mortgages, and other incumbrances whatever, had or obtained since the date of such re-mortgage made before the third day of February, One Thousand Seven Hundred and Eighty-nine, or of such original mortgage which hath not been renewed, or which hath been renewed since the said third day of February, One Thousand Seven Hundred and Eighty-nine: *And provided always*, That no person or persons shall be permitted to discharge any monies due on said mortgages, or to renew the same, until all costs shall be paid, which may have accrued on former proceedings heretofore had against them, pursuant to the act to which this is a supplement.

Mortgages made before the third February 1789, to be deemed the first lien.

Proviso:

SECT. 7. *And be it further enacted*, That, together with every of the aforesaid deeds, taken and renewed

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Mortgagors shall execute bonds and warrants of attorney.

How proceeded on.

Mortgages of lands devised or conveyed in fee tail, may be renewed; which shall be binding.

Certain certificates here recited not receivable under this act.

as aforesaid; the respective mortgagors shall execute a bond in double the amount of the mortgage money, to the respective Trustees aforesaid, conditioned for the payment of the money in such mortgage deed specified, at or before the days in the said deed expressed for payment thereof, together with the interest thereon arising annually, and also a warrant of attorney empowering some person or persons to confess judgment, which the said Trustees are hereby required to cause their Attorney to enter in any of the Courts of Common Pleas of this state, against such mortgagors as shall make default in payment of the principal sum in such mortgage deed specified, or the interest thereon arising, or any part thereof, at the days and times in such deed expressed for the payment thereof, and that the said Trustees respectively, may have execution thereon, by *levari facias*, in the same manner as on a judgment obtained by a writ of *scire facias* on any mortgage in this state.

SECT. 8. *And be it further enacted*, That in all cases, where any mortgaged lands have been devised or conveyed by any mortgagor, to any person in fee tail, it shall and may be lawful for such tenant in tail, or his or her guardian or guardians, to renew such mortgage in the same manner as other persons are permitted; and the same shall be chargeable on the said mortgaged lands, and be binding and obligatory upon such tenant in tail, and his heirs, and such person as may have the reversion or remainder of such estate, or to whom the same may be limited over in any manner.

SECT. 9 *And whereas* it appears to be a matter of controversy, between this state and sundry individuals, respecting the sum of Twelve Hundred and Forty-two Pounds Eight Shillings, part of the said certificates issued to sundry persons supposed to be since dead, which were delivered to the former President, Nicholas Vandyke, esquire, deceased; and also the sum of Seven Hundred and Twenty-five Pounds Two Shillings and Eight-pence Halfpenny, likewise part of the said certificates issued to sundry soldiers alleged by the Commissioner of army and navy accounts, to have forfeited, by desertion, their right to receive their pay;

pay; (c) *Be it therefore enacted,* That no certificate or certificates so issued as aforesaid, and delivered to the said President, except such as were delivered over by him to the person or persons to whom they were granted; or their legal representatives, nor any certificate or certificates so issued as aforesaid to soldiers, alleged as aforesaid to have been deserters, shall be receivable in the manner herein before mentioned; any thing in this act before contained to the contrary in any wise notwithstanding; and that the Auditor of this state, forthwith after the passing of this act, shall furnish the said Trustees respectively, with an exact copy of a list of the said certificates herein before excepted, according to an account thereof, received into the Auditor's Office, from the Commissioner of army and navy accounts.

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Lists thereof to be furnished by the Auditor.

Passed January 27, 1790.

C. H. A. P. CCIII. b.

An ACT to prevent swine running at large within Duck-creek town, the village commonly called Duck-creek Cross Roads, and parts adjacent thereto.

**W**HEREAS the inhabitants of Duck-creek town, and the village called Duck-creek Cross Roads, and parts adjacent, in Kent county, in the Delaware State, have heretofore received and suffered great spoil and damage in their several inclosures, by swine running at large: For prevention whereof,

Preamble.

**SECTION I.** *BE it enacted by the General Assembly of Delaware,* That from and after the first day of March, next ensuing the passing of this act, no inhabitant or inhabitants of said places, or other person or persons whatsoever, shall suffer or permit any of their swine or hogs to run at large within the limits

Swine running at large within the limits here described,

(c) See chap. 71. b. sect. 33, where the delivery is confined to the persons themselves to whom pay was due—and chap. 77. b. sect. 4, where it is extended to their widows and children.

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limits or bounds following, *That is to say*, Beginning at the main state or county road, leading from Duck-creek town to Dover, by the main branch of Duck-creek, and thence running up the said creek, on the several courses, one mile and an half, then by a line parallel to the course of that part of the main state or county road aforesaid, which leads from the village of the Cross Roads aforesaid to Francis Barber's mill dam, till the said line shall intersect the Gravelly Run Branch, then down the said Gravelly Run Branch, on the several courses thereof, till it intersects the main Duck-creek, then up the said Duck-creek on the several courses thereof to the beginning; and if any person or persons shall keep or suffer any of their swine or hogs to run at large, after the said first day of March, within the bounds and limits aforesaid, the owner or owners of all such swine or hogs shall forfeit the same to the Overseer or Overseers of the Poor of Duck-creek hundred; for the time being, for the use of the poor of said hundred.

shall be forfeited  
for the use of  
the poor;

and being ap-  
praised, shall be  
sold by the  
Overseers,

who shall ac-  
count for the ap-  
propriation of  
the monies, de-  
ducting ex-  
pences.

SECT. 2. *And be it further enacted*, That it shall and may be lawful to and for any person or persons whatsoever, to seize, drive, or carry alive, all such swine or hogs so kept or permitted to run at large as aforesaid, within the bounds and limits aforesaid, to an Overseer or Overseers of the Poor of Duck-creek hundred aforesaid, for the time being, who are hereby authorised and required to receive and detain the same, and proceed to have them appraised by two indifferent freeholders within the limits aforesaid, on their oaths or affirmations, and to sell or otherwise dispose of them to the best advantage, for the use of the poor of said hundred, first paying a reasonable compensation to the person or persons for driving or conveying such swine or hogs to them; for their trouble, to be judged of by the said Overseer or Overseers, and retaining what may be reasonable for their own trouble, and other expences necessarily arising, to be judged of by any one Justice of the Peace of the county of Kent aforesaid; always accounting, from time to time, to the Justices of the Peace in the hundred aforesaid, at their meetings for ordering the allowances for the poor of said hundred, for their just and honest appropriation thereof,

thereof, according to the true intent and meaning of this act, who are hereby authorized and required to take cognizance thereof, enquire into, and settle the same from time to time with the said Overseer or Overseers of the Poor; and they, as well as the said Overseers, to keep fair records of the proceedings and monies arising therefrom, and the use and application of it for the purposes aforesaid.

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CCIII.

1790.

SECT. 3. *Provided nevertheless,* That if any owner or owners of any hog, hogs, or swine, shall, within three days after the same have been driven or carried to the Overseer or Overseers as aforesaid, pay the sum of Ten Shillings for each and every hog or swine so driven or carried to the Overseer or Overseers, as aforesaid, together with reasonable expences to the person or persons who drove or carried the same; and to the Overseer or Overseers for keeping the same as aforesaid, to be judged of by any one Justice of the Peace of the county aforesaid, then such hog or hogs shall be restored to the owner again, on his or her application for the same.

Owners of swine shall have them restored, upon payment, &c.

SECT. 4. *And be it further enacted,* That if any suit or action shall be commenced, brought, or prosecuted, against any person or persons whatsoever, for any act or thing by him, her, or them done in pursuance of this act, it shall and may be lawful to and for the defendant or defendants, in such suit or action, to plead the general issue, and on trial thereof, to give this act in evidence.

Persons sued shall have them general issue.

*Passed January 27, 1790.*

C H A P. CCIV. b.

*A Supplement to an act, intituled, An act for the regulation of certain water grist mills in New-Castle county.*

1790.

**W**HEREAS it hath been found by experience, Preamble. that the sum of Twenty Shillings prescribed by an act, intituled, *An act for the regulation of certain water grist mills in New-Castle county,* to which this is

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a supplement, as a forfeiture for every neglect or refusal to comply with the regulations therein mentioned; respecting certain water grist mills in New-Castle county; is insufficient to compel the owners, occupiers, or possessors of such mills, to comply therewith; and forasmuch as the same is a just, and if executed, would be a beneficial law,

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That all and every owner, occupier, or possessor of the said mills described in the act to which this is a supplement; and all and every part owner, occupier, or possessor of the same, who shall neglect or refuse to comply with any or either of the rules or regulations, in the manner therein directed, or with the determination and directions of the Court of General Quarter Sessions of the said county, pursuant to the authority by the same recited act vested in the said court; shall forfeit and pay, for every such neglect or refusal, the sum of Five Pounds, one moiety thereof to the informer, and the other moiety to be applied towards supporting the poor of the hundred in which the offence may be committed, to be recovered in like manner as the forfeiture of Twenty Shillings is directed to be recovered, by the act to which this is a supplement.

SECT. 2. *And be it enacted,* That so much of the said recited act as respects the forfeiture of Twenty Shillings, which is hereby altered, shall be, and is hereby repealed, made null and void. (a)

*Passed January 27, 1790.*

C H A P. CCV. b.

1790.

*An ACT to repeal parts of an act, intituled, An act of free pardon and oblivion, and for other purposes therein mentioned.*

Preamble.

**W**HEREAS by an act, intituled, *An act of free pardon and oblivion, and for other purposes there-*

(a) For the original act see chap, 116. b. before.

*in mentioned*, divers persons therein particularly named, and others who now reside within this state, have been and are rendered incapable of holding any office of profit or trust, either civil or military, within this state, and of enjoying or exercising the right of suffrage at any election within the same, who nevertheless, for a considerable time past, have conducted themselves peaceably, and contributed to the support of government; and the causes having long since ceased for depriving the said persons of the rights and privileges of other citizens of this state,<sup>(a)</sup>

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*BE it therefore enacted by the General Assembly of Delaware*, That every matter, clause, and thing in the said act mentioned and contained, by which any person or persons, now residing within this state, is or are rendered incapable of holding any office of profit or trust, either civil or military, within this state, and of enjoying or exercising the right of suffrage at any election within the same, be and hereby is repealed, and made null and void; any thing in the said act to the contrary in any wise notwithstanding: And that all and every person and persons as aforesaid, be, and they and each of them are hereby, restored to every the rights and privileges of other the citizens of this state.

*Passed January 27, 1790.*

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C H A P. CCVI. b.

*An ACT to enable certain Commissioners to make partition of a tract or parcel of land called Bohemia Manor, lying in part in New-Castle county in this state, and part in Cecil county in the state of Maryland; and for other purposes therein mentioned.*

1790.

*Passed January 27, 1790.—Private act.*

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<sup>(a)</sup> See the act referred to, chap. 29. b.

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1790.

C H A P. CCVII. b.

*An ACT to enable Mc. Kimmy Smack to bring certain Negroes into this state.**Passed January 27, 1790.—Private act.*

C H A P. CCVIII. b.

1790.

*An ACT to enable the owners and possessors of the meadow, marsh, and cripple, lying on both sides of Silver Run, fronting the River Delaware, to embank and drain the same, and keep the banks, dams, sluices, canals, and drains in repair; and to raise a fund to defray the expence thereof.**Passed January 27, 1790.—Private act.*

C H A P. CCIX. b.

1790.

*An ACT to prevent swine running at large in the town of Milford, and within the limits therein prescribed.*

Preamble.

**W**HEREAS divers inhabitants of the town of Milford, by their petitions to this General Assembly, have prayed, that swine shall not be permitted to run at large within the town of Milford, and grounds adjacent thereto;

Swine shall not run at large within the limits here described.

**SECTION 1.** *BE it enacted by the General Assembly of Delaware, That no hog, hogs, or swine shall be permitted to run at large within the metes and bounds following, to wit, beginning upon the west, at the mouth of a branch called Tanner's Branch, and running with the several courses thereof, dividing Joseph Oliver's lands from the Rev. Sydenham Thorne's, to the line of William Bradley's lands, then with the said lands, to the line of John Draper's lands, then with the lines of said Draper's lands to Mispillion creek.*

creek, then with the said creek to the place of beginning.

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SECT. 2. *And be it enacted,* That it shall and may be lawful to and for any person or persons whatsoever, to seize, drive, or carry alive all such swine or hogs; so kept or permitted to run at large as aforesaid within the bounds and limits aforesaid, to an Overseer or Overseers of the Poor of Mispillion hundred, for the time being, who are hereby authorized and required to receive and detain the same, and to proceed to have them appraised by two indifferent freeholders within the limits aforesaid, on their oaths or affirmations, and to sell or otherwise dispose of them to the best advantage, for the use of the poor of said hundred, first paying a reasonable compensation to the person or persons for driving or conveying such swine or hogs to them, for their trouble, to be judged of by the said Overseer or Overseers; and retaining what may be reasonable for their own trouble, and other expences necessarily arising, to be judged of by any one Justice of the Peace of the county of Kent aforesaid; always accounting, from time to time, with the Justices of the Peace in the hundred aforesaid, at their meetings for ordering the allowances for the poor of said hundred, for their just and honest appropriation thereof, according to the true intent and meaning of this act, who are hereby authorized and required to take cognizance thereof, enquire into, and settle the same from time to time with the said Overseer or Overseers of the Poor; and they, as well as the said Overseers, to keep fair records of the proceedings and monies arising therefrom, and the use and application of it for the purposes aforesaid:

Shall be forfeited for the use of the Poor;

and being appraised, shall be sold by the Overseers,

who shall account for the appropriation of the monies deducting expences.

SECT. 3. *Provided nevertheless,* That if any owner or owners of any hog, hogs, or swine shall, within three days after the same have been driven or carried to the Overseer or Overseers as aforesaid, pay the sum of Ten Shillings for each and every hog or swine so driven or carried to the Overseer or Overseers as aforesaid, together with reasonable expences to the person or persons who drove or carried the same, and to the Overseer or Overseers for keeping the same as aforesaid, to be judged of by any one Justice of the Peace of

Owners of swine may have them restored upon payment.

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1790.

Persons sued may  
plead the general  
issue.

the county aforesaid, then such hog or hogs shall be restored to the owner or owners again, on his, her, or their application for the same.

SECT. 4. *And be it further enacted,* That if any suit or action shall be commenced, brought, or prosecuted against any person or persons whatsoever, for any act or thing by him, her, or them done in pursuance of this act, it shall and may be lawful to and for the defendant or defendants, in such suit or action, to plead the general issue, and on trial thereof, to give this act in evidence.

*Passed January 28, 1790.*

## C H A P. CCX. b.

1790.

*An ACT to enable the owners and possessors of the marsh meadow on the south-west side of Christiana river, in New-Castle county, to keep the banks, dams, and sluices, in good and sufficient order and repair.*

*Passed January 28, 1790.—Private act.*

## C H A P. CCXI. b.

1790.

*An ACT to regulate marriages.*

Preamble.

**W**HEREAS matrimony is an honorable institution of Almighty God, designed for the mutual convenience and happiness of mankind; and the sober, discreet, and advised union of persons in matrimony is the duty of every good citizen, and the unadvised, clandestine, loose, and unseemly proceedings in marriage, tend to introduce a contempt and irreverent regard for that holy institution, and a dissoluteness of manners among the thoughtless part of the community: *And whereas* great and manifold inconveniencies may arise to persons secretly and improperly uniting themselves in marriage, without the knowledge of their parents, guardians, or friends; and

and the causes are now removed, which rendered it convenient to have marriages celebrated by Justices of the Peace: *And whereas* it is necessary to declare what marriages shall be deemed legal :

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SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That the rites of marriage, between any white persons, inhabitants of this state, shall not be celebrated by any person within this state, unless by ministers or preachers of the gospel, appointed or ordained according to the rites and ceremonies of their respective churches, or by the religious society to which they belong, according to the established mode and usage of such society; and if any person shall celebrate the rites of marriage as aforesaid, contrary to the true intent and meaning of this act, he shall forfeit and pay, for every offence, One Hundred Pounds lawful money of this state.

By whom the rights of marriage shall be celebrated.

SECT. 2. *And be it enacted,* That no minister of the gospel within this state, shall marry without such licence as by this act is directed, or before the banns of marriage shall be published, between such persons intending to marry, at some church, chapel, meeting house, or stationary place of public religious worship belonging to the district, or of the congregation wherein the woman so intending to be married shall be resident, or in the next adjacent congregation of the same society, on the two several Sundays before the celebration thereof, immediately after divine service, and where such publication of banns and celebration shall not be forbid or objected to; and in case there be no minister or preacher within such district, or of the congregation aforesaid, then in the church, chapel, or meeting house, or other stationary place of religious worship of the next district, or congregation, of the society to which she belongs, having a minister or preacher. (a)

Repeated, see note (a)

No minister shall marry without licence or publication of banns ;

SECT. 3. *And be it enacted,* That no minister, or preacher of the gospel, or religious society, shall presume to marry any male person or persons being under

or where the parties are under age, or servants, without consent of parents, &c.

(a) See chap. 28. c. sects. 6, 7, passed June 15, 1793, this section repealed and supplied.

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der the age of twenty-one, or female under the age of eighteen years, or any servant or servants, without having obtained the consent of the parent or parents, guardian or guardians, or master or mistress, of such person or persons as is or are servant or servants, to such marriage personally given, or signified in writing.

Servant marrying without consent of master or mistress, the penalty.

Any person being free, marrying with a servant, without such consent, the penalty.

By whom licences shall be granted.

Parties shall enter into bond.

Condition thereof.

SECT. 4. *And be it enacted,* That if any indented servant or servants shall procure himself, herself, or themselves to be married by any minister, or preacher of the gospel, or religious society, without consent of his, her, or their master or mistress, such servant or servants shall each of them, for such their offence, serve their respective masters or mistresses six months after the time of their servitude by indentures or engagements is expired; and if any person being free, shall marry with a servant without such consent as aforesaid, he or she so marrying, shall pay to the master or mistress of the servant, if a man, Ten Pounds, and if a woman, Five Pounds; and the servant so married shall abide with his or her master or mistress according to indenture or engagement six months after as aforesaid.

SECT. 5. *And be it enacted,* That from and after the publication of this act, all licences of marriage shall be granted by the President or Commander in Chief of this state, for the time being, under his sign manual, and shall issue from the office of the Secretary of this state, attested by the said Secretary under the public seal of his office, directed to any minister or preacher of the gospel, authorising and empowering such minister or preacher to solemnize marriage between such persons as are therein named; and in order to avoid fraud and collusion in obtaining such licence, the party applying for the same, shall enter into bond in the name of the President or Commander in Chief for the time being, with good security, in such sum as he shall judge requisite, with condition of the following purport: *That if there shall not hereafter appear any lawful let or impediment, by reason of any pre-contract, consanguinity, affinity, or any other just cause whatsoever, but that (the parties) may lawfully marry; and that there is not any suit depending before any judge,*  
*ecclesiastical*

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ecclesiastical or civil, for or concerning such pre-contract, and also if the said parties, and each of them, are of the ages aforesaid; to wit, female of eighteen, and male of twenty-one years, and are not under the tuition of his or her parents; or have the full consent of his or her parents or guardians, respectively, to the said marriage; and if they, or either of them, are not indentured servants; and do and shall save harmless, and keep indemnified the President and his successors, for and concerning the premises; and shall likewise save harmless and keep indemnified the minister or preacher of the gospel, who shall join the said parties in matrimony, for or by reason of his so doing; then the obligation to be void, else to remain in full force; which said bonds shall be filed of record in the office of the Secretary:

To be filed.

SECT. 6. *Provided*, That it shall and may be lawful for the President or Commander in Chief, for the ease and convenience of the people, to deposit such licences of marriage as aforesaid; with sober, discreet, and judicious persons in different parts of this state; as he may confide in, and deem necessary for the purpose of dispensation; (b) but before such person shall dispense to the party applying, any such licence, bond with good security shall be taken as aforesaid, by such person so intrusted with such licences, who shall also return annually, in the month of November, into the Secretary's Office, all such bonds taken and executed as aforesaid; there to be filed of record; and every such person neglecting so to do, shall forfeit the sum of Five Pounds.

Proviso.

SECT. 7. *And be it enacted*, That every minister, or preacher of the gospel, and every religious society, who shall solemnize any marriage within this state, shall enter into a book to be provided by him, or such society, for that purpose, a true account thereof, specifying the names of the parties united in matrimony, and the time of the solemnization thereof. (c)

Registers of marriages to be kept.

SECT.

(b) See chap. 28. c. sect. 4. Anno 1793, directing that all marriage licences be lodged with the Prothonotaries and Justices of the Peace of the respective counties, or with such of them as the Secretary shall think fit; and be intitled to the fee for taking bond.

(c) See chap. 17. a. "That the registry kept by any religious society in their re-

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CCXI.  
1790.

Fees for li-  
cences.

For celebration  
of marriage.

Parties, aggriev-  
ed, by celebra-  
tion of marriages  
contrary to this  
act, shall reco-  
ver damages.

Penalties how  
recovered.

Appropriation  
thereof.

SECT. 8. *And be it enacted*, That the fees for every such licence of marriage shall be, as follows, *to wit*, To the President or Commander in Chief, the sum of Ten Shillings; to the Secretary, the sum of Five Shillings; and to the Secretary, (*d*) or person taking each bond as aforesaid, the sum of Two Shillings and Six-pence for the same: (*e*) And that each minister, or preacher of the gospel, shall have for celebrating a marriage, if at his dwelling-house, or at the church, chapel, meeting house, or other stationary place of religious worship of his district or congregation, and keeping a register thereof, the sum of Ten Shillings.

SECT. 9. *And be it enacted*, That if any minister, or preacher of the gospel, in this state, or any religious society within the same, shall marry, or suffer to be married, any person or persons contrary to the true intent and meaning of this act, such minister, or preacher of the gospel, and the principal person or persons in such religious society, who shall be instrumental in the same, shall be liable to pay such damages, to the party or parties injured, as shall be assessed by a jury of the country, on any suit or suits brought in any Court of Common-Law for that purpose.

SECT. 10. *And be it enacted*, That the respective penalties or forfeitures herein before mentioned, shall be recovered by action of debt, bill, plaint, or information, in any Court of Record in this state, wherein no essoin, wager, or protection of law, or any more than one imparlance, shall be allowed; one moiety thereof for the use of the state, and the other to him or them who shall inform or sue for the same.

SECT.

pective Meeting Book, or books, of any marriage, birth, or burial shall be held good and authentic, and be allowed of upon all occasions whatsoever.

(*d*) See chap. 6, c. passed February 2, 1793, providing an annual salary for the Governor and Secretary—and declaring that such salary as to the Governor is to be in lieu of all fees, perquisites, daily expences, or travelling charges—and see chap. 27, c. sects. 1, 2, passed June 15, 1797, where the fee for a licence of marriage for the use of the state is fixed at Two Dollars—and the Secretary to perform his duties respecting such licences *Ex Officio*—and see said chap. 28, c. sect. 5, a special appropriation of the marriage licence fee, *Inter Alia*, to pay the salaries of the Chancellor and Judges—but see after chap. 105, c. passed February 9, 1796—another appropriation, to wit, as part of a fund for the establishment of schools.

(*e*) See note (*b*) before.

SECT. II. *And be it enacted*, That the act, intituled, *An act for preventing clandestine marriages*, and the act, intituled, *An act to regulate marriages*, passed at Dover, the eleventh day of June, One Thousand Seven Hundred and Eighty-eight, be and hereby are repealed and made void.

C H A P.  
CCXI.

1790.

Former acts repealed.  
Chap. 16. a.  
Chap. 176. b.

*Passed January 29, 1790.*

C H A P. CCXII. b.

An ACT to revive an act, entitled, "*An act directing elections of Members of the Council, in certain cases of vacancies.*"—See the original act, chap. 183. b. as obsolete since the adoption of the constitution of this state in June, 1792.

1790.

C H A P. CCXIII. b.

An ACT for raising Five Thousand Two Hundred and Fifty Pounds for the service of the year One Thousand Seven Hundred and Ninety.

1790.

WHEREAS it is necessary to make provision for the payment of sundry sums of money, due to the inhabitants of this state for public services performed, and for defraying the expences that have arisen, or may arise, within this state for the service of the present year;

SECTION I. *BE it therefore enacted by the General Assembly of Delaware*, That the sum of Five Thousand Two Hundred and Fifty Pounds, lawful money of the Delaware State, shall be raised, levied, and paid into the state treasury for the purposes aforesaid, within the time or times herein after directed, and shall be assessed and taxed in the several counties of this state in the following proportions, *That is to say*; For the county of New-Castle the sum of Two Thousand Pounds; For the county of Kent the sum of One

Preamble.

Five Thousand  
Two Hundred  
and Fifty  
Pounds to be  
raised.

Apportionment  
thereof.

Thousand

C H A P.  
CCXIII.  
1790.

Thousand Seven Hundred and Fifty Pounds; and, For the county of Suffex the sum of One Thousand Five Hundred Pounds.

Special Courts  
to be held to as-  
certain the sum  
on the Pound  
rate.

SECT. 2. *And be it enacted*, That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorised and required to hold a Special Court, on or before the eighteenth day of November next, in the counties aforesaid respectively, at the places in the same counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised, and levied in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each hundred, or such person or persons as, in case of vacancies, may be appointed, agreeably to the directions of this act, annexed to a duplicate of the said assessment, certified by the Clerk of the Peace, authorising and requiring him forthwith to demand and receive, from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums as aforesaid: And the said Collectors respectively shall proceed without delay to collect, and in case of neglect or refusal to pay, to levy and recover the same in the manner directed by the act of Assembly, intituled, *An act for raising county rates and levies*. And the said Clerks of the Peace shall, within ten days next after the day of holding the Special Courts aforesaid, transmit into the Auditor's Office a true account of the sum total, which every Collector shall be charged with pursuant to this act. And the said Clerks shall also furnish the said Treasurer with attested copies of the duplicate assessments aforesaid,

Duplicate of as-  
sessments to be  
furnished to the  
Treasurer.

SECT. 3. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed

on

on the said land ; *Be it therefore enacted*, That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found; on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax : And in case the said tenant, or persons having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for ; or for the tenant, or persons having the care of the said lands, to recover the same from the owner by an action or suit, in any court where the same shall be cognizable, together with costs of suit ; and all parents, guardians, or tutors making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts : *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

C H A P .  
CCXIII.  
1790.

Provision for securing the payment of the tax in certain cases.

SECT. 4. *And be it enacted*, That in all cases where the Collector can find no effects upon the land, belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same if distrained, and the rate cannot be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for the same county, after thirty days public notice, to sell so much of the said land, or of the timber or grafs thereon, at public auction, as the said court may judge to be necessary for the payment of the assessment.

In what cases the Collectors may sell land, &c.

SECT. 5. *And be it enacted*, That the said Collectors respectively shall, on or before the first day of February next, (a) pay to the State Treasurer at least one moiety or half part of the tax by this act to be raised ; and shall, on or before the first day of August next, render a just and true account of, and pay unto the said Treasurer, the residue of the said tax, and all the sum and sums of money they may or ought

Collectors to pay to, and account with the State Treasurer.

(a) In chap. 230. b. this time was extended to the first day of May, 1791.

CHAP  
CCXIII.

1790.

The sum to be raised subject to the draughts of the General Assembly, &c.

Collectors to give bond.

Vacancies how supplied.

Delinquent Collectors how proceeded against.

The State Treasurer to account with the Auditor.

to have levied by virtue of this act, deducting seven and an half *per centum* for the trouble of collecting.

SECT. 6. *And be it enacted*, That the sum of Five Thousand Two Hundred and Fifty Pounds, to be raised by this act, shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, entered and certified in the Auditor's Office, agreeably to the laws of this state.

SECT. 7. *And be it enacted*, That the several Collectors respectively, shall each of them give bond, in the name of the Delaware State, to the Justices of the Peace, on or before the first day of December next, with such sureties, and in such sum, as two or more of the said Justices shall direct, conditioned for the true and faithful performance and discharge of their duty respectively in the execution of this act; and in case of their, or any of their neglect or refusal so to do, the said justices, or any three of them, shall forthwith appoint others in his or their stead, who shall give security as aforesaid: And in case of the neglect or refusal of the said justices so to do, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint others in his or their stead, who shall give security as aforesaid.

SECT. 8. *And be it enacted*, That if any Collector or Collectors shall refuse or neglect, to render a just and true account of, and pay unto the said State Treasurer, the sums of money he may or ought to have levied by virtue of this act, such Treasurer shall proceed, agreeably to the laws of this state, to recover the monies unpaid by such delinquent Collector or Collectors.

SECT. 9. *And be it enacted*, That the said State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact state, as well of all the monies by him received, with the names of the persons by whom paid, and time of payment, as of the monies by him paid, to whom, on what account or order, and the time when; and the said State Treasurer,

Treasurer, at the expiration of each and every year, shall appear in the said Auditor's Office, and then and there lay a general account, stating all his transactions for the year, before the Auditor, who shall forthwith proceed to adjust the said account; and the said State Treasurer shall discharge himself of all monies which shall come to his hands in pursuance of his office aforesaid, by virtue of this act, and shall be allowed commissions for the monies so received, and duly accounted for, at the rate of one *per centum* for every Hundred Pounds, and no more.

CHAP.  
CCXIII.  
1790.

Treasurers com-  
missions.

SECT. 10. *And be it enacted*, That the State Treasurer, before the first day of January next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Ten Thousand Pounds, conditioned for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

To give bond.

Vacancy how  
supplied.

SECT. 11. *And be it enacted*, That if any of the days appointed by this act, for the performance of any of the duties hereby required, shall happen upon Sunday, then such duties shall be performed on the day following.

SECT. 12. *And be it enacted*, That in all cases where bonds or obligations are directed to be given under this act, warrants of attorney shall be annexed to such bonds or obligations respectively, for entering up judgments for the penalties mentioned therein, if the same should become forfeited by neglect of duty; which said bonds or obligations shall be filed in the office of the Prothonotary in each county respectively, and shall be deemed a lien from the time of the execution thereof, in like manner as judgments obtained in any Court of Record within this state: And in case it should be necessary to proceed on any of the said bonds or obligations, which may become forfeited

Warrants of at-  
torney to be ex-  
ecuted with the  
bonds given un-  
der this act;  
which bonds  
shall be deemed  
to create a lien  
from the execu-  
tion thereof.

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1790.

How to be pro-  
ceeded on.

feited by neglect of duty, judgment or judgments shall be entered thereon, and writs of *feri facias* or *capias ad satisfaciendum* be issued for the penalty; by virtue whereof, in case sufficient personal property cannot be found, the Sheriff or officer to whom the execution may be directed, shall first seize and take in execution the lands and tenements of the defendant or defendants, whereof they or either of them were seized at the time of the judgment rendered; and if such lands and tenements should not be sufficient to satisfy the debt and damages, then an *alias feri facias* shall be issued, and the lands and tenements which were of the said obligors, at the time of entering into the said bonds or obligations, shall be seized and taken into execution in like manner: And in all such cases where lands shall be taken in execution as aforesaid, so much thereof, as may be necessary to satisfy the debt and damages, shall be sold by the proper officer at public vendue; due notice being first given of the time and place of such sale: And all proceedings had, sales made, and deeds executed for lands sold as aforesaid, shall be good and available in law to vest in the purchaser or purchasers the estate, right, and title, which the defendant or defendants had in the premises, free and clear of all incumbrance or incumbrances, created subsequent to the time of the rendition of the judgment or judgments, or the execution of the said bonds, as the case may be. *Provided always, nevertheless,* That in every case, where a controversy may arise between the state and a delinquent Collector or Treasurer, or their securities, respecting the amount of the debt due from such delinquent, or the damages sustained by the state, in consequence of a neglect of duty, the court out of which the execution shall or may issue, on sufficient cause, are hereby authorized and empowered to cause a writ of inquiry to be executed to ascertain the amount thereof; or, if the parties agree thereto, appoint three or more Auditors to settle the same, and proceed according to the inquest that shall be returned, or the report made by such Auditors.

Proviso.

SECT. 13. *And be it enacted,* That no Collector shall be allowed any deductions of any part of the sums

fums mentioned in the said duplicate of assessment, except only where it shall be made appear, by a certificate under the hands of any two justices of the neighbourhood, where any delinquency may happen, that the Collector has used all lawful means for the levying and collecting the same: *Provided always*, That no such certificate shall be sufficient, unless signed within two months after the expiration of the time limited as aforesaid for the collection of the tax to be raised by this act.

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In what cases the Collectors may be allowed deductions.

SECT. 14. *And be it enacted*, That if any Collector shall be obliged to enforce the collection of the assessment, by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is intitled to by law for the like service, in the recovery of debts under Forty Shillings: And any person whose property shall be liable to payment of the said assessments, or any part thereof, may discharge the same at any time before sale of the property distrained; and in such case the Collector shall receive for his trouble one half of the fees he would be entitled to on sale, and no more.

Collector's fees upon distress or execution.

SECT. 15. *And whereas* the receiving state orders, in lieu of money, would greatly tend to facilitate the collection of the tax for the present year; *Be it therefore enacted*, That the Collectors, in the respective counties of this state, are hereby authorized, impowered, and required to receive all state orders, entered in the Auditor's Office, that have been issued in the years One Thousand Seven Hundred and Eighty-nine and Ninety, or that hereafter may be issued, from any person or persons in discharge of the taxes aforesaid; which orders, so as aforesaid received by them, and paid into the state treasury, shall be a good discharge on the settlement of their accounts, for the amount mentioned or specified in such orders; and also shall be sufficient vouchers for the State Treasurer, to obtain credits therefor on the settlement of his account with the Auditor.

State orders receivable in discharge of taxes.

SECT. 16. *And be it further enacted*, That the Collectors, in the respective counties of this state, shall pay ten *per cent.* on the balances found to be due from them

Collectors chargeable with ten Per Cent. on failure of payment.

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CCXIII.

1790.

them from and after the time for collection of the said tax, shall have expired.

*Passed October 26, 1790.*

C H A P. CCXIV. b.

1790.

*An ACT directing the election of a Representative for this state in the Congress of the United States. (a).*

Time and places  
of holding the  
election.

Public notice  
thereof to be  
given.

Powers of the  
officers for con-  
ducting the elec-  
tion.

SECTION I. **B**E it enacted by the General Assembly of Delaware, That an election of a Representative for this state, to serve in the Congress of the United States, for two years from the fourth day of March next, shall be held by the citizens of this state, qualified to vote for Members of the House of Assembly, on the second Monday of November next, at the following places, *to wit*; For the county of New-Castle at the Court House in the town of New-Castle; For the county of Kent at the Court House in the town of Dover; For the county of Sussex at the Court House in the town of Lewes; *(b)* in like manner as by the election laws of this state is directed for the election of Members of the General Assembly of this state; of which election due and public notice shall be given by the Sheriffs of the respective counties, agreeably to the said election laws: And the present Sheriffs, together with every other officer and person whose duty it was to attend, conduct, and regulate the General Election held on the first day of this present month of October, are hereby authorized and required to attend, conduct, and regulate the election herein directed to be held for the purpose aforesaid, in like manner as in and by the said election laws is directed; and the several powers and authorities to the several officers given by the laws of this state, relating to the election of Members of the General

*(a)* See chap. 188. b. Ante.

*(b)* Place of election for Sussex county since established at George Town, see chap. 237. b.

General Assembly of this state, are and shall be continued and vested in the said officers and persons respectively, for the purposes of holding and conducting the said election to be held in pursuance of this act, as fully to all intents and purposes, as if the powers and authorities aforesaid were herein particularly enumerated and expressed; and in case of the death, absence, or inability of any of the said officers or persons, before the holding the election by this act directed, other person or persons shall be chosen or appointed in their stead, according to the directions of the said election laws; and all and every person or persons, who shall be guilty of any neglect or abuse of the said election laws, or of any part thereof, at the election to be held in pursuance of this act, shall and may be prosecuted and punished in like manner as if he or they was or were guilty of the like neglects, abuses, or breaches of the said election laws in the election of Members of the General Assembly of this state.

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CCXIV.  
1790.

In case of death,  
&c. others to be  
appointed.

Abuses of the  
election laws,  
how punished.

SECT. 2. *And be it enacted,* That every person coming to vote for a Representative agreeably to the directions of this act, shall deliver in writing, on one ticket or piece of paper, the names of two persons, inhabitants of this state, one of whom at least shall not be an inhabitant of the same county with himself, to be voted for as Representative. (c)

Two persons to  
be voted for as  
Representatives.

SECT. 3. *And be it enacted,* That after the polls in the several counties of this state shall be closed, the names of the several persons voted for as Representative in each of the counties of this state, shall be written on parchment or paper, and the number of votes for each candidate in the several counties, fairly enumerated and set down in words at length; and on such names and numbers being so set down and written, the judges of the several elections in the several counties of the state, shall, within the space of twenty-four hours after the said elections are respectively closed

Duplicate re-  
turns of  
election to be  
made out;

(c) See chnp. 51. c. passed January 27, 1794, wherein this section is repealed and supplied by directing that the name of but one person in each ticket, &c. shall be used until this state shall be intitled to two Representatives in the Congress of the United States.

C H A P.  
CCXIV.

1790.

one whereof to  
be transmitted  
to the President,who shall de-  
clare the name  
of the person  
elected,and transmit a  
certificate there-  
of to the Secre-  
tary of the Uni-  
ted States.Times and  
places appointed  
for future elec-  
tions.

closed, make out, sign, seal, and execute duplicate returns thereof, one whereof shall be delivered to the Prothonotary of the county, safely to be kept, and one other thereof the Sheriff, or other presiding judge of said election in the respective counties, shall deliver or safely transmit, within ten days after the said election, to the President of this state, for the inspection and examination of the said President; and the said President, after having examined the returns and instruments aforesaid, shall enumerate and ascertain the number of votes for each and every candidate and person, so as aforesaid chosen as Representative; and the said President shall thereupon declare the name of the person highest in vote, and therefore duly elected Representative of and for this state in the Congress of the United States; and the said President shall, as soon as conveniently may be after such examination and declaration, transmit a certificate of such election to the Secretary of the United States, to be by him delivered to the House of Representatives in the Congress of the United States, on the fourth day of March next. (d)

SECT. 4. *And be it enacted,* That an election for the choice of a Representative, or Representatives, as the case may be, for this state in the Congress of the United States, unless altered by Congress, shall be held at such time in October, in the year Seventeen Hundred and Ninety-two, and every second year after, and at such places, as elections of Members of the General Assembly are then held in the respective counties of this state, and conducted and regulated by officers or persons, whose duty it is to conduct and regulate such elections of Members of the General Assembly, and the returns thereof shall be made to the President of the state, who shall examine them, and proclaim the person so elected, and certify the same in like manner as is directed by this act. (e)

Passed October 26, 1790.

CHAP.

(d) See chap. 5. c. sect. 14. That all the powers formerly vested in the President, &c. be vested in the Governor.

(e) See also art. 8. sect. 2. of the constitution of this State, adopted in June 1790.

C. H. A. P. CCXVI. B.

CHAP. CCXVI.

An ACT for continuing the powers of the Collectors of the State tax for the year One Thousand Seven Hundred and Eighty-nine—Temporary and expired.

C. H. A. P. CCXVI. B.

An ACT to authorise and empower Kensey Johns, Esq. Administrator of Nicholas Van Dyke, Esq. deceased, to convey and make over unto David Steward a certain tract or parcel of land, situate in St. Georges hundred, in the county of New-Castle.

Passed October 26, 1790.—Private act.

C. H. A. P. CCXVII. B.

An ACT to appoint a Trustee of the Loan Office for the county of Kent.

WHEREAS the place of Trustee of the Loan Office for the county of Kent, hath become vacant by the death of Dyre Kearny, esq. the late Trustee.

BE it therefore enacted by the General Assembly of Delaware, That Robert Clark, of the county of Kent, be, and he is hereby appointed Trustee of the Loan Office for the said county of Kent; who, upon giving bond, and taking the oath or affirmation, required by the laws of this state, to be given and taken by a Trustee of the said office, shall have all the powers and authorities, be intitled to the same rewards, and be liable to the same penalties, as any Trustee of the Loan Office within this state, can have, or be liable to, by the laws thereof.

Passed January 15, 1791.

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(a) See before chap. 192. b: for his appointment.

C H A P.  
CCXVIII.

1791.

C H A P. CCXVIII. b.

*An ACT for the better relief of the poor.*

Preamble.

**W**HEREAS the present mode, established for the relief of the poor, is oppressive to the people of this state, and does not answer all the benevolent purposes intended thereby. (a)

Poor-houses to  
be erected.Justices of the  
Peace to lay a  
tax for raising  
such sum as the  
Trustees of the  
Poor may re-  
quire.Warrants to be  
issued to the  
Collectors;

their authority.

Shall pay the  
tax to the Trus-  
tees.

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That there shall be poor-houses erected and built in each of the counties of this state respectively, unless proper and convenient houses already built, can be purchased at such convenient places in the said counties respectively, as the Trustees herein after named, shall think proper; and that the Justices of the Peace of the said counties shall, and they are hereby required, at their next Court of General Quarter Sessions of the Peace, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound upon the whole rate of each of the said counties according to the last assessment, necessary to raise such sum as the said Trustees shall direct and require, clear of all charges of collection; and the said justices, or any two of them, shall issue their warrant to the Collector of each hundred, annexed to a duplicate of the said assessment, certified by the Clerk of the Peace, authorising and requiring him forthwith to demand and receive, from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the said sum: And the said Collectors, respectively, shall proceed without delay to collect, and in case of neglect or refusal to pay, to levy and recover the same in the manner directed by the act of Assembly, intituled, *An act for raising county rates and levies.*

SECT. 2. *And be it enacted,* That the said Collectors shall respectively pay, unto the Trustees herein after named of the respective counties aforesaid, one half  
of

(a) See chap. 225. a. Anno, 1775, being the then existing law for the relief of the poor through this state, and herein after partially altered and supplied.

of the sum to be collected by each of them respectively, on or before the first day of June next ; and the remaining half on or before the first day of November, deducting ten *per cent* for the trouble of collecting. (b)

C H A P.  
CCXVIII.

1791.

Commissionis.

SECT. 3. *And be it enacted,* That the several Collectors shall respectively give bond, with two or more good and sufficient surerties, jointly and severally, together with a warrant of attorney thereto annexed for confessing judgment for the penalty therein contained, in the name of the Delaware State, to the said justices or any three of them, who shall meet at the towns of New-Castle, Dover and Lewes, respectively, for that purpose, on or before the last day of February next, in double the sum to be collected by such Collector, conditioned for the true and faithful performance and discharge of their duty respectively in the execution of this act ; and in case of their, or any of their refusal or neglect so to do, the said justices, or any three of them, shall forthwith appoint others in his or their stead, who shall give security as aforesaid.

Shall give bond,  
&c.

Vacancies how  
supplied.

SECT. 4. *And be it enacted,* That John Lea, John James, Isaac Grantham, Thomas Montgomery, Peter Hyatt, William Alfree, and Matthew Aiken, of the county of New-Castle ; (c) and James Morris, Manlove Emerson, John Patten, James Sykes, William Kirkley, William Berry, and Isaac Davis, of the county of Kent ; and George Mitchell, Barclay Townsend, William Owens, Jacob Townsend, John Ingram, Rhoads Shankland, William Lockwood, Robert Houston, Woodman Stockley, and John Hooper, of the county of Suffex ; be and are hereby appointed Trustees of the Poor of the counties of this state respectively, and are hereby impowered with full and sufficient authority, to discharge the several duties and trusts reposed in them by this act ; and the said

Trustees for  
New-Castle  
county.

Kent county.

Suffex county.

(b) See chap. 249. b. a supplementary act hereto, in sect. 7. The respective Trustees authorized to chuse a Treasurer annually, who is to give bond, &c. to whom all monies to be raised under either of those acts are to be paid over by the Collectors, they taking duplicate receipts therefor, one of which to be delivered over to the Levy Court on the settlement of their accounts respectively.—The Treasurer to settle his accounts annually with the Board of Trustees for his county.

(c) See in chap. 249. b. an addition of three Trustees for New-Castle county.

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- said Trustees shall meet at the towns of New-Castle, Dover, and Lewes respectively, in the said counties, as soon as convenient, and take the following oath or affirmation, to be administered by any Justice of the Peace or Judge of the said counties respectively, viz.
- Oath.** *I, A. B. do swear, or affirm, that I will discharge the duties and trusts committed to me, as a Trustee of the poor of \_\_\_\_\_ county, by an act of the General Assembly, entitled, An act for the better relief of the poor, faithfully and justly, according to the best of my skill and understanding :*
- Continuance in office.** Which said Trustees shall continue in office for the term of three years from the time of passing this act.
- Constituted bodies politic and corporate.**
- Style.**
- Corporate powers.**
- Shall use a common seal.**
- SECT. 5. *And be it enacted, That the said Trustees, and their successors for the time being, shall forever hereafter in name and in fact, be, and they are hereby declared to be, a body politic and corporate in law to all intents and purposes, and shall have perpetual succession : The Trustees of New-Castle county by the name of Trustees of the Poor of New-Castle county ; and the Trustees of Kent county by the name of Trustees of the Poor of Kent county ; and the Trustees of the county of Sussex by the name of Trustees of the Poor of Sussex county ; and by that name may sue and be sued, plead and be impleaded, defend and be defended, answer and be answered, in all Courts of Judicature of this state ; and by that name may purchase, take, or receive, by gift, grant, devise, bequest, or bargain and sale, any houses, lands, tenements, rents, goods, chattels, public securities, sum or sums of money, not exceeding in the whole the value of Five Thousand Pounds, which they are hereby enabled to hold to and for the benefit of the poor of said counties respectively ; and that all gifts, grants, devises, bequests, or bargains and sales, by deed, last will and testament, or otherwise howsoever, shall be good and available in law, and shall pass such houses, lands and tenements, rents, goods, chattels, public securities, sum or sums of money, to the said Trustees for the use of the poor of the said county : And the said Trustees in their respective counties, are hereby authorized and empowered to use one common seal in their*

their business relating to the corporation, and to change and alter the same if necessary.

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SECT. 6. *And in order to keep up a succession of Trustees, Be it enacted,* That the Members of the Levy Court for the time being, in the said counties respectively, or a majority of them, shall in case of the death, removal out of the county, or refusal to serve, of any of the said Trustees, or of their successors, appoint others to serve in their places; and that the said Members of the Levy Court, for the time being, in the said counties respectively, or a majority of them, shall, at any time previous to the expiration of the time of the said Trustees, or their successors, provided the same be not more than three months, appoint a like number of other good and substantial freeholders of the said counties respectively, to serve as Trustees from and after the expiration of the time of the Trustees then in office; which persons so appointed shall serve as Trustees of the Poor of said counties respectively, for the term of three years next immediately after their appointment; but that no person, who shall have served the office of Trustee, or have paid the forfeiture for not serving, shall be appointed to serve therein again, until the expiration of three years next after such service or forfeiture has accrued, unless he is willing and agreed to such appointment; and that the said Trustees so appointed, shall, before they enter upon the execution of their trust, respectively take the oath or affirmation before directed, before any Justice of the Peace of said counties respectively. (d)

Succession how perpetuated.

Exemptions.

SECT. 7. *And be it enacted,* That every person appointed by this act as a Trustee of the Poor of either of the said counties, or who hereafter may be appointed as such, pursuant to the directions of this act, and who shall refuse or neglect to take upon himself the said office, shall forfeit and pay the sum of Ten Pounds

Refusing to serve, shall forfeit Ten Pounds.

(d) See chap. 249. b. sects. 2, 3, 4, providing for a rotation of Trustees and excluding every Member of the Levy Court, with provision for exemptions in conformity to such rotation, and fixing the number of Trustees that are to be in each hundred, to wit, Two in the hundred of Christiana in the county of New-Castle, three in the hundred of Murderkill in the county of Kent, and one in each of the other hundreds in the respective counties of this state, — and in sect 5, further provision for supplying vacancies.

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Shall purchase  
houses, &c. for  
the reception of  
the poor.

Pounds, to the Trustees of the Poor of either of said counties, as the case may be, for use of the poor of said county.

SECT. 8. *And be it enacted*, That the said Trustees respectively, shall, and they are hereby authorized, directed, and required, to buy and purchase, in fee simple, a house and lot or lots, or a quantity of land in said counties respectively, not exceeding one hundred acres; and the said Trustees are hereby authorized, directed and required, to agree and contract with a workman or workmen to undertake, erect and build, in the plainest and most substantial stile, and in a workman-like manner to complete and finish, on the land when so purchased, a good, strong, sufficient and convenient house or houses for the reception of the poor of said counties respectively, unless such necessary and convenient house or houses may then be built and standing thereon; and the said land when purchased, and house or houses, when built, be, and are hereby vested in the said Trustees in fee simple for the use of the poor of said counties respectively.

Proviso respect-  
ing Christiana  
hundred.

SECT. 9. *Provided nevertheless*, That if the said Trustees herein before appointed for the county of New-Castle, shall not agree, to and with the Trustees of the present poor-house, established in the hundred of Christiana, or with the Overseers of the Poor of said hundred, for the purchase of the said poor-house there erected, together with the lands and tenements thereunto belonging; or in case the Trustees appointed by this act, should agree to erect the poor-house directed to be built by this act, in any other part of the said county; then, and in that case, the said hundred of Christiana shall be exempted and excluded from the operation of this act, and shall be at liberty to pursue such mode, and provide in the same manner for the maintenance, support and regulation of the poor of the said hundred, as if this act had not been made or passed: But nothing herein contained shall exempt or discharge the said hundred of Christiana from their proportionate part of such charge and expence, as may be incurred in the maintenance and support of such poor and impotent persons, as have

not

not gained any legal residence in any hundred of the said county of New-Castle, and are or may by the laws of this state, be properly chargeable to the said county.

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SECT. 10. *And be it enacted,* That the said Trustees respectively, are hereby directed and required, after the house or houses aforesaid shall be completely erected and finished, to buy and purchase for the use of the poor of said counties respectively, sufficient working tools, beds, bedding, and other necessaries, as will maintain said poor, and fully employ such of them as are able to work.

Shall provide accommodations and working tools for the poor.

SECT. 11. *And be it enacted,* That the said Trustees respectively, are hereby directed and required to meet together sometime in the month of February next, and in the month of October annually, and at all such other times as they shall deem necessary, at the poor-house in the respective counties, and shall appoint a fit person, at their first meeting as Overseer of the Poor of said counties respectively; and shall appoint such other proper officers and servants as they think proper; and the said Trustees shall and may agree, and they are hereby empowered to pay the Overseer a sum not exceeding Fifty Pounds lawful money per annum, as a salary, and so *pro rato* during his continuance in office; and shall then take bond, which the said Overseer, and every other Overseer to be appointed, shall and is hereby obliged to enter into, with two or more good and sufficient sureties in the penalty of Three Hundred Pounds lawful money, or such other sum as the said Trustees may deem proper, payable to the said Trustees of the Poor; conditioned as follows, *viz.*

And appoint Overseers, &c.

Who shall give bond.

*The condition of the above obligation is such, that if the above bounden A. B. as Overseer of the Poor of shall well and truly discharge the duty and trust reposed in him, as Overseer as aforesaid, according to the directions, true intent and meaning of an act of the General Assembly, intitled, An act for the better relief of the poor; then the above obligation to be void, otherwise to remain in full force and virtue in law.*

Condition thereof.

SECT. 12. *And be it enacted,* That the said respective Trustees are hereby empowered to remove the said

Overseers, &c. remove ble as diff. et. u.

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Trustees shall  
ordain bye laws.

said Overseer, and all other officers by them to be appointed, in pursuance of this act, at their discretion, and choose others in their stead.

Proviso.

SECT. 13. *And be it enacted,* That the respective Trustees shall, and they are hereby required to meet at the said poor-houses respectively, four times in the year; in the first week in January, April, July, and October, or oftener if necessary; and make and ordain by a majority of votes of such as may be present, all such good and wholesome ordinances, rules, and bye laws, as they shall think proper and fit for the direction, government, and support of such poor-house, and also for the cleanliness and employment of all such poor persons as shall be received therein; all which ordinances, rules, and bye laws, shall be binding and obligatory on all persons concerned, until they shall be repealed or altered: *Provided always,* That the said ordinances, rules, and bye laws, be no ways contrary to the laws of this state.

Overseers shall  
keep regular lists  
of the poor;and also accounts  
of expences, &c.which shall be  
settled quarterly.Poor being of  
ability, shall  
work;and the produce  
be applied to  
their support.

SECT. 14. *And be it enacted,* That the said Overseers respectively, shall keep a fair and regular list of all the poor, together with their ages as near as can be ascertained, and the time they were received in the poor-house; and also fair and regular accounts in writing of all materials, necessaries, and other things coming into his hands as aforesaid, and of all expences and charges attending their maintenance and support, and all monies received by him for the sale of the produce of their labour and otherwise; and shall lay the said lists and accounts before the said Trustees, at their meetings, at the times directed by this act; and the said Trustees shall settle the said accounts quarterly with the said Overseer.

SECT. 15. *And be it enacted,* That the said Overseers respectively, shall compel and oblige every of the said poor received in the said house, if of sufficient ability, to work and labour; and the produce of their labour he is hereby directed and empowered to sell, and the money arising from such sale, or from their labour only, where materials or employment is furnished by others, shall be applied to their maintenance and support.

SECT. 16. *And be it enacted,* That upon complaint and

and due proof made by the Overseer to the said Trustees respectively, or any two of them, that any person in the said poor-house hath behaved him or herself in a disorderly manner, or hath refused or neglected to perform his or her daily labour and task, or hath disobeyed or violated any of the ordinances, rules, and bye laws of the said corporation; it shall and may be lawful for the said Trustees, or any two of them, to order and direct such moderate and proper correction, or to dismiss the said offender, and not to be received there again, as the nature of the case may require; and when an offender is dismissed, such dismissal shall be entered by the said Overseer on his books.

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Behaving disorderly, shall be corrected, or dismissed.

SECT. 17. *And be it further enacted,* That if any person or persons, who are likely to become chargeable, be imported or brought into either of the said counties, it shall and may be lawful for any two Justices of the Peace, or any two of the Trustees of either of the said counties, and they are hereby required, to cause to come before them the master or owner of the vessel, wherein such person or persons were imported, or the importer or bringer-in of such person or persons, and if they see cause, oblige them to export or carry back to the place from whence they came, any such person or persons so by them imported or brought in; and upon refusal or neglect so to do, or to give sufficient security to the said justices, or to any two of the said Trustees, in the name of the Trustees of the Poor of either of the said counties, as the case may be, to bear the said county harmless and indemnified from any charges, that may accrue by means of the person or persons so imported or brought in; then it shall and may be lawful for the said justices, or Trustees to commit such master, owner, importer, or bringer-in, to the common gaol, there to remain until he or they shall comply with the order of the said Justices, or Trustees.

Importers of such persons, as are likely to become chargeable, shall give security, &c.

SECT. 18. *And be it enacted,* That it shall and may be lawful for any two of the Trustees of either of the said counties, or any two Justices of the Peace, and they are hereby authorised, empowered, and required, to bind out apprentices to trades or otherwise, all orphan children likely to become chargeable to the coun-

Poor children shall be bound out.

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ty, and the children of all such who shall not by the said Trustees, or any two of them, or two Justices of the Peace, be thought of ability to maintain and educate them, for such term or terms as the said Trustees, or any two of them, or two Justices of the Peace shall see proper; so as that any such male child be not bound longer, than until he shall arrive at the age of twenty-one years; and a female until she shall arrive to the age of eighteen years.

No persons shall be received into the poor houses, without an order from two of the Trustees.

SECT. 19. *And be it enacted*, That no person or persons shall be admitted or received into the poor-house of either of the said counties, before such person or persons hath procured an order from any two of the Trustees thereof, directed to the Overseer; and in case the Overseer shall receive into the poor-house any person or persons, without such order, he shall forfeit and pay One Dollar for every week, and so *pro rato* for any time such person or persons shall continue in said poor-house, to be deducted out of his salary or wages. (e)

Such as may have been improperly admitted, &c. may be discharged.

SECT. 20. *And be it enacted*, That the said Trustees respectively shall and may, at any time of their meeting at said poor-house, discharge and dismiss every person or persons, who may have been improperly ordered to be received there by any of the Trustees, or who may be able to gain his or her livelihood.

The Levy Courts shall annually make a rate for the support of the poor;

SECT. 21. *And be it enacted*, That the Members of the Levy Court for the time being in the said counties respectively, or such as attend, shall and may, and are hereby required, in the month of February next, and at their annual meetings hereafter, to make a rate, according to the rate of the county assessments for the current year, of such sum or sums of money, as shall be sufficient to maintain the poor and impotent inhabitants of said county in the poor-house, to be collected by the Collectors of the several hundreds as before mentioned, or in such manner as other county rates and levies may be then directed to be levied, who shall give bond and security, with a condition and

which shall be collected as other county rates, &c.

(e) See said chap. 219. b. sect. 6, in what cases poor persons may obtain relief out of the poor-house:—and Justices of Quarter Sessions may make orders on the relations of poor persons for reimbursing the expence of their maintenance.

and warrant of attorney as is before directed, within ten days after such rate shall be so made; and the monies so laid, shall be paid unto the Trustees quarterly, by each and every of the Collectors aforesaid; (f) And in case any of the Collectors refuse or neglect to give such bond and security as aforesaid, within the time limited, the said Justices of the Peace, or any three of them, shall meet at the places where the courts shall be held for the said counties, or any other convenient places, and immediately appoint others in his or their stead, who shall give security as aforesaid.

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and pay'd quarterly to the Trustees.

Collectors how appointed, when vacancies happen.

SECT. 22. *And be it enacted,* That the said Trustees of the several counties respectively, shall yearly and every year, at the annual meeting of the Levy Court of the respective counties, settle and adjust their accounts with the said court, or any two members thereof, to be there appointed by the rest.

Trustees to settle annually with the Levy Courts.

SECT. 23. *And be it enacted,* That the said Trustees respectively, shall and are hereby required to rent an house or houses, in some convenient part of the said county, for the reception of such of the poor of said county as they shall judge proper, to be paid out of the monies to be laid by the judges and justices aforesaid, until the said poor-house or houses before mentioned are ready, or can be purchased as aforesaid, for the reception of the poor aforesaid; and the said Trustees are hereby required, on or before the last day of February next, to proceed to the appointment of an Overseer and other officers and servants as are mentioned in this act, and to do and perform every other matter and thing, necessary to carrying the said act into execution, according to the true intent and meaning thereof.

Houses for the reception of the poor, may be rented, until, &c.

SECT. 24. *And be it enacted,* That a majority of said Trustees shall be a quorum to do business under this act.

A quorum of Trustees.

SECT. 25. *And be it enacted,* That whosoever shall presume either to set up a booth, stall or other convenience, for the selling of strong liquor on the land rented or purchased for the use of the poor of either

Persons selling strong liquor to, or dealing with the poor, &c. without consent of Overseers, how punished,

(f) See before in note (h) at section 2, of this act.

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of the said counties, or shall commit any trespass thereon, or shall sell or dispose of any strong liquor, or other matter or thing whatsoever to, or purchase any matter or thing from any poor person entertained in either of said poor-houses, without the consent of the Overseer to such purchase, shall for every such offence forfeit and pay the sum of Three Pounds to the Trustees of the Poor of either of the said counties, as the case may be, for the use of the poor of said county. (g)

Allowances to  
the Trustees.

SECT. 26. *And be it enacted*, That the said Trustees shall be paid the sum of Seven Shillings and Six-pence, for every day they attend under the authority of this act, to be raised as the other county rates and levies are: *Provided*, That the whole sum, to be paid to the said Trustees of the respective counties, shall not exceed the sum of Seventy-five Pounds in any one year.

Trustees or  
Overseers may  
plead the general  
issue.

SECT. 27. *And be it enacted*, That if any action shall be brought against any Trustee, or Overseer, who shall do any thing concerning his office, he may plead the general issue, and give this act in evidence; and if the plaintiff shall fail in his action, discontinue the same, or become nonsuit, he shall pay double costs.

The poor shall  
wear a badge.

SECT. 28. *And be it enacted*, That every poor person received into either of the poor-houses aforesaid, shall wear on his or her left arm, made of red cloth, in Roman characters, the letters P. N. for New-Castle county; P. K. for Kent county; and P. S. for Sussex county.

Part of former  
act repealed.  
Chap. 225. a.

SECT. 29. *And be it enacted*, That so much of an act, intituled, *An act for the relief of the poor*, passed in the year Seventeen Hundred and Seventy-five, as is hereby altered, contradicted, or supplied, shall be, and the same is hereby repealed, annulled, and made void; and that all other parts of the same act shall remain, continue, and be in as full force and virtue, as if this act had never been made.

*Passed January 29, 1791.*

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(g) See said chap. 249. b. sect. 12, as to recovery of fines, &c.

## C H A P . C C X I X . b .

C H A P .  
C C X I X .

1791.

An ACT to authorize the Courts of Quarter Sessions to appoint the Constables of each hundred.

**B**E it enacted by the General Assembly of Delaware, That it shall and may be lawful for the Justices of the Court of Quarter Sessions, to be holden in May annually, for each respective county, to appoint the Constables required by law for the several hundreds in each county in this state, out of such freeholders in each hundred as may be returned by the Constables thereof, or out of such other freeholders as the said courts may think best qualified. (a)

Passed January 29, 1791.

## C H A P . C C X X . b .

An ACT for raising the sum of One Thousand Pounds, by a lottery, for the use of the state ; and for other purposes.

1791.

SECTION I. **B**E it enacted by the General Assembly of Delaware, That it shall and may be lawful for the Managers herein after appointed, to institute, carry on, and draw, a lottery for raising the sum of One Thousand Pounds, clear of all expences ; and the said sum, when so raised, shall be applied to the fitting up, and preparing, chambers in the new Court House in the town of Dover, for the accommodation and reception of the General Assembly of this state ; and the surplusage of the said sum, if any, shall be appropriated to the finishing and completing the said Court House.

One Thousand Pounds, to be raised, and applied to the preparing of chambers for the General Assembly, &c.

SECT. 2. And be it enacted, That the said chambers, when

(a) For preceding acts relating to the appointment of Constables, see chap. 205. a. Anno, 1770.—and chap. 190. b. Anno, 1789.—and see after chap. 250. b. sect. 19, that they are to give bond, &c.

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When finished  
shall be set apart  
for that use.

when finished and prepared, together with the office at the fourth-east corner of said Court House, shall be set apart, and appropriated, to and for the sole use and accommodation of the General Assembly of this state, and their officers, so long as, and whenever, the Legislature shall hold their sessions in the town of Dover. (a)

Managers

SECT. 3. *And be it enacted*, That Eleazer M'Comb, James M'Clement, John Clayton, James Sykes, junior, and John Patten, or the survivors of them, shall be, and are hereby appointed, Managers of said lottery, who, and each of them, before they enter upon the duties required by this act, shall give bond to the Treasurer of this state, in the sum of Two Thousand Pounds, conditioned for the faithful discharge of the trusts reposed in them by this act.

shall give bond,

when the drawing  
shall commence.

SECT. 4. *And be it enacted*, That the said Managers shall publish in the Delaware Gazette, and in some one of the Philadelphia newspapers, their scheme of the said lottery, as soon after the same is agreed on as may be convenient; and shall, on or before the twenty-fifth day of October next, if at that time a sufficient number of tickets shall have been sold; and if not, as soon after as conveniently may be, proceed to the drawing and finishing the said lottery; and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within nine months after the drawing of said lottery; but if not demanded within the time aforesaid, the said prizes shall remain in the hands of the said Managers, to and for the use of the Delaware State, to be disposed of hereafter, as shall by law be directed. (b)

Prizes when payable.

Managers shall  
superintend  
the expenditure  
of the money  
raised;

SECT. 5. *And be it enacted*, That the Managers aforesaid, shall superintend and direct the expenditure of the said sum of One Thousand Pounds, or so much thereof as they may judge necessary, for the fitting up.

(a) See in chap. 227. a. Annò, 1775, additional uses of the said Court House: — See also chap. 84. c. passed February 7, 1795, a special appropriation of rooms therein for the accommodation of the General Assembly and the Auditor of Accounts.

(b) See a supplementary act hereto, chap. 238. b. to enable the Managers to proceed in drawing the said lottery, by taking the unfold tickets at the risk and on the account of the state.

up and preparing the said chambers for the use and purposes aforesaid; and shall report to the General Assembly, at their sessions in October next, and thereafter from time to time, the progress made in said lottery, the monies that shall have been received by them, the appropriation of the same, and the residue that may remain in their hands.

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and shall report,  
&c.

SECT. 6. *And be it enacted,* That the said Managers shall have for their trouble, the sum of ten *per centum* on the whole sum to be raised by this lottery.

Their allowance.

*Passed January 29, 1791.*

C H A P. CCXXI. b.

*An ACT to exonerate and discharge Benjamin Chew, and Benjamin Wynkoop, surviving executors of John Vining, late of Kent county, esquire, deceased, of the sum of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, with the interest thereon.*

1791.

**W**HEREAS John Vining, esquire, hath made and executed, to the Trustee of the Loan Office of Kent county, a mortgage deed of lands in Kent county, for securing the payment of One Thousand Five Hundred Fifty-three Pounds, Eighteen Shillings and Six-pence, with interest thereon from the second day of February, One Thousand Seven Hundred and Eighty-six, due from the estate of his deceased father, John Vining, esquire, agreeably to the terms of an act of the General Assembly, passed the twenty-fourth day of October, One Thousand Seven Hundred and Eighty-nine. (a)

Preamble.

*BE it therefore enacted by the General Assembly of Delaware,* That Benjamin Chew, and Benjamin Wynkoop, the surviving executors of John Vining, esquire, deceased,

(a) See before chap. 201. b. for the act here referred to—And see after chap. 91. c. passed January 30, 1796, authorising the Trustee of the Loan Office for Kent county to execute a release of this mortgage,

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deceased, be, and they are hereby discharged, acquitted and released, from the payment of the said sum of One Thousand Five Hundred Fifty-three Pounds, Eighteen Shillings and Six-pence, with the interest thereon from the second day of February, One Thousand Seven Hundred and Eighty-six.

*Passed January 29, 1791.*

C H A P. CCXXII. b.

1791. *An ACT for removing the seat of Justice from Lewes to a more central part of Sussex county, and for other purposes.*

Preamble.

**W**HEREAS it appears to this General Assembly, That a great majority of the inhabitants of Sussex county, by petition, have prayed a removal of the seat of justice from Lewes to a more central and convenient part of said county; and this Assembly conceiving the prayer of said petitions should be granted,

Commissioners to purchase land near the centre of the county, on which shall be erected a Court House and prison.

SECTION 1. *BE it enacted by the General Assembly of Delaware,* That George Mitchell, esq. Robert Houghton, esq. William Moore, esq. John Collins, esq. Nathaniel Young, esq. William Peery, esq. Rhoads Shankland, esq. Woodman Stockley, Daniel Polk, esq. and Thomas Batson, esq. or a major part of them, be, and are hereby appointed, Commissioners to execute and perform the several trusts and powers reposed in and required of them by this act; and be and are hereby authorized and empowered to purchase in fee, for the use of Sussex county, a quantity of land, not exceeding one hundred acres, near the centre of said county of Sussex, at the place called James Pettijohn's Old Field, or within two miles of the house where Ebenezer Pettijohn now resides, situate in Broadkill hundred, in said county, for the purpose of building thereon a Court House and prison for said county; and shall cause the said land to be laid out by the Surveyor of the county, with good  
and

and sufficient boundaries, and a certificate thereof to be delivered to the Recorder of said county, who shall forthwith record the same in due form of law.

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SECT. 2. *And whereas* it may appear burthensome to oblige those of the inhabitants of Suffex county, who do not wish a removal, to bear a part of the expence that may accrue in erecting the said buildings; *Be it enacted*, That Robert Houston, Rhoads Shankland, George Mitchell, William Moore, and John Collins, esquires, Commissioners aforesaid, or any three of them, are hereby authorized and impowered, with the assistance of the Surveyor of said county, to cause the said lands to be purchased as aforesaid, to be laid out in such lots and parcels as to the said Commissioners may seem proper, who are hereby authorized, required and impowered, to sell the same to the best advantage, and execute deed or deeds for the conveyance thereof; reserving to the use of Suffex county half an acre of ground each, for the erecting said Court House and prison on respectively, and their respective accommodations; and appropriate the monies arising from such sale, towards the discharge of such expences as shall be occasioned in the purchase of the said land, and finishing the said buildings; and the said Commissioners, or a majority of them, are hereby authorized and impowered to open subscriptions for the purpose of procuring monies to complete the said buildings, and shall have power to ask, demand and sue for the same, when subscribed:

The land to be fold in lots.

Funds for erecting the buildings, how obtained.

SECT. 3. *And be it enacted*, That the Court House and prison so to be built as aforesaid, shall be at least of the same size and dimensions with the old Court House and prison now at Lewes, the Court House to be built of wood, and the prison of brick or stone; and when the said Court House and prison are so far finished, that courts can conveniently be held in said Court House, and prisoners safe kept in said prison, the fitness of which shall be judged of by John Gordon, John Ralston, Andrew Barratt, Joseph Barker, and Peter Lowber, merchant, of the county of Kent, or any three of them, attending for that purpose, to be certified under their hands, and lodged with the Prothonotary of said county; then the said Commission-

When new Court House and prison are finished, &c. the old ones shall be sold.

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ers; or a majority of them, shall have power and authority to sell, by way of public sale or otherwise, to the best advantage, the old Court House and prison in Lewes, and appropriate the monies arising from such sale towards the finishing of said buildings; and shall give good and sufficient deed or deeds, in fee simple, to the purchaser or purchasers of the same.

When courts  
shall be held  
there.

SECT. 4. *And be it enacted*, That after such sale is made of the old Court House and prison, so as aforesaid to be made, that then all the courts of Suffex county shall be held in such new Court House, according to the usage and practice of other courts in this state; and such new Court House and prison shall then be used, taken, held, and deemed, to be the proper Court House and prison of Suffex county; and that all the process issuing out of any of the courts of said county, shall be attested at, and returned to, said new Court House; and such business as is directed, by any law of this government, to be done at Lewes, shall thereafter be acted and done at the said new Court House. (a)

When officers  
shall reside  
thereat, &c.

SECT. 5. *And be it enacted*, That the Clerk of the Supreme Court, Court of Common Pleas, Clerk of the Peace, Sheriff, and Register for the probate of wills and granting letters of administration, Clerk of the Orphans Court, and the Recorder of Deeds, for the said county of Suffex, shall reside themselves, or keep lawful deputies, at said new Court House, within two years after such sale made as aforesaid of the old Court House and prison; and in the mean time, that the Clerks and officers aforesaid, shall duly attend at the said new Court House, during the holding of courts there, at all such times as the nature of their respective duties may require; any law, custom, or usage to the contrary notwithstanding. (b)

Levy Court shall  
lay no rate for  
erecting the  
buildings.

SECT. 6. *And be it enacted*, That it shall not be lawful for the Levy Court of Suffex county, to lay any rate

(a) See chap. 237. b. establishing George Town as the place where all the courts of Suffex county shall be held, &c.

(b) See article 8. sect. 5, of the constitution of this state adopted in June, 1792, —and chap. 80. c. passed February 7, 1795, directing where the public offices in the several counties shall be kept.

rate or charge on the people of that county for the purchasing the land aforesaid, erecting the Court House or prison thereon, or finishing the same, other than such additional improvements as they may think proper, after the persons aforesaid shall think it fitting for the reception of the courts aforesaid. (c)

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SECT. 7. *And be it enacted*, That every annual and other election, for the choice of Representatives or Representative in the General Assembly, the Sheriffs and Coroners, to be held in said county of Suffex, shall hereafter be holden and kept at the Court House herein directed to be built, as soon as the same is so far finished that they may be conveniently held there; and that until the said Court House is so far finished, the said election shall be held at the house of James Pettijohn, in Broadkill hundred; any law, usage, or custom to the contrary notwithstanding. (d)

Where elections shall be held for Suffex county.

*Passed January 29, 1791.*

C H A P. CCXXIII. b.

*An ACT for the supporting, maintaining, and keeping in good repair, the bridge over Mispillion creek; and for other purposes therein mentioned.*

1791.

**W**HEREAS the drawbridge over Mispillion creek, on the public road leading from the village of Milford, into the county of Suffex, hath become of general utility to the inhabitants of Kent and Suffex counties;

Preamble.

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware*, That from and after the passing of this act, that one moiety, or equal half part, of the expences in repairing, supporting and maintaining the said bridge, shall be borne and paid by the county

Bridge how supported.

(c) See chap. 82. c. passed Feb. 7, 1795, instituting a lottery for reimbursing the subscribers to the building and erection of the present Court House and gaol of Suffex county to the amount of their several unpaid subscriptions.

(d) See note (a) before.

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county of Kent, and the other moiety, or equal half part, of said expences shall be borne and paid by the county of Suffex, to be levied and raised in the said counties, respectively, as other county rates and charges.

Commissioners  
appointed,

SECT. 2. *And be it enacted*, That Isaac Davis and John Ralston, of the county of Kent, gentlemen, and Daniel Rogers and Nathaniel Hayes, of the county of Suffex, gentlemen, or the survivors or survivor of them, are hereby nominated and appointed Commissioners, and to have the care and oversight of the repairing and amendment of the said bridge :

Space to be left  
between the  
wings, &c.

SECT. 3. *Provided always*, That there shall be left clear in the place between the abutments, wings and other works, for the use, support and preservation of the said bridge, the space of thirty-five feet at all times, for the waters of the said creek to pass through, excepting the piles necessary for supporting the said bridge, and that there shall be left between the rows of the said piles, and over the channel of the said creek, the clear space of nineteen feet at least, over which shall be erected and placed a draw or platform, of the breadth of eighteen feet or more, with good and sufficient chains for raising up the same, for the accommodation of all such persons as have occasion to pass and repass with any vessel through the said bridge, who are hereby obliged to raise and lower the said draw or platform, so that the same receive no damage thereby, under the penalty of Forty Shillings for every neglect or offence therein, to be recovered with costs, in the name of the said Commissioners, or any one or more of them, before any two Justices of the Peace of either of the counties of Kent or Suffex, one moiety thereof to be accounted for, in repairing the said bridge, to the Treasurer of Kent county, and the other moiety to the Treasurer of Suffex county ; and for that end the said Commissioners, or the survivors or survivor of them, are hereby impowered and required to purchase materials, and to employ labourers and other proper persons, as often as shall be necessary ; and after the said bridge shall be so repaired and amended, the one moiety or equal half part of the same, which lieth in and nearest to the county of

Penalty for da-  
maging the draw  
or platform.

Kent

Kent aforesaid, shall be put under the care and management of the present Overseer or Overseers of the highways of Milpillion hundred leading to the said bridge, or such of them as the Justices of the Court of General Quarter Sessions of the Peace in the said county of Kent; may hereafter nominate and appoint; and the other moiety, or equal half part of the said bridge, shall be put under the management of the present Overseer or Overseers of the highways of Cedar creek hundred, or such of them as the Justices of the Court of General Quarter Sessions of the Peace in the said county of Suffex, may hereafter nominate and appoint.

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Under whose care it shall be put, when finished.

SECT. 4. *And be it enacted,* That in case of any breach in the said bridge, or any part thereof, or any repairs being necessary between the time of holding the Levy Courts in the respective counties aforesaid, that then any four of the Justices of the Peace, two from the county of Kent, and two from the county of Suffex, either on their own knowledge, or by notice thereof given to them by any person or persons whatsoever, shall meet at the said bridge, view the same, and thereupon are hereby impowered, if they think proper, to estimate the expence necessary for the repairing and amending the said breach, and to draw an order or orders, on the respective Treasurers of said counties, in favour of the said Commissioners, or the survivors or survivor of them, a moiety or half part of such sum or sums of money as they shall judge necessary for amending or repairing the same, which the said Treasurer is hereby impowered and required to pay out of the public money in his hands, laid for emergencies; and the same shall be allowed him on settling his accounts by the Levy Court of his or their county, or by a committee to be appointed by them for that purpose.

How breaches, &c. shall be repaired.

SECT. 5. *And be it enacted,* That the Justices of the Peace of the county of Kent, or any two of them, except the justices who may draw such orders on the Treasurer, as herein before they are impowered; and the Justices of the Peace of the county of Suffex, or any two of them, except as before excepted, may and shall at any time or times, when any new Overseer or Overseers

Overseers shall account, &c.

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Neglecting, how  
to be proceeded  
against.

Overseers are to be by them respectively appointed, or oftener as they shall think fit, examine and settle the accounts of the former Overseer or Overseers, or any of them, and order them to pay the balance or surplus of the monies received by him or them, according to the directions of this act, to the Treasurer of that county in which he or they was or were appointed; and in case the said Commissioners for the time being, Overseer or Overseers, shall neglect or refuse to account for and pay such balance or surplus, as by this act is directed, then it shall and may be lawful to and for the Treasurer of such county, for the time being, and he is hereby impowered and required, to bring as such his action or actions of *indebitatus assumpsit* for money had and received, to and for the use of the Treasurer aforesaid, against such Commissioners for the time being, so refusing or neglecting to account and pay as aforesaid, his or their executors, or administrators, for the recovery thereof.

Commissioners  
dying, &c. o-  
thers to be ap-  
pointed.

SECT. 6. *And be it enacted*, That in case of death, refusal, or removal to any distance above ten miles from said bridge, of any of the said Commissioners, or any hereafter appointed, that the Court of General Quarter Sessions for the county, in which such Commissioner originally resided, shall appoint some other fit person as Commissioner in his place.

Former act re-  
pealed.  
Chap. 125. b.

SECT. 7. *And be it enacted*, That act of the General Assembly of this state, intituled, *An act to enable Joseph Oliver of the county of Kent, his executors or administrators, to erect a bridge over Mispillion creek*, is hereby repealed, and declared to be null and void; any thing therein contained to the contrary in any wise notwithstanding.

Passed January 29, 1791

CHAP.

C H A P. CCXXIV. b.

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CCXXIV.

1791.

An ACT to prevent swine running at large in the town of New-Port, and within the limits therein prescribed.

**W**HEREAS divers inhabitants of the town of Preamble. New-Port, by their petitions to this General Assembly, have prayed, that swine shall not be permitted to run at large within the town of New-Port and grounds adjacent thereto,

SECTION 1. *BE it enacted by the General Assembly of Delaware,* That no hog, hogs, or swine, shall be permitted to run at large within the metes and bounds following, *to wit,* Beginning at a point of fast-land of John Richardson's, and adjoining the New-Port marsh and Christiana creek, from thence up the several courses of said creek to the mouth or entrance of Whiteclay creek, from thence up the said creek, and the several courses thereof, to the mouth or entrance of Old Redclay creek, from thence up the said creek to the mouth or entrance of Herring Branch, from thence up the said Herring Branch, and the several courses thereof, until it intersects the Okefession road which leads to New-Port, from thence crossing the said Okefession road, and nearly an east course, that leads to a road which goes by the land and house of Hance Stamcast, from thence along the said road until it intersects the great road leading from Wilmington to the town of New-Port, from thence along the said road until it intersects and joins the New-Port marsh road, and from thence down the said road until it joins the marsh of Charles Evans, and from thence along the line of said marsh, between said Evans and John Richardson, nearly an east course to the place of beginning of said John Richardson's land.

Swine shall not run at large within the limits here described.

SECT. 2. *And be it enacted,* That it shall and may, But may be seized, be lawful to and for any person or persons whatsoever, to seize, drive, or carry alive, all such swine or hogs to kept or permitted to run at large as aforesaid, within the bounds and limits aforesaid, to any Constable or Constables of Christiana hundred for the time being,

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1791.

and being appraised,

sold for the use of the poor.

ing, who are hereby authorized and required to receive and detain the same, and to proceed to have them appraised by two indifferent freeholders within the limits aforesaid, on their oaths or affirmations, and to sell or otherwise dispose of them, to the best advantage, for the use of the poor of said hundred, or for the use of the poor of the county, as the case may be, first paying a reasonable compensation to the person or persons for driving and conveying such swine or hogs to them, for their trouble, to be judged of by any Justice of the Peace of the hundred of Christiana; always accounting, from time to time, with the Overseers of the Poor of the hundred aforesaid, or the Trustees of the Poor for the county of New-Castle, as the case may be, for their just and honest appropriation thereof, according to the true intent and meaning of this act, who are hereby authorized and required to take cognizance thereof, enquire into, and settle the same from time to time, with the said Constable or Constables; and they, as well as the said Constable or Constables, to keep fair records of the proceedings, and monies arising therefrom, and the use and application of it for the purpose aforesaid:

Owners may have swine restored upon payment.

SECT. 3. *Provided nevertheless,* That if any owner or owners of any hog, hogs, or swine, shall within three days after the same have been driven or carried to the Constable or Constables as aforesaid, pay the sum of Ten Shillings for each and every hog or swine so driven or carried to the Constable or Constables as aforesaid, together with reasonable expences to the person or persons who drove or carried the same, and to the Constable or Constables for keeping the same as aforesaid, to be judged of by any one Justice of the Peace for the county aforesaid, then such hog or hogs shall be restored to the owner or owners again, on his, her, or their application for the same.

Persons sued may plead the general issue.

SECT. 4. *And be it further enacted,* That if any suit or action shall be commenced, brought, or prosecuted, against any person or persons whatsoever, for any act or thing by him, her, or them, done in pursuance of this act, it shall and may be lawful to and for

for the defendant or defendants, in such suit or action, to plead the general issue, and on trial thereof, to give this act in evidence.

CHAP. CCXXXIV.

1791.

*Passed January 29, 1791.*

C H A P. CCXXV b.

*A Supplement to an act, intituled, An act for erecting a bridge and causeway over Lewes creek, from the town of Lewes to the cape side of said creek, in the county of Suffex. (a)*

1791.

**W**HEREAS the Commissioners by an act of General Assembly, intituled, *An act for erecting a bridge and causeway over Lewes creek, from the town of Lewes to the cape side of said creek, in the county of Suffex,* have been prevented from completing the same for want of a sufficient stock subscribed;

Preamble.

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That it shall and may be lawful for the said Commissioners, or the survivors or survivor of them, to receive and take in subscriptions for erecting and completing the said causeway and bridge over Lewes creek, from the town of Lewes to the cape side, in a direct line as near as may be, beginning at or near the place where the fort in the said town stood; and that the toll arising from the said bridge and causeway, shall be applied to and for the sole use and benefit of the subscribers and Commissioners, for paying off and discharging all arrears due and unpaid to workmen and others, on account of the causeway erected previous to the late war, and for reimbursing such persons as may advance money to the erecting and finishing the said bridge and causeway, on additional subscriptions: (b)

Fund for completing the bridge to be obtained by subscriptions.

Appropriation of the toll.

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SECT.

(a) For the original and a preceding supplementary act, see chaps. 220. a. and 223. a. and for subsequent supplementary acts, see chap. 52. c. passed January 28, 1794—and chap. 110. c. passed February 9, 1796.

(b) And by said chap. 110. c. to the keeping the same bridge and causeway in good repair.

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1791.

Proviso.

Subscribers re-  
imbursed shall  
pay toll.

SECT. 2. *Provided*, That the said subscribers and Commissioners do finish the said bridge and causeway, and keep the same in good repair until the said arrears and subscriptions are or shall be paid.

SECT. 3. *And be it enacted*, That all subscribers, who shall be reimbursed their subscription money, shall after such reimbursement, pay such toll for crossing the said bridge, as is described by the act to which this is a supplement.

Passed January 29, 1791.

## C H A P. CCXXVI. b.

1791.

An ACT to appoint a Commissioner for the settlement of the accounts between this state and the United States. —Temporary and expired.

## C H A P. CCXXVII. b.

1791.

An ACT to prevent the removal of suits into the Supreme Court, in certain cases.

Preamble.

WHEREAS, the practice of removing actions, from the County Courts of Common Pleas into the Supreme Court, is productive of great delay and expence to suitors: For remedy thereof,

Obsolete, see  
note (a) below.

No writs or pro-  
cesses, except writs  
of error, shall  
stay, or remove  
causes, in the  
Courts of Com-  
mon Pleas, after  
1st of June,  
1791;

SECTION 1. *BE it enacted by the General Assembly of Delaware*, That no writ or writs of *habeas corpus*, *certiorari*, or any other writ or writs, process or processess whatsoever, other than writs of error, to be sued forth after the first day of June next, by any person or persons whatsoever, out of the Supreme Court of this state, to stay or remove any action, bill, plaint, suit, or cause, brought, commenced, or depending, or hereafter to be brought, commenced, or depending in any County Court of Common Pleas within this state, which hath or shall have, jurisdiction, power or authority to hold plea in that action, bill, plaint, suit, or cause, shall, after

after the first day of June next, be received or allowed by the Judge or Judges of the said County Court of Common Pleas, wherein or to whom any such writ or writs shall be directed and delivered; but that he and they shall and may proceed in the said cause, or causes, as though no such writ or writs were sued forth, or delivered to him or them; except that the said writ or writs be delivered, to the said judge or judges, before issue or demurrer joined in the said cause or causes so depending, or to be depending in any County Court of Common Pleas in this state, having power to hold such plea; so as the said issue or demurrer be not joined within six weeks next after the appearance of the defendant or defendants to such action or suit commenced. (a)

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unless delivered  
before issue or  
demurrer join-  
ed;

so as the same be  
not joined with-  
in six weeks af-  
ter appearance.

SECT. 2. *And whereas* the practice of removing the proceedings from before Justices of the Peace to the Supreme Court, by writs of *certiorari*, without giving bail or security, is productive of great inconvenience: For remedy whereof, *Be it enacted*, That no writ or writs of *certiorari*, for the removal of the proceedings before a Justice or Justices of the Peace, to be sued forth, after the first day of June next, by any person or persons whatsoever, out of the Supreme Court of this state, to remove the proceedings, in a civil case, before any Justice or Justices of the Peace brought or commenced, or hereafter to be brought or commenced within this state, shall, after the said first day of June next, be received or allowed by the justice or justices aforesaid, to whom any such writ or writs shall be directed and delivered; but that he and they shall and may proceed in like manner as though no such writ or writs were sued forth, or delivered to him or them; except that the person or persons suing forth such writ or writs, shall enter into a recognizance, before the Clerk of the Supreme Court, with one or more sureties, to prosecute the same with effect, or pay

No writs of Cer-  
tiorari for re-  
moval of pro-  
ceedings, in civil  
cases, before  
Justices of the  
Peace, shall be  
allowed, after 1st  
June, 1791.

unless security  
be given, &c.

(a) By the act to regulate the courts in this state, chap. 19. c. sect. 7, passed June 14, 1793, no such writs of Habeas Corpus, Certiorari, &c. lie to the Courts of Common Pleas in this state, in actions commenced there after the first Tuesday in October, 1793, except as in sect. 9, in actions commenced previous to the said day, and such writs be sued out before the first Tuesday in October, 1794, so that this section of chap. 227. b. is become obsolete.

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pay the damages and costs that may be awarded by the Supreme Court; and in cases where such recognizances are entered into, the Clerk of the said court is hereby required to certify the same on the back of such writ or writs; and the said Supreme Court to render judgment and issue execution, as in other cases.

*Passed January 29, 1791.*

C H A P. CCXXVIII. b.

1791. *An additional Supplement to the act, intituled, An act for raising county rates and levies.*

Preamble.

**W**HEREAS great inconvenience hath been experienced from the present organization of the Levy Courts and Courts of Appeal, in the respective counties within this state,

SECTION I. *BE it enacted by the General Assembly of Delaware,* That from and after the passing of this act, the Levy Courts in the counties of New-Castle and Suffex respectively, shall consist of the eldest Justice of the Peace resident in each hundred in the said counties, the President of the Court of Quarter Sessions in either county always to be one, and exclusively to represent the hundred in which he may reside; and the Levy Court in the county of Kent shall consist of the two eldest Justices of the Peace resident in each hundred in the said county, the President of the Court of Quarter Sessions in the said county always to be one of the two persons to represent the hundred in which he may reside: And in case it should so happen, that no Justice of the Peace should reside in one or more hundred or hundreds in the counties of New-Castle and Suffex, or that no two Justices of the Peace should reside in one or more hundred or hundreds in the county of Kent, then and in either of the cases aforesaid, happening within any of the counties aforesaid, the Justices of the Peace, at their Courts of General Quarter Sessions held in the month of November, in the respective counties, annually, shall

Of whom the  
Levy Courts and  
Courts of Ap-  
peal shall be  
composed.  
Altered and  
supplied, see  
note (a).

shall chuse by ballot one discreet and experienced freeholder, to represent such hundred or hundreds, in which no Justice of the Peace may reside, in the counties of New-Castle and Suffex respectively, and one or more discreet and experienced freeholder, as the case may be, to represent such hundred or hundreds, in which two Justices of the Peace may not reside, in the county of Kent; which said freeholders, together with the eldest Justices of the Peace as aforesaid, or such eldest Justices of the Peace as aforesaid of themselves, in case there shall be no necessity of chusing such freeholders, shall compose the Levy Court and Court of Appeal in the several counties respectively; and they, or any five of them, attending in the respective counties, are hereby authorised and required to exercise all the powers, and perform all the duties heretofore vested in the Levy Court and Court of Appeal in the respective counties, by virtue of the act to which this is a supplement, or any other law of this state.

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SECT. 2. *And be it enacted*, That the Members of the said Levy Court and Court of Appeal in the respective counties, shall be allowed for their trouble and expences, in discharging the duties required by this act, the sum of Twelve Shillings each for every day's attendance, and no more. (a)

Allowance to the Members thereof. Altered and supplied, see note (a).

SECT. 3. *And whereas* the allowing of delinquencies to Collectors, as heretofore practised, has been productive of considerable loss to the said counties: *Be it therefore enacted*, That no delinquencies shall be allowed to any Collector of the county rates and levies, or of the taxes hereafter to be levied and raised for maintaining the poor, or building poor-houses, but at the Court of Appeal next succeeding the court at which such Collectors were appointed, and not afterwards. (b)

Delinquencies when to be allowed.

SECT.

(a) See "An act to amend the laws of this state for raising county rates and levies," chap. 18. c. passed June 14, 1793, wherein the constitution of this Levy Court and Court of Appeal in each county of the state is totally changed, and the powers thereof vested in Commissioners to be chosen, as to numbers and residence as specially prescribed in the said chap. 18. c. at the time and place and in the same manner that Senators and Representatives for the respective counties are.

(b) See chap. 213. b. sect. 13, Anno, 1790—chap. 59. c. sect. 10, passed Feb. 7, 1794—chap. 77. c. sect. 9, passed Feb. 3, 1795—and chap. 106. c. sect. 9,

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Part of former  
act repealed.

SECT. 4. *And be it enacted*, That so much of the said act for raising county rates and levies, to which this is a supplement, as is herein altered or amended, is hereby repealed and made void.

*Passed January 29, 1791.*

C H A P. CCXXXIX. b.

1791.

*An additional Supplement to an act, intituled*, An act for calling in and destroying such of the bills of credit, emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned. (a).

Preamble.

**W**HEREAS doubts have arisen respecting the renewal of certain mortgages in the Loan Offices of this state, and different rules are observed by the Loan Officers, which are destructive of the plan adopted by the further supplemental act, to which this is a supplement; and as uniformity and stability are essential to promote universal justice and confidence in public measures;

Further time  
allowed for the  
renewal of  
mortgages.

SECTION 1: *BE it therefore enacted by the General Assembly of Delaware*, That it shall and may be lawful for all and every person or persons, their heirs, or guardians, who may have any interest or estate in any lands mortgaged to any of the Trustees of the Loan Offices of this state, which have not been renewed, or which may have been renewed previous to the twenty-seventh day of January, One Thousand Seven Hundred and Ninety, to renew all and every such mortgage or mortgages, at any time before the fifteenth day of September next ensuing, and not after, (b)  
upon

passed Feb. 9, 1796, in what cases the Collectors may be allowed deductions for delinquencies in the state taxes for those respective years.

(a) For the original act see chap. 113. b.—and for the several supplements thereto see chap. 141. b.—chap. 161. b.—chap. 192. b.—chap. 202. b.

(b) See chap. 247. b. sect. 3, passed Feb. 4, 1792, restraining the Trustees from making any further loans.

upon the terms, and in the same manner, as is directed by an act, intituled, *A further supplement to an act, intituled, An act for calling in and destroying such of the bills of credit, emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned:*

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Chap. 202. b.

SECT. 2. *Provided nevertheless,* That suits may be instituted and carried on, against such person or persons as neglect to re-mortgage, in the same manner as is directed by the said act, intituled, *A further supplement to an act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned.*

Proviso.  
Chap. 202. b.

SECT. 3. *And be it further enacted,* That in all cases where suits have been instituted, it shall and may be lawful for such mortgages to be renewed as aforesaid, at any time before the fifteenth day of September next, on the payment of such costs as may have accrued, in lawful money of the Delaware State.

Costs to be previously paid, if suits have been brought.

SECT. 4. *And be it further enacted,* That in all cases where any lands, which are mortgaged to the Trustees of the respective Loan Offices in this state, are sold at the suit of the Trustee of the said respective Loan Office, or any other person, it shall and may be lawful for the purchaser of said land to pay off and discharge such mortgage, and he shall have the benefit of so doing; and every Sheriff shall make known, by advertisement, the amount of the debt due to the Loan Office, and that the same may be payable by the purchaser in depreciation certificates.

Mortgages may be discharged in depreciation certificates.

SECT. 5. *And be it enacted,* That the Trustees of the respective Loan Offices in this state, are hereby directed and required to advertise, in the two most public places in every hundred in the county, within one month after the passing of this act, all lands which have been mortgaged, or re-mortgaged, at any time previous to the first day of August, One Thousand Seven Hundred and Eighty-five, with the names of the mortgagor or mortgagors, the date of the mortgage, and such description of the lands as are inserted in the mortgage deed: And in case any Trustee shall

Trustees shall advertise all mortgages.

commence

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commence a suit against any mortgagor or mortgagors, or person or persons holding such lands, without having advertised as aforesaid, the said Trustee shall be nonsuited, and pay the costs of such suit himself.

Shall account  
with the Audi-  
tor,

SECT. 6. *And be it further enacted,* That the Loan Officers of the respective counties shall, on or before the tenth day of October yearly and every year, return to the Auditor an accurate account of the monies then due on mortgage, and also of the receipts of monies and certificates received in the said office; and shall deliver over all such certificates of depreciation to the Auditor, who is hereby required to receive and safely keep the same; and the said Auditor is hereby required to settle and adjust all such accounts with the respective Trustees, and to furnish the Legislature with a statement thereof at their annual meeting; any thing in any law of this state to the contrary notwithstanding.

who shall report  
the same.

*Passed January 29, 1791.*

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C H A P. CCXXX. b.

1791. *An ACT for extending the time for the first payment of the tax for the service of the year One Thousand Seven Hundred and Ninety.—Temporary and expired.*

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C H A P. CCXXXI. b.

1791. *An ACT for the purpose of ceding to the United States of America a light-house and certain piers therein mentioned.*

Preamble.

**W**HEREAS by an act of the United States, intitled, *An act for the support of light-houses, beacons, buoys, and public piers,* it is enacted, that all expences that shall accrue in the necessary support, maintenance, and repairs of all light houses, beacons, buoys, and public piers, erected, placed, or sunk; before

before the passing of the said act, at the entrance of, or within, any bay, inlet, harbour, or port of the United States, for rendering the navigation thereof easy and safe, shall be defrayed out of the Treasury of the United States; but it is therein provided, that none of the said expences shall continue to be so defrayed after a limited time, which by a subsequent act is enlarged, unless such light houses, beacons, buoys and public piers, shall in the mean time be ceded to, and vested in, the United States, by the state or states respectively, in which the same may be, together with the lands and tenements thereunto belonging, and together with the jurisdiction: Now this state being desirous to promote general regulations respecting light houses, beacons, buoys, and public piers;

C H A P.  
CCXXXI.  
1791.

*BE it therefore enacted, by the General Assembly of Delaware, That the Senators of this state, in the Congress of the United States, are hereby authorized, empowered, and required, to execute a deed or deeds, on the part and behalf of this state, conveying to the United States of America, all the right, title, and interest of the Delaware State in and to the light house situate in Suffex county, near the entrance of the bay of Delaware, and within this state, and the public piers in the said bay opposite to Rheedden Island, and near the town of Port-Penn, in New-Castle county, together with all the lands, tenements, and appurtenances thereunto belonging, with all necessary jurisdiction over the same for the purposes aforesaid; to have and to hold to the said United States of America, in as full and ample manner as this state are now seized and possessed of the same.*

*Passed January 29, 1791.*

C H A P.  
CCXXXII.

1791.

C H A P. CCXXXII. b.

*An ACT to vacate, and make void, a part of the public road, or highway, leading from Brandywine creek to Christiana Ferry.*

Preamble.

Chap. 180. a.

**W**HEREAS by an act of Assembly, intituled, *An act for the better regulating of the roads in New-Castle county*, passed in the year of our Lord One Thousand Seven Hundred and Sixty-two, a public road, or highway, was laid out from Brandywine creek to Christiana Ferry; which has been represented to this General Assembly, as destructive to the regularity of the streets and squares of the borough of Wilmington, intersecting and crossing at acute angles, some of the streets of the said borough already laid out, and those which may be laid out, agreeably to the ground plot of the said borough.

Commissioners  
to view the road.

SECTION 1. *BE it therefore enacted, by the General Assembly of Delaware*, That Thomas Evans, Matthew Aiken, Robert Wallace, George Gillespie, junior, and Jacob Fearis, be, and they are hereby appointed Commissioners; and they, or a majority of them, hereby are authorized and required, at any time within one year from the passing of this act, at the request of the Burgesses and Assistants of the corporation of said borough of Wilmington, and after public notice, to meet at the said borough of Wilmington, and to view and examine in what manner the said road, leading from Brandywine creek to the intersection of High-street near Christiana Ferry, is destructive to the regularity of the streets and squares of the said borough; and having due regard, as well to the conveniency of the inhabitants of the county adjacent to the said borough, and the public in general, as to the accommodating said road to the streets of the said borough, adjudge and determine what part thereof, if any, shall be vacated; and what part shall be kept open, until the streets of the said borough, running parallel with Market-street, shall be opened so as to be intersected by the said road; what other road shall be substituted in lieu thereof; and open a new road, if necessary; and

Their duty.

and shall make a return of their adjudication and proceedings to the Clerk of the Court of Quarter Sessions, who shall record the same.

C H A P.  
CCXXXII.

1791.

SECT. 2. *And be it enacted*, That such part or parts of the said road, as shall by the return of the said Commissioners be directed, in pursuance of this act, to be vacated, shall and may be shut up or obstructed from and after the time that such new road or roads, which may be directed by the said Commissioners to be laid out as aforesaid, in lieu of such part or parts as may be vacated as aforesaid, be opened and put in good order; any thing in the before recited act to the contrary notwithstanding.

When parts vacated may be shut up.

*Passed January 29, 1791.*

C H A P. CCXXXIII. b.

*An additional Supplementary ACT to an act, intituled, "An act to enable the owners and possessors of a certain tract of meadow, marsh, and cripple, on both sides of Mill creek, below the town of New-Castle, to keep the banks, dams, and sluices in repair; and to raise a fund to defray the expence thereof," passed on the twenty-fourth day of March, in the year of our Lord, One Thousand Seven Hundred and Seventy.*

1791.

*Passed January 29, 1791.—Private act.*

C H A P. CCXXXIV. b.

*An ACT to authorise and empower the owners of a certain parcel of marsh, situate in Sussex county, between the mouths of Misspillion and Cedar creek, to erect gates on the road leading from George Black's mill, through Cedar neck, to the Bay side.*

1791.

*Passed January 29, 1791.—Private act.*

CHAP.

C H A P.  
CCXXXV.

1791.

An ACT to empower William Cooke, esq. to sell certain lands lying in New-Castle county, late of Henry Addison, deceased; and to apply the money arising therefrom.  
Passed January 29, 1791.—Private act.

C H A P. CCXXXVI. b.

1791.

An ACT for enabling Francis M<sup>r</sup> Mullan and his issue to take and use the surname of Gardner, pursuant to the last will and testament of James Gardner, deceased.  
Passed September 8, 1791.—Private act.

C H A P. CCXXXVII. b.

1791.

A Supplement to an act, intituled, An act for removing the seat of justice from Lewes to a more central part of Suffex county, and for other purposes.

Preamble.

Chap. 222. b.

WHEREAS it appears, that in pursuance of the act; intituled, *An act for removing the seat of justice from Lewes to a more central part of Suffex county, and for other purposes*, a new Court House and prison have been erected and completed for the said county; and that the old Court House and prison, at Lewes in the said county, have been sold, agreeably to the directions of the said-recited act. In order, therefore, to remove any doubts that may or can arise, respecting the place where the courts ought to be held within the said county, or in any other respect whatsoever,

Courts shall be held at George-town, &c.

SECTION I. BE it enacted by the General Assembly of Delaware, That from and after the passing of this act, all the courts of Suffex county shall be held at the said new Court House; and such new Court House, and the prison there erected as aforesaid, shall be deemed, held,

held; used, and taken to be the legal and proper Court House and prison of the said county of Suffex; and that all the process of the several courts of the said county shall be tested at, and returned to, the said new Court House at George-town, which is hereby declared to be the name of the town in which the said new Court House and prison are erected; and that all business whatsoever shall be proceeded in and transacted at George-town aforesaid, in as full, complete, and ample manner as the same might or could have been, by the laws of this state, proceeded in or transacted at Lewes before the making of this act, or the act to which this is intended as supplementary.

C H A P.  
CCXXXVII.  
1791.

SECT. 2. *And be it enacted,* That no pleas, process, or proceedings whatsoever, shall abate, or be put without day, by reason of any court for the said county having been omitted to be opened, or the business thereof conducted at the new Court House aforesaid, or for any misconstruction of the aforesaid act to which this is intended as a supplement. Process not to abate, &c.

SECT. 3. *And be it enacted,* That all the civil officers of the said county, who were by law heretofore obliged to reside at Lewes, shall, within twelve months from the passing of this act, reside either by themselves or their deputies, at George-town aforesaid. (a) When officers shall reside there.

Passed October 26, 1791.

C H A P. CCXXXVIII. b.

*A Supplement to an act, intitled,* An act for raising the sum of One Thousand Pounds, by a lottery, for the use of the state; and for other purposes. (b)

1791.

**W**HEREAS by the act to which this is a supplement, it is enacted, *That the Managers of the* Preamble.

(a) See also art. 8, sect. 5, of the constitution of this state, adopted in June, 1792—and chap. 80. g. passed Feb. 7, 1795, for further provisions relating to places where the public offices in the several counties shall be kept.

(b) See before chap. 220. b.

C H A P.  
CCXXXVIII.

1791.

*the said lottery shall, on or before the twenty-fifth day of October next, if at that time a sufficient number of tickets shall have been sold, and if not, as soon after as conveniently may be, proceed to the drawing and finishing the said lottery. And whereas the Managers have represented, that a considerable number of the tickets are yet unfold, and the sale greatly impeded by an apprehension entertained by many, that the lottery will never be drawn. To remove this doubt, and to indemnify the Managers,*

*BE it enacted by the General Assembly of Delaware, That the said Managers shall proceed to draw the said lottery, at the Court House in the town of Dover, on Monday the fifth day of December next; and that the tickets then remaining unfold, if any, shall be taken by the Managers for and on behalf of this state, and shall be drawn at the risque and on the account of the state; and all prizes drawn against the numbers of the said tickets, shall be the property of this state; but if any loss shall be sustained thereby, the same shall be supplied by the money intended by the aforesaid act, to be raised by the said lottery; and if the monies intended to be raised by the said lottery be insufficient for that purpose, this state will make good to the Managers such deficiency; any law of this state to the contrary notwithstanding.*

*Passed October 26, 1791.*

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C H A P. CCXXXIX. b.

1791.

*An ACT to enable Risdon Bishop, of the county of Kent, to bring certain slaves into this state.*

*Passed October 26, 1791.—Private act.*

CHAP.

## C H A P. CCXL. B.

C. H. A. P.  
CCXL.

1792.

*An ACT to supply the loss of a deed, made in or about the year One Thousand Seven Hundred and Fifty-eight, by Simon Dixon to John Way, for two hundred acres of land, in Mill creek hundred, in the county of New-Castle.  
Passed January 20, 1792.—Private act.*

## C H A P. CCXLI. B.

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

1792.

**W**HEREAS divers inhabitants of the village of Camden, by their petition to this General Assembly, have prayed, that swine shall not be permitted to run at large within the village of Camden, and ground adjacent thereto. Preamble.

**SECTION 1.** *BE it enacted by the General Assembly of the Delaware State, That no swine, hog, or hogs, shall be permitted to run at large within the village of Camden, and the limits and bounds following, That is to say, Within one half mile of the place where the roads cross in said village, being nearly the centre thereof.* Swine shall not run at large within the limits here described.

**SECT. 2.** *And be it enacted by the authority aforesaid, That, from and after the passing of this act, upon complaint and information made by any person or persons, inhabitants of the aforesaid village, before any one Justice of the Peace in and for said county, against any person or persons residing within the prescribed limits of the aforesaid village, having or suffering any swine, hog, or hogs, to run at large within the aforesaid limits, that the said justice, on such or every complaint or information, shall summon him, her, or them, so offending, to be and appear before him, or some other justice in and for said county; and upon due proof made in the premises to the satisfaction of said Justice, that the person or persons so offending, shall forfeit and pay to the said justice, the sum of* Persons suffering them to run at large, how proceeded against. *Seven* Forfeiture.

C H A P.  
CCXLI.  
1792.

Seven Shillings and Six-pence for each and every such swine or hog so running at large; to be recovered in manner and form as a debt under Forty Shillings, together with costs of suit.

Freeholders to be chosen annually, who shall apply the forfeitures.

SECT. 3. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the inhabitants of the said village, residing within the limits aforesaid, to meet on the first Tuesday in March, annually, and to choose and appoint two or more substantial freeholders, residing within the said village, into the hands of whom the aforesaid justice or justices shall pay over all such fines or forfeitures, as may by them be received in consequence of the aforesaid act, to be applied in manner and form as they may think most advantageous to said village.

*Passed January 21, 1792.*

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C H A P. CCXLII. b.

1792. *An ACT to enlarge the corporate powers of the Trustees of the New-Castle common.*

*Passed January 25, 1792.—Private act.*

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C H A P. CCXLIII. b.

1792. *An ACT to enable the owners and possessors of a certain tract of meadow ground, marsh and cripple, situate at the north end of the town of New-Castle, to repair, support, and maintain the banks, dykes, and sluices belonging to the same.*

*Passed January 26, 1792.—Private act.*

CHAP.

## C H A P. CCXLIV. b.

C H A P.  
CCXLIV.

1792.

An ACT for enabling Elisha Dickerson, to erect a mill-dam across the head of the waters of Indian River, near a place called Rock Hole, in Indian River hundred and Sussex county; and for the condemnation of a small piece of fast land, on the south side of said waters, for the use of a grist and saw mill, with a log yard.

Passed February 2, 1792.—Private act.

## C H A P. CCXLV. b.

An ACT to vest certain parts of the estate of William Clark, deceased, which, by reason of alienage in the devisee, have devolved to the Delaware State, in William Clark Frazer, an infant.

1792.

Passed February 3, 1792.—Private act.

## C H A P. CCXLVI. b.

An ACT to authorise Ann Ridgely and Nicholas Ridgely, the executors of Charles Ridgely, esq. deceased, to convey unto Daniel Mifflin a certain parcel of land, situate in Murderkill hundred, Kent county.

1792.

Passed February 4, 1792.—Private act.

## C H A P. CCXLVII. b.

An ACT for expediting the collection of arrearage taxes, and other purposes.

1792.

SECTION I. **B**E it enacted by the General Assembly of Delaware, That Robert Clark, esq. shall be and is hereby appointed State Treasurer; and that the said State Treasurer shall, before the third day of March next, become bound to the Delaware

Robert Clark,  
esq. appointed  
State Treasurer.

Shall give bond

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3 H

State,

CHAP.  
CCXLVII.

1792.

Chap. 198. b.

Vacancies how  
supplied.

General powers  
of the Treas-  
urer.

Chap. 198. b.

State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Twenty Thousand Pounds, conditioned for the true observation of this act, and of an act of the General Assembly, intituled, *An act for raising Twelve Thousand Six Hundred Pounds, for the service of the year One Thousand Seven Hundred and Eighty-nine, in addition to the arrearages due on former taxes, and the duty which to the said office doth belong; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid, and shall continue in office until the next meeting of the General Assembly. (a)*

SECT. 2. *And be it enacted, That all the power and authority vested in the former State Treasurer, by the act of Assembly, intituled, An act for raising Twelve Thousand Six Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-nine, in addition to the arrearages due on former taxes, and by all and every other acts of the General Assembly of this state, shall be, and is hereby vested and granted unto the State Treasurer hereby appointed, and his successors; and that the said State Treasurer, and his successors, shall perform and do all the duties and services required by the said acts, except that depreciation certificates shall not be receivable by the State Treasurer*

(a) By sect. 3, of art. 8, of the constitution of this state adopted in June, 1792, the State Treasurer is to be appointed annually by the House of Representatives with the concurrence of the Senate, and not thereafter eligible to a seat in either House of the Legislature until he shall have made a final settlement of his accounts as Treasurer, and discharged the balance.—And by sect. 15, of art. 2, no money is to be drawn from the treasury but in consequence of appropriations made by law, other than the salaries of the Chancellor and Judges of the Supreme Court and of the Court of Common Pleas as in art. 6, sect. 2,—and a regular statement and account of the receipts and expenditures of all public money to be published annually.—See chap. 21. c. passed June 14, 1793, a general act requiring the State Treasurer to give security annually,—and see in chap. 62. c. sect. 2, passed Feb. 8, 1794, the appointment of Thomas Sipple; in chap. 77. c. passed Feb. 3, 1795, sect. 13, and chap. 106. c. sect. 13, passed Feb. 9, 1796, his re-appointment.

furer in any case, other than that of the Loan Office. (b)

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1792.

SECT. 3. *And be it enacted*, That the Trustees of the several Loan Offices in this state, are hereby required and enjoined to proceed to recover and collect all monies due on mortgages unrenewed, and the instalments that have or may become due on the renewed mortgages, and pay the same over to the State Treasurer; and it shall not be lawful for the said Trustees to make any further loan or loans of the monies paid into their respective Loan Offices.

Monies received into the Loan Offices shall be paid to him;

SECT. 4. *And be it enacted*, That the State Treasurer is hereby authorized and required to purchase for the use of the state, on the lowest and best terms to be obtained, with the monies paid unto him by the Trustees of the several Loan Offices, deferred stock of the United States; which stock, when so purchased, shall by him be entered in the treasury books of this state, specifying therein the number and amount of each certificate, the date thereof, to whom the same was issued, and of whom it was bought, and the price paid for the same: And the State Treasurer is hereby required and directed to settle with the Auditor, quarterly, for such monies so paid to him, and at the same time to return to him an account of such purchases of stock, with a specification thereof as before mentioned. (c)

Repealed, see note (c).

with which he shall purchase deferred stock.

Entries whereof shall be made in the treasury books.

SECT. 5. *And be it enacted*, That it shall and may be lawful for the State Treasurer, and he is hereby required, to appoint Collectors in the several hundreds in this state, where no Collectors have been appointed, to collect the tax granted by an act of the General Assembly, intituled, *An act for raising Five Thousand Two Hundred and Fifty Pounds for the service of the year One Thousand Seven Hundred and Ninety*; which said Collectors shall have the same powers, and give security, as is required by the said act.

He shall appoint Collectors.

SECT. 6. *And be it enacted*, That the Collectors appointed

(b) See chap. 202. b. sects. 1, 4, and chap. 229. b. sect. 4, that depreciation certificates issued by this state were receivable in discharge of mortgages in the Loan Offices other than for monies lent after Jan. 27, 1790.

(c) This sect. 4, repealed in chap. 62. c. sect. 3, passed Feb. 8, 1794.

C H A P.  
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1792.

Time of pay-  
ment prescribed  
them.Their allow-  
ance.The Treasurer  
shall adjust his  
accounts with  
the Auditor.His commis-  
sions.Further com-  
pensation.Auditor shall  
furnish him with  
debtors ac-  
counts.

pointed by the State Treasurer shall, respectively, on or before the first day of August next, pay to the said Treasurer, one moiety of the tax to be raised by the last mentioned act; and shall, on or before the first day of December next, render a just and true account of, and pay to the said Treasurer, the residue of the said tax, and all the sum and sums of money they may, or ought to have levied by that act, deducting seven and a half *per cent.* for the trouble of collecting.

SECT. 7. *And be it enacted,* That the State Treasurer shall, once in every three months, transmit unto the Auditor an exact state as well of all monies by him received on arrearage taxes, with the names of the persons by whom paid, and time of payment, as of the monies out of such arrearage taxes by him paid, to whom, on what account or order, and the time when; and, in the month of December, annually, the State Treasurer shall appear in the Auditor's Office, and then and there lay a general account, stating all his transaction for the year, before the Auditor, who shall forthwith proceed to adjust the said account; and the State Treasurer shall discharge himself of all monies, which shall come to his hands in pursuance of his office aforesaid; and shall be allowed commissions for the monies so received upon arrearage taxes, and duly accounted for, at the rate of One Pound Five Shillings for every Hundred Pounds, and no more; and for all monies received of the Trustees of the several Loan Offices, and laid out in stock as aforesaid, and duly accounted for, at the rate of One Pound Fifteen Shillings for every Hundred Pounds, and no more.

SECT. 8. *And be it enacted,* That the State Treasurer be allowed a reasonable compensation for his time, trouble, and expences, in executing the several trusts reposed in him, and not provided for by this act.

SECT. 9. *And be it enacted,* That the Auditor of this state shall, at all times when required by the State Treasurer, lay a state of any public debtor or debtors, his or their accounts before the State Treasurer, as  
the

the same stands on the public books of the Auditor. (d)

CHAP.  
CCXLVII.  
1792.

Passed February 4, 1792.

C H A P. CCXLVIII. b.

*An additional Supplement to an act, intituled, An act for the limitation of actions, and proving accounts against the estates of persons dying within this state: (a)*

1792.

SECTION 1. **B**E it enacted by the General Assembly of Delaware, That the following actions, wherein the cause of action shall arise or accrue hereafter, *That is to say*, All actions of trespass *vi et armis, quare clausum fregit*; all actions of detinue, trover, and replevin, for taking away goods or chattels; all actions upon account and upon the case; (other than actions between merchant and merchant, their factors and servants, relating to merchandise;) all actions upon the case for words; all actions of debt grounded upon any lending or contract without speciality; all actions of debt for arrearages of rent; and all actions of trespass, assault, battery, menace, wounding, or imprisonment, shall be commenced and sued within three years next after the cause of such action or suit shall accrue, and not after. (b)

Limitation of  
personal actions.

SECT. 2. *Provided always nevertheless*, That if any person

(d) See after chap. 252. b.

(a) For the original act see chap. 86. a. 12 Geo. II.—and for supplementary acts thereto see chap. 216. a. passed April 12, 1773,—this act, chap. 248. b.—chap. 35. c.—and chap. 40. c. passed in June, 1793.

(b) See said chap. 35. c. in which it is declared “that nothing contained in this act shall extend to any intercourse between merchant and merchant, according to the usual course of mercantile business, nor to any demands founded on mortgages, bonds, bills, promissory notes, or settlements under the hands of the parties concerned.”

For limitation of actions, upon administration and guardian bonds, see chap. 186. a. sect. 14,—upon testamentary bonds see chap. 146. b. and chap. 7. c. Anno 1793,—upon recognizances by Sheriffs for the due execution of their office, see chap. 178. b. sect. 3.

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1792.

Proviso, as to  
minors, &c.And to persons  
beyond sea when  
the cause of ac-  
tion accrues.Within what  
time accounts  
against deceased  
persons estates  
shall be proved,  
&c.

person or persons, who is or shall be intitled to any such action of trespass, detinue, trover, replevin, actions of account and upon the case, other than as aforesaid, all actions upon the case for words, and actions of debts, is or are at the time of any cause of such action given or accrued, fallen or come, shall be within the age of twenty-one years; *feme covert*, *non compos mentis*, imprisoned, beyond sea, or out of this state; then and in such case, such person or persons shall be at liberty to bring the same actions; so as the same be brought within one year next after their coming to or being at full age, discovery, or found memory, at large, or returning into this state. And if any person or persons, against whom any of the causes of actions herein before mentioned do arise, shall at the time of the cause of suit or actions arising, or afterwards before the time of bringing such action or suit be expired, be beyond sea, or out of this state, then the person intitled to such suits, may bring an action after the return of such persons, so as he bring the same within three years next after their return:

SECT. 3. *Be it enacted*, That no person or persons, after the publication of this act, who doth not, or shall not keep a day-book, or other regular book of accounts, shall be admitted to prove, or require payment of any account, of longer standing than one year, against the estate of any person or persons dying within this state; or, in case of its consisting of many particulars, unless every item, or charge in such account, shall have accrued or arisen within three years next before the death of the deceased person, and unless such person or persons, so pretending to be a creditor or creditors of the deceased, shall be able clearly to make appear, by one good and sufficient witness at the least, that such account is just and true: And that no person or persons whatsoever, who do and shall keep regular books of accounts, shall be admitted to prove, or require payment of any account against the estates of persons so dying as aforesaid, unless such account shall have accrued or arisen as aforesaid, within three years next before the death of

of the deceased person, (c) and unless the person or persons, so pretending to be creditors of the deceased, shall produce to the Judge or Justice of the Peace, to whom such creditor shall present such account for probate; a settlement had and made by him or them with the executor or administrator of the deceased person.

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CCXLVIII.  
1792.

Repealed, see below (c).

SECT. 4. *Provided always, and be it enacted,* That such accounts shall be rendered to the executor or administrator within one year next after the date of the letters testamentary or letters of administration.

Repealed, see below (c). Shall be rendered within one year.

SECT. 5. *Be it enacted,* That if any executor or administrator shall voluntarily pay or discharge any account or demand against the estate of his testator or intestate, which shall be older, or of any longer standing, than three years next before the death of his testator or intestate, or before the same is proved before some Judge or Justice of the Peace, according to the directions, true intent and meaning of this act, such payment or discharge shall be considered and adjudged a waste of the estate of such deceased person; and any Orphans Court of any of the counties of this state, before which such executor or administrator shall produce and pass his settlement, or administration account of such estate, shall not receive or allow the same, or permit the said executor or administrator to have credit for such payment in any way whatsoever, in his settling such estate as aforesaid. (d)

Payment by executors, &c. contrary to this act, shall be deemed a waste of the estate;

and shall not be allowed by the Orphans Court.

SECT. 6. *Provided always,* That nothing in this act, as far as the same respects the proving accounts against the estates of persons dying within this state, shall affect or injure the rights or demands of infants, *feme covert*s, persons who are of insane memory, imprisoned, or out of this state; so that their accounts be proved, and their claims prosecuted within one year next after the removal of such disability.

Nothing herein shall affect the rights of infants, &c.

SECT. 7. *Provided also,* That nothing in this act contained shall be deemed or taken to extend to any account

or extend to accounts, &c. heretofore accrued.

(c) The rest of this clause, together with all of sect. 4, repealed in chap. 35, c. passed June 18, 1793.

(d) See the note (b) before.

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1792.

account or accounts, action or actions, or causes of actions, that may have arisen or accrued before the passing of this act; but the same shall be and remain as if this act had not been passed; any thing herein contained to the contrary in any wise notwithstanding.

Chap. 86. a.

Chap. 216. a.

Repeal of part  
of former acts.

SECT. 8. *And be it enacted*, That so much of an act, intituled, *An act for the limitation of actions, and proving accounts against the estates of persons dying within this government*, and of an act, intituled, *A supplementary act for the limitation of actions, and proving accounts against the estates of persons dying within this government*, as are hereby altered or supplied, be and are hereby repealed, made null and void.

*Passed February 4, 1792.*

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*A Supplementary ACT to an act, intituled, An act for the better relief of the poor, passed at Dover, the twenty-ninth day of January, One Thousand Seven Hundred and Ninety-one. (a)*

Additional  
Trustees for  
New-Castle  
county.

How a rotation  
of Trustees shall  
be effected.

SECTION I. **B**E it enacted, That in addition to the present Trustees of the Poor of New-Castle county, Samuel Hollingsworth, James Cooper and David Thomas, be and are hereby appointed Trustees, who shall continue in office during the term for which the Trustees in the said act, to which this is a supplement, were appointed, unless superceded by a new appointment, as herein after directed.

SECT. 2. *And be it enacted*, That the Members of the Levy Court, for the time being, or any three of them, in each of the respective counties in this state, may and shall meet at their respective county towns, in the present month of February; and then and there remove by ballot one third of the present Trustees of the Poor of their respective counties, as near as may be, and appoint a like number of persons, qualified  
as

(a) See chap. 218. b. for the original act.

as is required by the act to which this is a supplement, to serve as Trustees in their stead; and at their annual meeting in the month of November next, shall remove in like manner one other third of said Trustees, and appoint a like number, qualified as aforesaid, in their stead; and at the meeting of the Levy Court at the succeeding November, the remaining Trustees that have served three years shall be displaced, and a like number, qualified as aforesaid, shall be appointed in their stead; and at the annual meeting of the Levy Court in the month of November forever after, the Trustees who have served three years shall be removed, and other fit persons appointed in their stead; so that a regular succession of Trustees may forever be kept up; but no Member of the Levy Court shall hereafter be appointed a Trustee in either of the counties of this state.

SECT. 3. *Provided*, That no person, who hath been removed from the said office of Trustee, agreeably to this act, shall be appointed to serve again until the expiration of three years next after such removal, unless he is willing to accept of such re-appointment.

Exemptions.

SECT. 4. *Provided*, That there shall always be two Trustees in the hundred of Christiana in the county of New-Castle, three in the hundred of Murderkill in the county of Kent, and one in each of the other hundreds in the respective counties of this state.

Number of Trustees in each hundred.

SECT. 5. *Provided also*, That if any Trustee, now or hereafter to be appointed, shall remove out of the respective hundred for which he was appointed, or by infirmity or inability shall be rendered incapable of performing the duties of a Trustee of the Poor, then and in such case (and not otherwise) the Levy Court, or any three Members thereof, may appoint some other fit person to serve the time such Trustee, so removing or incapacitated, was to have served.

How vacancies occasioned by removal, &c. shall be supplied.

SECT. 6. *And be it enacted*, That if any poor person or persons within any county in this state, not able to support him, her, or themselves, and not having relations obliged by law able or willing to support him, her, or them, shall by accidental disease or misfortune, be rendered incapable of being removed to the poor-house of his, her, or their county within this

In what cases poor persons may obtain relief, out of the poor-house.

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Justices of Quarter Sessions to make orders on relations for reimbursing expence of maintenance.

Trustees shall annually chuse a Treasurer,

who shall give bond.

His allowance.

All monies shall be paid to him.

state, it shall and may be lawful for any two of the Trustees of the Poor of said county, or one Trustee and any one Justice of the Peace, to administer to such person or persons relief; out of the poor-house, from the money appropriated to the maintenance of the poor of such county, until such person or persons is or shall be capable of being removed to the poor-house of his or her county: But no such person shall be so supported in either of the counties of this state, who can, without violating the rights of humanity, be removed to the poor-house of his, her, or their county. And it shall and may be lawful for the Justices of the Court of Quarter Sessions to make an order on the relations of such poor person or persons, obliged by the laws of this state to maintain him, her, or them, for such sum or sums of money as will reimburse the expence of such person or persons maintenance.

SECT. 7. *Be it enacted*, That the Trustees in the counties of this state respectively shall appoint some one of their body annually, as Treasurer, who shall give bond, in the name of the Delaware State, with a power of attorney annexed thereto to confess judgment, in double the sum to be raised for the support of the poor the current year, for the true and faithful performance of the trust reposed in him, as Treasurer; which bond shall be transmitted by the Trustees of the respective counties to the Clerk of the Peace, who shall file the same in his office, transcribe and certify a true copy thereof under his hand and seal of office, and transmit the same to the Trustees of his county; and said Treasurers shall, yearly and every year, make up and settle their accounts with the Board of Trustees of their respective counties, and on their removal from office, deliver up all monies, and every of the books and papers appertaining or in any wise belonging to their office of Treasurer, to his successor in office, whole, entire, and undefaced; and each Treasurer shall be allowed, as a compensation for his trouble, two *per centum* on all money by him received and paid away as Treasurer, and no more.

SECT. 8. *And be it enacted*, That all monies hereafter to be levied and raised in pursuance of this act, or the act to which this is a supplement, shall be paid  
over

over by the Collectors thereof to the Treasurers now or hereafter to be appointed by the Trustees of the respective counties; taking duplicate receipts therefor; one of which receipts to be delivered over by him or them to the Levy Court, on the settlement of his or their accounts.

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SECT. 9. *And be it enacted,* That if it shall appear to the Trustees of any county within this state, or any two of them, or one Trustee and one Justice of the Peace, that any person or persons have come to reside in said county, and have not gained a legal settlement, and that such person or persons, his, her, or their families, are likely to become chargeable to the county, it shall and may be lawful, and the said Trustees, or any two of them, or one Trustee and one Justice of the Peace, as the case may be, by their warrant or order, under their hands and seals, directed to any Constable of the county, to remove and convey such person or persons, likely to be chargeable as aforesaid, his, her, or their families, to the county or state where he, she, or they, was or were last legally settled, unless such person or persons, shall give sufficient security, to the Trustees of the Poor, to discharge and indemnify the said county to which he, she, or they, is or are likely to become chargeable as aforesaid; and such Constable shall receive a reasonable compensation for his time, trouble, and expence, in removing such person or persons as aforesaid, to be allowed by said Trustees, or any two of them, or one Trustee and one Justice of the Peace, who shall draw an order on the Treasurer of the Poor of said county to satisfy the said persons, which order shall be a sufficient voucher for said Treasurer on settlement of his accounts: And if any Constable shall neglect or refuse to execute said warrant or order, and to make return thereof within twenty days, with his proceedings thereon, and be thereof convicted, he shall forfeit and pay any sum not exceeding Five Pounds, nor less than Forty Shillings.

Persons likely to be chargeable, coming to reside in any county, and having no legal settlement therein, shall be removed.

SECT. 10. *And whereas* it sometimes happens, that men separate themselves without any reasonable cause from their wives, and desert their children, leaving them a charge upon some county, although such persons

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The property of persons, deserting or neglecting their families, may be applied to the maintenance of such families.

And if property cannot be found, such persons may be imprisoned, until, &c.

persons may have estates which should contribute to the maintenance of such wives or children, *Be it enacted*, That it shall and may be lawful for the Trustees of the Poor of any county, where such wife or children shall be so left, or where such wife or children shall be so neglected, having first obtained a warrant or order from any two Justices of the Peace of the county, to take and seize so much of the goods and chattels, and receive so much of the annual rents and profits of the land and tenements of such husband, father, or mother, as such two justices shall order and direct for providing for such wife, and for maintaining and bringing up such child or children; which warrant or order being confirmed at the next Quarter Sessions for the county, it shall and may be lawful for the justices there, to make an order for the Trustees to dispose of such goods and chattels by sale or otherwise, or so much of them, for the purposes aforesaid, as the court shall think fit, and to receive the rents and profits, or so much of them as shall be ordered by the said sessions, of his or her lands and tenements for the purposes aforesaid; and if no estate real or personal of such husband, father, or mother, can be found, where-with provision may be made as aforesaid, it shall and may be lawful to and for the said Justices in their Court of Quarter Sessions, to order the payment of such sums as they shall think reasonable for the maintenance of any wife or children so neglected, and commit such husband, father, or mother, to the common gaol, there to remain until he or she comply with the said order, give security for the performance thereof, or be otherwise discharged by the said justices. And on complaint made, to any Justice of the Peace in any county, of any wife or children being so neglected, such justice shall take security from the husband, father, or mother, neglecting as aforesaid, for his or her appearance at the next General Quarter Sessions, there to abide the determination of the said court, and for want of security shall commit such persons.

SECT. II. *And whereas* it has been represented to this General Assembly, that upon the settlement of the accounts of several of the Overseers of the Poor, in the month of February, One Thousand Seven Hundred

dred and Ninety-one, agreeably to the act, intituled, *An act for the relief of the poor*, passed the twenty-ninth March, One Thousand Seven Hundred and Seventy-five, that several of the hundreds were in arrear to their respective Overseers for the last two years, in which they acted under the authority of the said recited act of Assembly; also that divers hundreds were in advance with the Overseers of the Poor on their settlement in February One Thousand Seven Hundred and Ninety-one aforesaid; *Be it therefore enacted*, That it shall and may be lawful for the Justices of the Peace for the several counties in this state, at their next Court of General Quarter Sessions of the Peace, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound of such hundred in arrear, according to the assessment made in the year One Thousand Seven Hundred and Ninety, necessary to raise such sum from such delinquent hundred as will pay off and discharge the balances, which on settlement were actually and *bona fide* found due to the respective Overseers of such hundreds; but it shall not be lawful for the said justices to make any such rate, or any other, but for the payment of such balances as were due, and so found upon a just settlement, and which arose between February One Thousand Seven Hundred and Eighty-nine, and February One Thousand Seven Hundred and Ninety-one: And the said justices, or any two of them, shall issue their warrant to the said Overseers, to whom such balances are due, their executors or administrators, annexed to their former duplicate of such assessment, made in One Thousand Seven Hundred and Ninety, authorising them forthwith to demand and receive from the persons, their executors or administrators, rated in such assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the neat balance due; and the said Overseers, their agent or deputy, executors or administrators, their agent or deputy, may proceed without delay to collect, and in case of neglect or refusal to pay, to levy and recover the same in the manner directed by the said act of Assembly, intituled, *An act for the relief of the poor*. And the balances found due, on settlement as aforesaid, from  
the

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How deficiencies  
of poor tax, be-  
tween Feb.  
1789, and Feb.  
1791, shall be  
supplied.

By whom to be  
collected.

Vested with  
summary pow-  
ers.

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To whom balances of poor tax, due from the late Overseers, shall be paid.

How fines, &c. shall be recovered.

Constables to perform the duties, heretofore assigned to Overseers of the Poor.

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the Overseers of the Poor to their respective hundreds; shall on passing this act, be paid by said Overseers respectively to the Treasurer of the Poor of the several counties, where such balances are found due, taking therefor duplicate receipts, one of which shall be transmitted to the Clerk of the Peace of the county; and the Levy Court, when making their rate of assessment for the support of the poor of the county for the ensuing year, shall lower the rate of assessment in such hundred in advance, so as to lessen the sum that would otherwise be raised agreeably to the general assessment, equal to the sum so advanced and paid to the Treasurer of the Poor of the county by such hundred.

SECT. 12. *And be it enacted*, That the several fines, forfeitures, and penalties, sum and sums of money, imposed or directed to be paid by this act, the same and every of them shall be levied and recovered by distress and sale of the goods and chattels of the delinquent or offender, by warrant under the hand and seal of any one justice of the county, where the delinquent or offender dwells, or is to be found; and after satisfaction made for the respective fines, forfeitures, and penalties, sum or sums of money, directed to be levied by such warrant as aforesaid, together with such legal charges as shall become due on the recovery thereof, the overplus, if any, to be returned to the owner or owners of such goods and chattels, his or her executors or administrators.

SECT. 13. *Be it enacted*, That the several Constables of the respective hundreds in this state shall perform and execute the several duties, which were to be performed by the said Overseers of the Poor, in as full and ample a manner as the said Overseers could have performed the same under the several laws of this state, except such duties as are provided for by this act, and the act to which this is a supplement, passed January One Thousand Seven Hundred and Ninety-one: And that said Constables are hereby required to fulfil and perform the duties of the said Overseers in as ample a manner as if they were particularly named in said laws; and that all fines and forfeitures, which may come into the hands of said Constables, shall

shall be paid by them to the Treasurers of the Board of Trustees of the Poor, for the time being, of the respective counties of this state.

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SECT. 14. *And be it enacted,* That so much of an act, intituled, *An act for the relief of the poor,* passed in the year One Thousand Seven Hundred and Seventy-five, and likewise of an act, intituled, *An act for the better relief of the poor,* passed in the year One Thousand Seven Hundred and Ninety-one, as is hereby altered, contradicted, or supplied, shall be, and the same is hereby repealed, annulled, and made void.

Parts of former acts repealed. Chap. 225. a.  
Chap. 218. b.

*Passed February 4, 1792.*

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*An ACT for the more easy and speedy recovery of small debts.*

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SECTION I. **B**E it enacted, That all actions for debt or other demands for the value of Forty Shillings (a) and upwards, and not exceeding Twelve Pounds, except such actions as are herein after excepted, shall, immediately after the publication of this act, be, and are hereby made, cognizable before any Justice of the Peace of any of the counties within this state, in the county in which the defendant shall be or reside; and the said justices are hereby respectively impowered and required, upon complaint to any of them made for any such debt or demand, to issue a warrant in the nature of a summons or *capias*, as the case may require, directed to any Constable of the county where the defendant dwells, or can be found, commanding him to bring, or cause such defendant to appear, before him or some other justice of the same county, at the time and in the manner following, *That is to say,* In cases where such process shall be in the nature of a *capias*, forthwith after the service thereof,  
but

Debts not exceeding Twelve Pounds made cognizable before a Justice of the Peace;

who shall issue a Capias or summons against the defendant;

(a) For the "act for determining debts under Forty Shillings," see chap. 73. a. 13 Geo. 11.

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and upon the appearance of the parties, if either party against whom the action is brought by him shall appoint arbitrators, who are to be sworn, &c. and after to hear and determine the controversy.

Fees to each referee, and to the justice for summoning them.

But shall not determine any action against executors or administrators, who plead want of assets.

but where a summons shall be issued, then on some certain day therein to be expressed, not less than eight, nor exceeding fifteen days from the date of such process; (b) and at the time appointed for the hearing of any such cause, the said justice may proceed to hear and determine the matter in controversy, unless either plaintiff or defendant objects against being tried by such justice; then and in such case the said justice is hereby directed to appoint, by a summons in writing, under his hand and seal, three freeholders, indifferent and lawful men of the neighbourhood, to appear before him at such time and place as he shall appoint; and on their appearance, the said justice, or some other Justice of the Peace of the said county, is hereby empowered and required to administer an oath or affirmation to them, *That they will faithfully and impartially audit the accounts of both parties, and a true report thereof make, according to their evidence*; and then the said freeholders are to proceed, by his order, to hear and examine the allegations and proofs of the plaintiffs and defendants, and to determine the matters in difference in manner of arbitrators or referees; and upon return of such auditors, or any two of them, the said justice to give his judgment thereupon accordingly: For which summons the said justice is hereby empowered to take Eighteen-pence, and no more; and each referee shall be allowed for his service the sum of Two Shillings, and no more.

SECT. 2. *Provided always, and be it enacted, That the said freeholders, summoned as aforesaid, shall not, and they are hereby disabled to hear, try, or determine, any action against any executor or executors, administrator or administrators, where want of assets shall be alleged by such executor or administrators; but that all such actions for sums of Twelve Pounds and under may and shall be heard, tried, and determined, before any one Justice of the Peace of any of the counties of this state; any thing herein contained to the contrary notwithstanding.*

SECT.

(b) See after in sect. 7, of this act, that in such summons, "a place at which the party defendant is to appear," is made a necessary part of this kind of process to enable the justice, who may attend there, to proceed thereon.

SECT. 3. *Provided also, and be it enacted,* That if any suit or suits for any debts or demands made cognizable by this act, it shall appear by the return of the freeholders, where such are appointed as aforesaid, or otherwise, to the justice before whom the same is brought to trial, that the sum due to the plaintiff or plaintiffs does not amount to Forty Shillings, that then and in such case the said plaintiff or plaintiffs shall recover the debt, but no costs in such suit unless he, she, or they, have made oath or affirmation before, or at the commencing the same, *That he, she, or they, did truly believe the debt due, or damages sustained, amounted to Forty Shillings or more, or otherwise prove by one credible witness, That he, she, or they, before such suit brought, did request the defendant or defendants to settle and adjust accounts, and that he, she, or they, refused or neglected to do the same.* (c)

If the debt be found to be under Forty Shillings, the plaintiff shall have judgment for the debt, but no costs, unless, &c.

SECT. 4. *And be it enacted,* That if the defendant or defendants, in any action made cognizable by this act, hath any bond, bill, note, account, or other demand, due to him from the plaintiff or plaintiffs, he, she, or they, shall plead the same by way of a sett-off or discount against the demand of the plaintiff, or on neglect or refusal, shall forever after be barred and foreclosed from recovering the same from the said plaintiff; any law, custom, or usage to the contrary notwithstanding. (d)

Defendant having a sett-off, must plead it, or be forever barred.

SECT. 5. *And be it enacted,* That if, by the return of the said freeholders, or otherwise, a balance shall be found in favour of the defendant, and the same does not exceed Twelve Pounds, such defendant shall be intitled to judgment for his debt and costs, and execution shall issue in the same manner as where judgment is given for the plaintiff.

If balance be found for the defendant, he shall have judgment for his debt and costs.

SECT. 6. *And be it enacted,* That if any arbitrator or referee, being legally summoned, shall neglect or refuse to appear, and proceed to hear and determine the matters in controversy, according to the direc-

(c) See chap. 64. a. sect. 2, 13 Geo. 11.—and sect. 18, of this act after.

(d) See after in sect. 26, that if the defendant be unprepared in such defence, he shall be allowed a further day, &c.

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Penalty on arbiters refusing to serve.

tions of this act, every such person, so neglecting or refusing, shall forfeit and pay the sum of Twenty Shillings current money of this state, unless he shews sufficient cause for such neglect or refusal, to be allowed by such justice as aforesaid, to be levied, together with costs of suit, by warrant under the hand and seal of such justice, by distress and sale of the offender's goods and chattels, and applied to the use of the poor of the county where the offence arises; and the said justice is hereby impowered and required by summons to appoint another referee or arbitrator to serve for the purposes aforesaid.

Process against freeholders shall be by summons.

SECT. 7. *Provided always*, That the process against a freeholder shall be by summons only, and service shall be made thereof on the person, or a copy thereof left at the house of the defendant, in the presence of one or more of his family or neighbours, at least four days before the time appointed for hearing; and in case the defendant does not appear at the time and place appointed, (e) then on oath or affirmation made by the Constable, *That the said summons was duly served in manner aforesaid*; the justice who granted the summons, or any other Justice of the Peace, being at the place so appointed, may, either then, or on such further day as he shall deem consistent with reason and the nature of the case to order, and not otherwise, proceed to hear and determine such cause or causes in the defendant's absence, and give judgment and award execution thereupon, as if the defendant was personally present.

of process of execution.

SECT. 8. *And be it enacted*, That after judgment given in any of the cases aforesaid, the justice who pronounced the same, or some other justice of the said county, with whom the record of such judgment, or a certified transcript thereof, shall be lodged, shall grant execution thereupon, directed to the Sheriff or any Constable, at the election of the plaintiff, commanding him to levy the debt or damages, and costs, of the defendant's goods and chattels; who by virtue thereof, after having first caused the same to be appraised; and publicly advertised at least ten days, shall expose

(e) See note (b) before.

expose the same to sale by public vendue, returning the overplus, if any be, to the defendant; and for want of such effects to take the body of such defendant into custody, and him or her to carry, or convey to the common gaol of the county; and the Sheriff, or keeper of such gaol, is hereby required to receive the person or persons, so taken in execution, and him, her, or them, safely to keep, until the sum recovered, with costs, be fully paid; and in default of such safe-keeping, to be liable to answer the damages to the party aggrieved in such manner as by law is provided in case of escapes: But in case no effects belonging to the defendant, sufficient to pay the debt and costs, can be found, it shall and may be lawful for the plaintiff to apply to the justice who pronounced judgment for a transcript thereof, and on filing the same in the Prothonotary's Office of the Court of Common Pleas in the county in which the recovery shall be had, it shall and may be lawful for the plaintiff to levy the sum recovered, with costs of suit, on the lands and tenements of the defendant, either by *feri facias*, attachment, *venditioni exponas*, or extent, as the case may require, in like manner as by law provided in other cases. (f)

SECT. 9. *Provided always*, That no such execution shall be issued out against any freeholder in less than the space of six months next after the entry of such judgment, unless the plaintiff, or some person for him or her, shall on oath or affirmation declare, *That he or she hath good reason to believe that the debt will by such delay be lost, for that at the end of the said term, or before, he or she believes that the defendant will not have sufficient effects in the county, on which the said debt, with lawful interest and costs may be levied*; and if any judgment, to be given as aforesaid, shall be against a person not a freeholder, such person shall have the execution against him or her respited or superceded for the term of nine months on his or her immediately entering into a recognizance, before the said justice, to the plaintiff, with one sufficient surety, conditioned for the payment and satisfaction of the sum recovered by the said plaintiff

Against a free  
freeholder.

Against any  
other person who  
may give secu-  
rity for payment  
of the debt, &c.

at

(f) See chap. 46. a. 2 Geo. II. sect. 4.

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at the expiration of the said term, with lawful interest; and if the said debt, interest, and costs, are not paid and discharged to the said plaintiff, at or before the said day, it shall and may be lawful for such justice, or any other Justice of the Peace for the said county, and he is hereby required, on application made by the said plaintiff in the suit, his, or her executors, or administrators, to issue execution against the said defendant and his or her surety, for the sum recovered and the costs accruing thereon, thereby directing the Sheriff or Constable, as the case may be, to levy the same of the goods and chattels of the principal debtor, or in the hands of his executors or administrators, and for want of such, of the goods and chattels of the said surety, or in the hands of his executors or administrators, in manner and form aforesaid.

Specialties, &c.  
how sued, where  
the sum thereby  
due does not ex-  
ceed Twelve  
Pounds.

SECT. 10. *And be it enacted*, That all specialties, where real debt and interest thereon shall not in the whole exceed Twelve Pounds, and all contracts made for country produce or manufacture, or other articles of merchandise, where the value of the articles specified in such contract, at the current price thereof at the time the same became due, doth not exceed the sum of Twelve Pounds, are hereby declared to be cognizable before Justices of the Peace, in the same manner as other debts of Twelve Pounds or under.

Where judg-  
ment is given  
for defendant, he  
shall have costs.

SECT. 11. *Provided also*, That where the plaintiff in any cause shall become non suit, or judgment shall pass against him, then the justice is hereby required to assess the defendant his reasonable costs; to be levied in manner aforesaid.

In what cases  
appeal shall be  
allowed.

SECT. 12. *Provided also*, That if any person or persons shall conceive him, her, or themselves, aggrieved by any such judgment so to be given, (cases determined on the return of auditors or referees aforesaid, where the debt and damages shall not exceed the sum of Five Pounds, only excepted) it shall and may be lawful for such person or persons, at any time within the space of fifteen days next following the giving of such judgment, but not after, to appeal therefrom to the next Court of Common Pleas, to be holden for the county in which such suit shall be commenced; he, she, or they first entering into recognizance, with at least one sufficient

sufficient surety, in double the value of the debt or damages sued for, and sufficient to answer all costs, to prosecute the said appeal with effect, and to abide the order of the said court.

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SECT. 13. *And be it enacted,* That the justices shall cause fair entries to be made, in books by them to be provided for that purpose; of the names of the plaintiffs and defendants in all such cases as may come before them, with the cause of action, and the debt and cost adjudged, and the time when the said judgment was given; and upon any appeal made from any such judgment, the justice who pronounced the same shall send a transcript thereof to the Prothonotary of the Court of Common Pleas of the county in which such appeal is made, on or before the first day of the term next following any such appeal; for which transcript, or any other obtained by virtue of this act, the justice shall be allowed, in the cost to be taxed, Eighteen-pence, and no more.

Justices to keep  
a record of their  
proceedings,

and to furnish  
transcripts.

SECT. 14. *And be it enacted,* That, at the court to which any such appeal shall be made, the person so appealing shall cause an entry of his suit to be made by the Prothonotary of such court, and shall either have his appearance entered or give bail to the action, as the nature of the case may require, or on neglect thereof, on application of the appellee to the court for that end, the appellant's default shall be recorded, the first judgment affirmed with reasonable costs, and execution shall be issued out of the said court against the defendant's body, land or tenements, goods or chattels, as is usual in other cases; and in case the defendant shall appeal or give bail as aforesaid, the plaintiff or defendant in the appeal, as the case may require, shall file his or her declaration, and the adverse party plead to issue, in such time as shall be directed by the court; so always that the cause be tried by a jury of the country in the usual manner, either at the court to which such appeal is made, or the next term at farthest, unless the court on cause to them shewn shall think fit to give the parties a further day; and as the verdict shall be rendered in any of the said causes, the court shall give judgment there-  
upon,

Proceedings in  
the Common  
Pleas upon an  
appeal.

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upon, as the nature of the case may require, with costs of suit.

SECT. 15. *Provided always*, That if the parties, appellant and appellee, shall neglect or refuse to file his or her declaration, or to plead to issue in such time as shall be directed by the court, a nonsuit, or judgment by default, may be entered for want thereof as usual.

Costs on appeal  
the same as in  
other cases.

SECT. 16. *Provided also*, That the costs to be taxed in any such suit to the several officers, and others concerned, for the services by them respectively to be done, shall be the same as the costs now usually taken in the said Court of Common Pleas.

Insolvent debtors  
to have relief.

SECT. 17. *Provided also*, That it shall and may be lawful for the Justices in their respective Courts of Common Pleas to give such relief to any insolvent debtor or debtors, prosecuted in pursuance of this act, as they might have done by the laws now in force, in case this act had not been made. (g)

Persons suing in  
any other man-  
ner than is di-  
rected by this  
act, shall recover  
no costs, unless,  
&c.

SECT. 18. *And be it enacted*, That if any person or persons whatsoever shall commence, sue, or prosecute any suit or suits for any debt or demands, made cognizable as aforesaid, in any other manner than is directed by this act, and shall obtain a verdict or judgment therein for debt or damages, which without costs of suit, shall not amount to more than Twelve Pounds, not having caused an oath or affirmation to be made before the obtaining of the writ of summons or *capias*, and filed in the Prothonotary's Office respectively, *That he, she, or they, so making oath or affirmation, did truly believe the debt due, or damages sustained, exceeded the sum of Twelve Pounds*, he, she, or they, so prosecuting, shall not recover any costs in such suit; any law, custom, or usage to the contrary notwithstanding. (h)

Constables here-  
after appointed  
shall give bond;

SECT. 19. *And be it enacted*, That the Constables of the respective hundreds in the several counties of this state, hereafter to be appointed, shall within twenty

(g) For which see chap. 76. a. 13 Geo. II.—chap. 118. a. 24 Geo. II.—chap. 194. a. 8 Geo. III.

(h) See chap. 64. a. sect. 2, 13 Geo. II.—See also sect. 3, of this act before.

twenty days after the time of their appointment, give bond in the name of the Delaware State, in the sum of Two Hundred Pounds, with such surety as any one Justice of the Common Pleas, or any two Justices of the Peace of the county, shall approve of, conditioned for the faithful performance of their duty; and if any Constables or Constable, hereafter to be appointed, shall neglect or refuse to give bond and security as aforesaid, the Justices of the Quarter Sessions of the county where such neglect or refusal shall happen, or any one of them, may appoint some other fit person or persons to serve in his or their stead, who shall give bond and security as aforesaid; which said bonds shall be transmitted to, and filed in the office of, the Clerk of the Peace of the several counties respectively.

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and upon neglect thereof others shall be appointed.

SECT. 20. *And be it enacted*, That the several Constables aforesaid shall have and receive for their services under this act; where the real debt and interest shall exceed the sum of Five Pounds, double the fees allowed for like services, specified in the act of Assembly, intituled, *An act obliging persons returned and appointed for Constables to serve accordingly, and for ascertaining their fees*, passed the third day of November, One Thousand Seven Hundred and Seventy, the fee of mileage only excepted. (i)

Their fees for services under this act.

Chap. 205. a.

SECT. 21. *And be it enacted*, That all executions in the nature of a writ of *capias ad satisfaciendum, fieri facias*, or otherwise, hereafter to be issued by any Justice of the Peace, for the recovery of any debt above the sum of Forty Shillings, shall be directed to the Sheriff of the county in which such Justice of the Peace resides, or to any Constable of the same county, at the election of the plaintiff in such suit; and such Sheriff or Constable is hereby required to perform and execute the same.

Execution may be issued to the Sheriff, or any Constable, at the election of the plaintiff.

SECT. 22. *And be it enacted*, That such Sheriff or Constable, within twenty days after such executions shall be put into the hands of such Sheriff or Constable, where

The duties of Sheriffs and Constables on execution process under this act.

(i) See chap. 27. c. sects. 33, 34, passed June 15, 1793, other fees there prescribed—and all fees, in the act above referred to, viz. 205. a. repealed and made void.

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where goods and chattels are levied on by virtue thereof, shall return to the justice from whom the same issued, there to be lodged of record, an inventory, with an appraisement duly made, and a state of such prior executions as are in his hands, with his certificate of what he hath done thereon; and in case any Sheriff or Constable shall refuse or neglect to make return of such inventory and appraisement as aforesaid, within the time above limited, he shall be answerable for the debt, damages, and costs, in the said execution mentioned, in the same manner as if he had returned thereon levied to the value of the sum or sums of money therein mentioned, and may and shall be proceeded against accordingly; and in case such goods and chattels shall not be sold before the expiration of twenty days, or at any time after, then such Sheriff or Constable shall, and is hereby required, within twenty days after a request is made in writing, by the plaintiff or plaintiffs in such execution, to such Constable, or Sheriff, or to any one of his deputies, to advertise and sell such goods and chattels (provided any buyer or buyers attend) without any further or any other writ, agreeably to the laws of this state; which execution shall, when the same is settled, be returned to the said justice from whom the same issued, there to be safely lodged of record, certifying such settlement; and the Sheriff shall be intitled to such fees thereon, and no more, as by this act are limited and appointed to a Constable for such services. (*k*)

Neglecting to return an inventory or make sale, how proceeded against.

SECT. 23. *And be it enacted*, That if any Sheriff or Constable shall neglect or refuse to make a return of such inventory and appraisement as aforesaid, within the time above limited, or shall neglect or refuse to sell in manner aforesaid, he shall be answerable for the debt, damages, and costs, in the said execution mentioned; and such Constable, Sheriff, or deputy, into whose hands such execution may be put, (at the election of the plaintiff or plaintiffs) may and shall be proceeded against for each and every several sum by summons

(*k*) But see said chap. 27. c. sect. 30, other provision made as to fees to Sheriff on such executions.—And see chap. 58. c. sect. 3, passed Feb. 7, 1794, for the fees to Constables thereon.

summons or *capias*, as the case may require, under the hand and seal of any Justice of the Peace of the county, for the recovery thereof in the same manner as for the recovery of other debts, not exceeding Twelve Pounds.

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SECT. 24. *Provided*, That no respite of execution shall be made in favour of any Sheriff or his deputy, nor of any Constable, on account of his being a freeholder, or giving security for the payment of the same; but that execution shall issue against him for the recovery of such debts, damages, and costs, immediately after the rendering of judgment therefor; and such execution shall be directed to the Sheriff, or Coroner, or any Constable of the county where the same may so happen, for service thereof, as the case may require.

No respite of execution allowed them.

SECT. 25. *Provided*, That this act, nor any thing herein contained, shall be deemed, construed, or understood, to extend to actions of detinue, debt for rent, debts upon bond for performance of covenants, to actions of covenant, to actions of replevin, or upon any real contract; nor to actions of trespass on the case for trover and conversion, or slander; nor to actions of trespass for assault and battery, or imprisonment, or any action arising or founded on a tort; nor to actions where the titles of lands shall in anywise come in question.

Reservation of actions out of the jurisdiction of Justices of the Peace.

SECT. 26. *Provided also*, That if any person or persons, sued for any debt or other demand made cognizable by this act, shall at the time of his appearance before any Justice of the Peace of this state, alledge that he hath a set-off or discount to plead in the said action, but is not then prepared to prove the same, and shall enter into recognizance, (if not a freeholder in the county where such suit is brought) to the plaintiff, with one sufficient surety, in the nature of special bail, to appear before the said justice at such time and place as he shall afterwards appoint; then, and in such case, the said justice may and shall grant the said defendant or defendants a reasonable time for the purposes aforesaid. (1)

A defendant unprepared for his defence shall be allowed a further day.

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SECT.

(1) See before in sect. 4. such defence admitted and prescribed.

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No meeting for  
administering  
Justice, shall be  
at a public inn,  
&c.

The penalty.

Repeal of former  
acts.

Chap. 197. a.

Chap. 112. b.

Chap. 177. b.

Chap. 190. b.  
to wit, its four  
first sections.

SECT. 27. *Be it enacted*, That if any Justice of the Peace of this state shall, from and after the passing of this act, appoint any meeting for the purpose of administering justice under, or by virtue of, any of the laws of this state, at any public inn, tavern, or other place, except his mansion or dwelling-house, or office in any county town; or attend at any such inn, tavern, or other place, (except as before excepted) at stated days for the purpose aforesaid, he shall and may for the first offence be suspended from executing his office of Justice of the Peace, by the President or Commander in Chief of this state for the time being, so long as the President or Commander in Chief shall think fit; and for the second offence be removed from office.

SECT. 28. *And be it enacted*, That the act, intituled, *An act for the more easy and speedy recovery of small debts*, passed the sixteenth of June, One Thousand Seven Hundred and Sixty-nine; and an act, intituled, *A supplement to an act*, intituled, *An act for the more easy and speedy recovery of small debts*, passed, at Dover, the fifth of February, One Thousand Seven Hundred and Eighty-five; and an act, intituled, *An act to continue in force an act*, intituled, *A supplement to an act*, intituled, *An act for the more easy and speedy recovery of small debts*, passed at Dover, June eleventh, One Thousand Seven Hundred and Eighty-eight; and so much of an act, intituled, *An act for altering the manner of levying executions to be issued by Justices of the Peace in certain cases, and for lessening the number of Constables*, as relates to the issuing executions, or service thereof by the several Sheriffs of this state in their respective counties, shall be, and are hereby repealed, made null and void.

*Passed February 4, 1792.*

CHAP.

C H A P. CCLI. b.

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CCLI.

1792.

An ACT continuing in force an act, intitled, An act for the amending and continuing the provisions made in the act, intitled, An act for auditing and arranging the accounts of this state, and for the more effectual settlement of the same. (a)

WHEREAS the above recited act has been of great utility, and is a temporary one, and now near expiring; (b)

SECTION 1. BE it enacted by the General Assembly of Delaware, That the above recited act be, and the same is hereby revived and continued in force from the passing of this act.

SECT. 2. And be it enacted, That Eleazer M'Comb, esq. be and he is hereby appointed Auditor until the first day of the meeting of the next General Assembly, and for ten days after, if so long he shall behave himself well in the said office; he complying with the requisites of said act. (c)

Passed May 5, 1792.

C H A P. CCLII. b.

A Supplement to an act, intitled; An act for expediting the collection of arrearage taxes, and other purposes.

1792.

WHEREAS some doubts may arise, whether the proceedings which have taken place under the act of General Assembly, intitled, An act for expediting the collection of arrearage taxes, and other purposes, are valid, for want of the Great Seal being affixed. Chap. 247. b.

(a) For the original act see chap. 143. b.

(b) Quere this—there being no other limitation than the continuance of the then appointed Auditor in office, in sect. 18, of said chap. 143. b.

(c) For a subsequent appointment see chap. 26. c. passed June 15, 1793.

C H A P

CCLII.

1792.

fixed thereto; and it being right and proper, that those things which appertain to the interest of the state should be confirmed;

*BE, it enacted by the General Assembly of Delaware,* That all and every proceeding, which has taken place under the said law, and in conformity to the same, be, and the same are hereby declared, good and valid to all intents and purposes,

*Passed May 5, 1792.*

## C H A P. I. c.

1792.

*An ACT for the payment of the wages of the Electors, appointed to choose a President and Vice-President of the United States.—Temporary, being confined to the Electors appointed by the then General Assembly.*

*Passed November 3, 1792.*

## C H A P. II. c.

1793.

*An ACT for docking estates tail.*

Persons seised of any estate tail, shall have power to grant and convey the same;

**SECTION I.** *BE it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met,* That any person or persons, seised of any estate tail, in possession, reversion, or remainder, shall have full power to grant, bargain, sell, and convey any lands, tenements, or hereditaments, whereof he, she, or they shall be so seised, (a) by such manner, and form of conveyance or assurance as any person seised of an estate in fee simple, may by the laws of this state, grant, bargain, sell and convey any lands, tenements, or hereditaments, whereof such person is seised of an estate in fee simple; and all and every such grants, bargains, sales and conveyances

(a) See chap. 202. b. sect. 8, enabling any devisee in tail of a Loan Office mortgagor to renew such mortgage, making it binding on his heirs and such as may have the reversion or remainder of such estate.

veyances of any person or persons so seized in tail, shall be good and available to all intents and purposes, against all and every person and persons whom the grantor, bargainor, or vendor, might or could debar by any mode of common recovery, (b) or any ways or means whatsoever; any law, usage, or custom to the contrary notwithstanding.

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II.  
1793.

and such grants, &c. shall be as available as common recoveries.

*Passed February 2, 1793.*

C H A P. III. c.

*An ACT to vest in the Court of Chancery the care of idiots and lunatics.* 1793.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the Court of Chancery shall have the care of all idiots and lunatics above the age of twenty-one years, so far as to appoint a Trustee or Trustees to take charge of the persons, and management of the estates, both real and personal, of all such idiots and lunatics.

Chancery shall appoint Trustees for idiots and lunatics.

SECT. 2. *Provided*, That before such Trustee or Trustees be in any case appointed, the Chancellor shall issue a writ or commission for summoning a jury to enquire and determine, whether the person for whom such Trustee or Trustees are to be appointed, be an idiot or lunatic.

Mode of procedure previous to such appointment.

SECT. 3. *And be it enacted*, That such Trustee or Trustees shall enter into a recognizance with such sureties, and in such sum of money, and in such manner, as the Chancellor shall require, for his or their faithful discharge of such trust; and that such Trustee or Trustees shall, at least once in every two years, and as often as the Chancellor shall direct at other times, render an account of all the profits of the estates of such idiots or lunatics; in which account the said

Trustees shall enter into recognizance,

and shall account with the Chancellor.

Trustee

(b) See the act for barring estates tail, &c. chap. 139. a. 25 Geo. II.

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Trustee or Trustees shall be allowed for all his, her, or their necessary expences, and such sum for his, her or their trouble; as the Chancellor shall think right and proper.

Power of such Trustees. **SECT. 4.** *And be it enacted,* That such Trustee or Trustees shall and may, in the name of such idiot or lunatic, do all and every act and thing, which may be necessary for the increase, preservation and protection of his or her estate.; And in case of the recovery or death of such idiot or lunatic, his or her Trustees shall deliver and pay over to him or her, or to his or her heirs or proper representatives, all his or her lands, tenements, and hereditaments, goods and chattels, and other personal estate, deducting thereout such allowances as shall be made by the Chancellor, on the settlement of his or her accounts.

Shall deliver and pay over the estate upon the recovery or death of the idiot or lunatic.

Courts of Equity to have the like power till October next.

**SECT. 5.** *And be it enacted,* That the Courts of Equity, now exercising chancery jurisdiction, (a) shall have the like power, as is above delegated to the Court of Chancery, until the first Tuesday of October next.

*Passed February 2, 1793.*

C H A P. IV. c:

1793.  
Habeas Corpus act.

*An ACT for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof.*

Preamble.

**W**HEREAS the security of personal liberty is a principal benefit derived from free constitutions of government; and certain methods of proceeding should be prescribed, so that all wrongful restraints thereof may be easily and speedily redressed.

**SECTION 1.** *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met,* That if any person shall be or stand committed

(a) For which see chap. 54. a. sects. 21 to 25 inclusive, and sects. 12, 13, of the system of government of this state framed in 1776:—and also art. 6. sect. 14 of the constitution adopted in June 1792, with the provision in the schedule thereto, sects. 2, 3.

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committed or detained, for any criminal or supposed criminal matter, unless for treason or felony, the species whereof is plainly and fully set forth in the warrant of commitment, in vacation time, and out of term; it shall and may be lawful to and for the person so committed or detained, or any one on his or her behalf, to appeal or complain to the Chancellor, or any Judge of the Supreme Court or of the Court of Common Pleas; (a) and the said Chancellor or Judge, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or otherwise upon oath or affirmation legally made, *That such copy or copies were denied to be given by the person or persons in whose custody the prisoner is detained,* is hereby authorized and required, upon request made in writing by such prisoner, or any person on his or her behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *habeas corpus*, under the seal of the Court of Chancery, or such other court whereof he shall then be a judge, to be directed to the person or persons in whose custody the prisoner is detained, returnable forthwith before the said Chancellor or Judge; and to the intent that no officer, Sheriff, Gaoler, Keeper, or other person to whom such writ shall be directed, may pretend ignorance of the import thereof, every such writ shall be marked in this manner, BY ACT OF THE GENERAL ASSEMBLY, 1793; and shall be signed by the Chancellor or Judge who awards the same: And whenever the said writ shall by any person be served upon the officer, Sheriff, Gaoler, Keeper, or other person whatsoever, to whom the same shall be directed, by being brought to him, or by being left with any of his under officers or deputies at the gaol or place where the prisoner is detained, he, or some of his under officers or deputies, shall within three days after the service thereof as aforesaid, upon payment or tender of the charges of bringing

Any person committed for a criminal, or supposed criminal matter may, in vacation, complain to the Chancellor or a Judge; who upon view of the copy of the commitment, &c. shall award an Habeas Corpus, returnable forthwith.

How to be marked.

Service of the writ.

Officer within three days after service,

(a) See also art. 6, sect. 5, of the constitution of this state, as adopted in June 1792.

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shall produce the  
body of the pri-  
soner.

and certify the  
time and cause  
of commitment,  
unless, &c.

and then within  
six days.

The Chancellor  
or Judge shall  
within two days,  
discharge the  
prisoner, taking  
recognizance;

which with the  
writ and return,  
shall be certified  
to the court hav-  
ing cognizance;  
unless the pri-  
soner be not bail-  
able.

Return may be  
amended and  
suggestions  
made.

bringing the said prisoner, to be ascertained by the Chancellor or Judge who awarded the writ, and thereon indorsed, not exceeding Twelve Cents *per* mile, and upon security given by his own bond to pay the charges of carrying him back if he shall be remanded, and not to escape by the way, make return of such writ, and bring, or cause to be brought, the body of the prisoner unto or before the Chancellor or Judge, before whom the said writ is made returnable, and in case of his absence, before any other of the judges aforesaid; and shall then likewise specifically and fully certify the true cause or causes of the commitment and detainer of the said prisoner, and when he was committed; unless the commitment be in any place beyond the distance of twenty miles from the place where such Chancellor or Judge shall be residing, and if beyond the distance of twenty miles, then within six days; and thereupon the Chancellor or Judge before whom the prisoner shall be so brought, shall within two days discharge the prisoner from imprisonment, taking his or her recognizance, with one or more surety or sureties, in any sum according to his direction, having regard to the circumstances of the prisoner, and the nature of the offence, for his or her appearance at the next Court of Oyer and Terminer and General Gaol Delivery or General Quarter Sessions of the Peace and Gaol Delivery, of or for the county where the offence was committed, or in such other court where it may be properly cognizable, as the case shall require; and then shall certify the said writ, with the return thereof, and the said recognizance, into the court where such appearance is to be made; unless it shall appear to the said Chancellor or Judge, that the party so committed is detained upon legal process, order, or warrant, for such matter or offences for which by the law the said prisoner is not bailable; and that the said Chancellor or Judge may, according to the intent and meaning of this act, be enabled by investigating the truth of the circumstances of the case, to determine, whether according to law the said prisoner ought to be bailed, remanded, or discharged, the return may, before or after it is filed, be amended, and also suggestions made against

against it, that thereby material facts may be ascertained.

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SECT. 2. *And be it further enacted,* That in term time, it shall and may be lawful for any prisoner as aforesaid, in manner aforesaid, to move and obtain his or her *habeas corpus* out of the Supreme Court, or the Court of Common Pleas, whereupon proceedings shall be had as aforesaid.

Habeas Corpus may be obtained in term time.

SECT. 3. *And be it further enacted,* That if any person shall be committed for treason or felony, and shall not be indicted and tried some time in the next term, Sessions of Oyer and Terminer, and General Gaol Delivery, or other court where the offence is properly cognizable, after such commitment, it shall and may be lawful for the judges thereof, and they are hereby required, upon the last day of the term, sessions or court, to set at liberty the said prisoner upon bail; unless it shall appear to them upon oath or affirmation, *That the witnesses for the state, mentioning their names, could not then be produced;* and if such prisoner shall not be indicted and tried the second term, sessions, or court, after his or her commitment, or upon trial shall be acquitted, he or she shall be discharged from imprisonment.

Within what time persons committed for treason or felony shall be tried,

or discharged.

SECT. 4. *Provided always,* That nothing in this act shall extend to discharge out of prison any person guilty of, or charged with, treason, felony, or other high misdemeanor in any other state, and who, by the Constitution of the United States, ought to be delivered up to the Executive Power of such state; (b) and also excepting persons imprisoned by the authority of the United States.

Not to extend to fugitive criminals from other states,

or persons imprisoned by the United States,

SECT. 5. *Provided also,* That nothing in this act shall extend to discharge out of prison any person charged with debt, or with other action, or with process in any civil cause; but, that after discharge for such criminal or supposed criminal matter, he or she shall be kept in custody, according to law, for such other suit.

or persons charged with debts, or on process in civil suits.

SECT. 6. *And be it further enacted,* That if the Chan-

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(b) See art. 4, sect. 2, of the said constitution, and an act of Congress, chap. 51. "Respecting fugitives from justice, and persons escaping from the service of their masters," approved February 12, 1793.

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Penalty for refusing to award an Habeas Corpus grantable by this act.

Mode of recovery.

Penalty on persons refusing or neglecting to obey an Habeas Corpus;

or to deliver copies of commitment required by this act.

cellor or any Judge aforesaid, being appealed or complained to as aforesaid, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath or affirmation made: *That such copy or copies were denied as aforesaid,* shall refuse or neglect to award any writ of *habeas corpus* by this act required to be granted, he shall forfeit to the prisoner or party grieved, the sum of Thirteen Hundred Dollars, to be recovered by the said prisoner or party grieved, his or her executors or administrators, against such offender, his executors or administrators, by action of debt, suit, bill, or plaint, in any Court of Record, wherein no essoin, protection, privilege, injunction, wager of law, or stay of prosecution, shall be allowed, or any more than one imparlance.

SECT. 7. *And be it further enacted,* That if any officer, Sheriff, Gaoler, Keeper, or other person, to whom any such writ shall be directed as aforesaid, or any of his under officers or deputies, shall refuse or neglect to make the returns aforesaid, or to bring the body of the prisoner, according to the command of the said writ, within the respective times aforesaid, all and every such officer, Sheriff, Gaoler, Keeper or other person, under officer or deputy, shall be guilty of a contempt of the court, under the seal of which the said writ shall have issued, and shall also for the first offence forfeit to the prisoner or party grieved Three Hundred Dollars, and for the second offence Six Hundred Dollars, and shall and is hereby made incapable to hold or execute his said office; the said forfeitures to be recovered by the prisoner or party grieved in manner aforesaid.

SECT. 8. *And be it further enacted,* That if any officer, Sheriff, Gaoler, Keeper or other person, to whom such writ shall be directed as aforesaid, or any of his under officers or deputies, upon demand by the prisoner, or some person in his or her behalf, shall refuse to deliver, or within six hours after demand, shall not deliver, to the prisoner or person so demanding, a true copy, or copies of the warrant or warrants of commitment and detainer of such prisoner, which are hereby required to be delivered, all and every such officer, Sheriff, Gaoler, Keeper, or other person, under officer,

cer, or deputy so offending, shall for the first offence forfeit to the prisoner or party grieved Three Hundred Dollars, and for the second offence, Six Hundred Dollars, and shall also be and is hereby made incapable to hold or execute his said office ; the said forfeitures to be recovered by the prisoner or party grieved in manner aforesaid.

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SECT. 9. *And for preventing unjust vexation by reiterated commitments for the same offence ; Be it further enacted,* That no person, who shall be delivered or set at large upon an *habeas corpus*, shall at any time thereafter be again committed or imprisoned for the same offence, by any person or persons whatsoever, other than by the legal order and process of such court wherein he or she shall be bound by recognizance to appear, or other court having jurisdiction of the cause ; and if any other person or persons shall knowingly, contrary to this act, re-commit or imprison, or knowingly procure or cause to be re-committed or imprisoned, for the same offence or pretended offence, any person delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved, any pretence or variation in the warrant or warrants of commitment notwithstanding, the sum of Thirteen Hun-

No person liberated on an Habeas Corpus shall be again imprisoned for the same offence, but by the court having jurisdiction of the cause.

Penalty.

SECT. 10. *And be it further enacted,* That any person being committed to any prison, or in custody of any officer, Sheriff, Gaoler, Keeper or other person, or his under officer or deputy, for any criminal or supposed criminal matter, shall not be removed from the said prison or custody, into any other prison or custody, unless it be by *habeas corpus*, or some other legal writ, or where the prisoner is delivered to the Constable or other inferior officer to be carried to some common gaol, or where any person is sent by any judge or justice having proper authority, to some common work-house or house of correction, or where the prisoner is removed from one place to another within the same county, in order to his or her trial or discharge in due course of law, or in case of sudden fire or infection, or other necessity ; and if any person or persons shall, after such

No person shall be removed from one prison to another, unless, &c.

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Penalty.

The provisions  
of this act to ex-  
tend to all cases  
where persons  
are restrained of  
their liberty un-  
der any pretence.

Procedure in  
such cases, to  
obtain an Ha-  
beas Corpus.

Proceedings on  
return of the  
writ.

Service of the  
writ.

such commitment as aforesaid, make out, sign, counter-  
sign, obey, or execute any warrant or warrants for  
such removal as aforesaid, then he or they shall forfeit  
to the prisoner or party grieved Six Hundred Dollars,  
to be recovered by the prisoner or party grieved in man-  
ner aforesaid.

SECT. 11. *And be it further enacted,* That all the  
provisions herein before made, for the awarding and  
granting writs of *habeas corpus* and proceeding thereon,  
in case of commitment or detainer, for any criminal  
or supposed criminal matter, shall in like manner ex-  
tend to all cases where any person, not being commit-  
ted or detained for any criminal or supposed criminal  
matter, shall be confined or restrained of his or her  
liberty, under any colour or pretence whatever; and  
that upon oath or affirmation made by such person so  
confined or restrained, or by any other in his or her  
behalf, of any actual confinement or restraint; and  
that such confinement or restraint to the best of the  
knowledge and belief of the person so applying, is  
not by virtue of any commitment or detainer for any  
criminal or supposed criminal matter, an *habeas corpus*,  
directed to the person or persons so confining or re-  
straining the party as aforesaid, shall be awarded and  
granted in the same manner, and under the same pe-  
nalties, to be recovered from the person or persons so  
confining or restraining, as is herein before directed;  
and the Chancellor, Court or Judge before whom the  
party so confined or restrained shall be brought, shall  
after the return made, proceed in the same manner  
as is herein before prescribed, to examine into the facts  
relating to the case, and into the cause of such con-  
finement or restraint; and thereupon either bail, re-  
mand or discharge the party so brought, as to justice  
shall appertain.

SECT. 12. *And be it further enacted,* That whenso-  
ever any writ of *habeas corpus*, awarded and granted,  
either in term or vacation time, for any person so con-  
fined or restrained without a commitment for any  
criminal or supposed criminal matter, shall be served  
upon the person or persons so confining or restraining  
such party, by being brought to such person or per-  
sons, or by being left at the place where the party  
shall

shall be so confined or restrained, the person or persons so confining or restraining such party, shall make return of such writ, and bring or cause to be brought the body of such party, according to the command thereof, within the respective times limited, and under the provisions herein before prescribed; and every such person refusing or neglecting so to make return of such writ, or to bring or cause to be brought the body of the party, according to the command thereof, within the times respectively limited, and under the provisions herein before prescribed; shall be guilty of a contempt of the court, under the seal of which the said writ shall have issued; and shall also forfeit for the first offence to the party grieved Three Hundred Dollars, and for the second offence Six Hundred Dollars, to be recovered by him or her, his or her executors or administrators, against the offender, his or her executors or administrators, in manner aforesaid.

C H A P.  
IV.

1793.

Persons refusing  
or neglecting to  
obey it,guilty of con-  
tempt, and shall  
forfeit, &c.

Recovery.

SECT. 13. *Provided always,* That no person shall be sued, impleaded, molested or troubled, for any offence against this act, unless such person be sued or impleaded for the same within two years after the time wherein the said offence shall have been committed; in case the party grieved shall not be then in prison, confined, or restrained as aforesaid; and if the said party shall be then in prison, or so confined or restrained, then within two years after the decease of the person imprisoned, or so confined or restrained, or his or her delivery out of prison, or from such confinement or restraint.

Within what  
time suits may  
be brought for  
offences against  
this act.

SECT. 14. *And be it also enacted,* That in or upon any action, suit, bill, or plaint for any offence against this act, the defendant or defendants may plead the general issue, and give the special matter in evidence.

General issue.

*Passed February 2, 1793.*

CHAP.

CHAP.  
V.

CHAP. V. c.

1793.

An ACT to enjoin certain duties to be performed by the Secretary of State, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That immediately after every Session of the General Assembly, every law which may have been passed during such session, shall be delivered over by the Speakers respectively, where the same may have originated, to the Secretary, who shall cause not more than three hundred copies, nor less than one hundred and fifty of such of them as are of a public nature, to be published as soon as conveniently may be; and shall also cause a printed copy of all such laws, duly authenticated, to be delivered to the Governor, and shall carefully preserve all the originals.

Secretary to  
cause the laws of  
every Session to  
be published,

and a copy to be  
delivered to the  
Governor.

To collate the  
proof sheets, and  
affix marginal  
notes.

Laws to be dis-  
tributed, and in  
what ratio, a-  
mong the coun-  
ties.

Copies to be re-  
tained, and  
bound.

How disposed of.

SECT. 2. *And be it further enacted,* That it shall be the duty of the Secretary to collate with, and correct by, the original rolls, the proof-sheets of the said printed copies, and to affix thereunto proper marginal notes, stating the purport of each section before the same be published; and the said Secretary shall cause to be transmitted to the Prothonotary of each county, for the use of the public officers of such county, one third of the residue of the printed copies; first retaining in his office eighteen copies, which when a sufficient number of laws to form a volume of a convenient size, have been enacted and printed, shall be bound up; one volume whereof shall be deposited as a record, to remain in the said Secretary's Office, one other volume shall be delivered to the Governor, and one to the Chancellor, for the time being, who upon the expiration of their offices respectively, shall deliver the same over to their successors, one to each of the Clerks of the Supreme Court and Prothonotaries in this state, for the use of the courts of the counties in which they respectively reside, who, upon the expiration of their offices respectively, shall deliver the same over to their successors; three

three to the Senate, and three to the House of Representatives of this state; one to the Secretary of State for the United States, for the use of Congress; to each of which volumes the Secretary shall prefix an attestation under his hand, that he has collated the laws therein contained with the original rolls, and corrected the same thereby; and shall also make a concise and complete index of the laws comprised in such volumes, which shall be printed and annexed to the same.

C H A P.

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1793.

Collation to be attested and an index added.

SECT. 3. *And be it enacted,* That when the laws of this state which have been heretofore directed by the General Assembly to be revised and published, shall be printed, eighteen copies thereof shall be delivered into the office of the Secretary of this state, which shall be disposed of as herein before is directed with respect to the laws hereafter to be enacted.

Former laws to be deposited in his office.

SECT. 4. *And be it enacted,* That the Clerks of the Senate and House of Representatives respectively, shall, when the journals of their respective Houses be printed after every session, transmit five copies of the journal of each House into the Secretary's Office; and when a sufficient number of the journals of the several sessions shall be printed, to form a volume of a convenient size, the Secretary shall cause those of each House to be bound up in volumes; two whereof, containing the journals of each House, shall be deposited as a record in his office, and the remaining volumes transmitted to the Senate and House of Representatives, for the use of the two Houses.

Clerks of the General Assembly to transmit to his office copies of journals.

How to be disposed of.

SECT. 5. *And be it further enacted,* That it shall be the duty of the Secretary to receive all monies arising from licences to keepers of public houses, pedlars, hawkers, or petty chapmen, licences of marriage, and fees for impressions of the Great Seal, heretofore payable under the late constitution of this state, to the President and Secretary for the time being, but which shall hereafter belong to this state; (a) and the same shall be accounted for, (b) and paid over by the said

Secretary to receive and pay into the treasury, all monies arising from licences, &c.

Secretary

(a) For the fees on such licences and impressions of the Great Seal, see after in chap. 27. c. sect. 1.—and for other regulations see chap. 28. c. sects. 3, 4, 5.

(b) With the Auditor as directed in chap. 143. b. sects. 1, 6.

## CHAP.

## V.

1793.

Shall take bonds  
and recogni-  
sance of Public  
Officers.

Exception.

His office open  
to the inspection  
of Committees.

Shall furnish co-  
pies, &c.

Shall give

To be recorded.

Great Seal esta-  
blished.

Secretary into the treasury of this state, once in every half year; an exact account of which he shall furnish to the General Assembly annually.

SECT. 6. *And be it further enacted,* That all bonds and recognizances, that have heretofore been, now are, or that shall hereafter be directed by law to be given for the faithful discharge of any office, commission or public trust, in the appointment of the Governor, or where the same have heretofore by law been directed to be taken by the President, under the late constitution, in the name of the President, or of the Delaware State, (c) shall be taken by the Secretary, in the name of the state, for the uses in the same respectively expressed, the sureties therein to be approved by the Governor; (d) except in cases of bonds and recognizances to be given by Sheriffs and Coroners and their sureties, (e) and also marriage bonds. (f)

SECT. 7. *And be it further enacted,* That the books, papers, and accounts of the Secretary, shall be open to the inspection and examinations of Committees of the Senate or House of Representatives; and he shall furnish any such Committee with copies or extracts therefrom, as may from time to time be required.

SECT. 8. *And be it further enacted,* That the Secretary shall give bond, to the Governor for the use of the state, for the due and faithful discharge and performance of the several trusts to him committed, himself in the sum of Two Thousand Dollars, and two sufficient sureties in the sum of One Thousand Dollars, each; which bonds shall be duly recorded in the Recorder's Office, in the county where the Governor shall reside; and copies thereof shall be admitted as evidence; as copies of other public records in the same office are.

SECT. 9. *And be it further enacted,* That the seal heretofore

(c) As in chap. 2. b. passed February 22, 1777.

(d) As to security by State Treasurer, see after in chap. 21. c.

(e) As to Sheriffs, see after in chap. 32. c.

(f) As to marriage bonds see before chap. 211. b. sects. 5, 6—and after in chap. 28. c. sect. 4.

heretofore used as the Great Seal, (g) shall be, and is hereby declared to be the Great Seal of the state.

C H A P.  
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1793.

SECT. 10. *And be it further enacted,* That the Secretary shall keep the said seal, and shall make out and record, and shall affix the said seal to all commissions, to instruments to which the Governor's signature is by law required, and to certificates for the authentication of instruments to be sent out of the state; provided that the said seal shall not be affixed to any commissions, or any instruments to which the Governor's signature is by law required, before the same shall have been signed by the Governor.

Secretary to keep and affix the Great Seal to all commissions, &c.

SECT. 11. *And be it further enacted,* That the Secretary shall cause a Great Seal to be made, of such device as the Governor shall approve, which shall hereafter be used, for the same purpose for which the said seal herein first mentioned is directed to be used; and when such new Great Seal shall be made, the seal first mentioned as aforesaid, shall be broken, and be no longer used as a seal.

To provide a new Great Seal.

SECT. 12. *And be it further enacted,* That the Secretary shall cause a seal of office to be made, of such device as the Governor shall approve; and all copies of records and papers in the said office, authenticated under the said seal, shall be evidence equally with the original records or papers.

And also a seal of office.

SECT. 13. *And be it further enacted,* That the Clerks of the Supreme Court, Prothonotaries, Registers, Records, and Clerks of the Orphans Court, shall, if their present seals of office be, in the opinion of the Governor, not conformable to the late change of the constitution of this state, (h) forthwith cause seals of their respective offices to be made, of devices as shall by the Governor be approved.

In what cases other public seals shall be changed.

SECT. 14. *And be it further enacted,* That all the powers formerly vested in the President alone, or in the President and Privy Council jointly, under the

Powers vested in the Governor,

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late

(g) Under the provision in art. 29, of the system of government of this state framed in the year 1776.

(h) See before chap. 131. b. "An act for devising and establishing seals to be made use of by divers officers in the respective counties of this state," passed February 2, 1786.

C. H. A. P.  
V.  
1793.  
and Secretary.

late constitution, and by the laws of this state, not provided for by the constitution, shall from and after the passing of this act, be vested in the Governor; but all licence of marriage, and other licences, shall be countersigned by the Secretary, and sealed with the seal of his office (i).

Passed February 2, 1793.

C. H. A. P. VI. c.

1793.

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

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That there shall be allowed to the Governor the annual salary of One Thousand Three Hundred and Thirty-three Dollars and One-third of a Dollar; to the Chancellor, the annual salary of Eight Hundred Dollars; to the Chief Justice of the Supreme Court, and to the Chief Justice of the Court of Common Pleas, the annual salary of One Thousand Dollars, each; to each of the other Justices of the Supreme Court, and of the Court of Common Pleas, Five Hundred Dollars; (a) to the Secretary, the annual salary of Four Hundred Dollars; and to each of the Members of the General Assembly Two Dollars, and to the Speaker of each House Two Dollars and Fifty Cents, each day during his or their attendance; and that every Member of the General Assembly shall be allowed, for his travelling charges, at the rate of Five Cents for every mile, to and from the place where the General Assembly is or shall be held.

Salary of the Governor.

Chancellor.  
Chief Justices.

Puisne Justices.

Secretary.

Daily Allowance to the Members of the General Assembly.

Mileage.

SECT.

(1) See also sect. 2. in chap. 27. c. after.

(a) See article 6 sect. 2, of the present constitution of this state adopted in 1792, directing the establishment of adequate salaries to those officers, and declaring the general fund out of which they are to be paid, as also the time and manner.

SECT. 2. *And be it enacted,* That the above salaries shall be paid at the treasury of this state, in quarterly payments; and that the salaries of the Governor and Secretary shall commence from the third Tuesday of January, One Thousand Seven Hundred and Ninety-three; and of the Chancellor and Judges aforesaid, from the first Tuesday of October next.

C H A P.  
-VI-  
1793.

When the salaries shall commence.

SECT. 3. *And be it enacted,* That the allowances to the Members of the General Assembly, the doorkeepers, and all contingent expences necessary for the accommodation of the two Houses, shall be paid at the treasury of this state, on warrants drawn by the Speakers of each House respectively.

Allowances, and contingent expences of the General Assembly, how paid.

SECT. 4. *And be it enacted,* That no fees, perquisites, or daily expences, or travelling charges, shall be paid or allowed to the Governor, from and after the passing of this act; nor to the Chancellor and Judges, from and after the first day of October next, other than the salaries aforesaid; except such fees as shall be allowed to the Chancellor and Judges for services done out of court; any law to the contrary notwithstanding.

No fees, &c. allowed to the Governor, Chancellor, or Judges.

Exception.

Passed February 2, 1793.

C H A P. VII. c.

An ACT to revive and perpetuate an act, intituled, An act to compel executors to give security for the faithful discharge of the duty reposed in them by their testators, and for other purposes. (a)

1793.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met; That the act, intituled, An act to compel executors to give security for the faithful discharge of the duty reposed in them by their testators, and for other purposes, passed the third day of February, One Thousand Seven Hundred and Eighty-seven, shall

Former act made perpetual.

(a) For this see chap. 146. b. passed Feb. 3. 1787.

C H A P.  
VII.

1793.

Bond of infant  
executor or exe-  
cutrix valid.In what cases  
letters testamen-  
tary may be  
granted to a Fe-  
male Covert.Shall give bond,  
if her husband  
die.Testamentary  
guardians shall  
give bond,Bonds to be in  
the name of the  
state.No judgment  
against executors  
or administra-

shall be revived, continue, and be perpetual from the end of this session of the General Assembly.

SECT. 2. *And be it enacted*, That all and every bond or bonds, to be executed agreeably to the directions of that act, by any infant above the age of seventeen years, appointed or named executor or executrix of any last will and testament, if such executrix should be unmarried, shall be as good and available in law, as if such infant had been above the age of twenty-one years, at the time of executing such bond or bonds.

SECT. 3. *And be it enacted*, That in case any married woman shall be appointed or named executrix of any last will and testament, letters testamentary shall be granted to such married woman, upon her husband's executing a bond agreeably to the directions of that act; which bond shall be good and available for such acts and things as are or ought to be done and performed during such marriage; and in case such husband shall die, the executrix aforesaid shall herself, after the death of such husband, execute a bond agreeably to the directions of that act, to operate, affect, and secure so much, and such parts, of the estate of the deceased, as shall be unadministered during the life of such husband.

SECT. 4. *And be it enacted*, That all testamentary guardians hereafter to be appointed, shall be, and are hereby required and obliged to give security for the faithful discharge of their duty, in such manner as is provided by the laws of this state, in cases of guardians otherwise appointed. (b)

SECT. 5. *And be it enacted*, That all bonds to be hereafter taken, agreeably to the directions of the said act, (c) shall be taken in the name of the State of Delaware; any thing in the said act to the contrary notwithstanding.

SECT. 6. *And whereas* the real estates of persons deceased are not sufficiently secured against improper sales, *Be it therefore enacted*, That from and after the passing

(b) For which see chap. 186. a. sects. 7, 8, 9, &c. Anno 1766.

(c) To wit. the said original act referred to and made perpetual in sect. 1. Ante, being chap. 146. b.

passing of this act, no judgment shall be had against any executor or executors, administrator or administrators, so as to affect and bind the real estate of any deceased person, without application being first made to the court, in which such suit shall be entered, or to the Clerk or Prothonotary in vacation, to appoint three or more good and substantial freeholders, to audit and determine all matters in controversy between the parties, according to the very right of the matter, and laws of the land, provided that no freeholder, named by either party, shall be appointed by the Clerk or Prothonotary; which said freeholders shall take the same qualifications, be entitled to the same reward, and whose award shall be either confirmed or rejected, as is usual in other causes. (d)

C H A P. VII.

1793.

tors, to bind the real estate, unless, &c.

Qualifications, reward, and report of Auditors.

SECT. 7. *Provided always*, That nothing in this act contained shall prevent any person or persons from commencing his, her, or their suit, against any executor or executors, administrator or administrators, of any deceased person, and a trial by juries as heretofore.

Suits may be commenced, and trial by jury, as heretofore.

Passed February 2, 1793.

C H A P. VIII. c.

An ACT for more certainly obtaining returns of impartial juries, and their better regulation.

1793.

WHEREAS a due regulation of juries is of the utmost importance to the liberty and happiness of the people,

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That every Sheriff and Coroner, before he enters upon the execution of his office, shall besides the qualifications now required by the constitution

Qualification of the Sheriff and Coroner, respecting the returns of jurors.

(d) For which see before chap. 64. a. sect. 4.—chap. 204. a. sects. 29, 30, 31:—chap. 89. b.—and after chap. 27. c. sect. 28.

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VIII.  
1793.

tution of this state; (a) take the following oath or affirmation, according to law: I, A. B. do swear, or affirm, that in executing every writ or precept, that shall come to my hand, for the return of jurors, I will not summon or return any man for a juror, who, as I believe or suspect, will be influenced, in determining any matter that shall come before him as a juror, by hatred, malice or ill will, fear, favour, or affection, or any partiality whatever.

What persons shall be summoned.

SECT. 2. And be it further enacted, That the Sheriff or other proper officer, to whom the return of process for trial of causes shall belong, shall summon and return, as jurors, sober and judicious persons, of fair characters, and none other. (b)

Returning officers shall, unless in cases of special juries, annex a panel to the Venire Facias Juratores.

SECT. 3. And be it further enacted, That every Sheriff or other officer, to whom the return of the *venire facias juratores*, or other process for the trial of causes before the Judges of the Supreme Court, of the Court of Common Pleas, of the Court of Oyer and Terminer and General Gaol Delivery, or the Court of General Quarter Sessions of the Peace and Gaol Delivery, doth belong, shall upon return thereof, unless in cases where a special jury shall be struck by rule of court, annex a panel to the said writ, containing the christian and fir names, additions, and places of abode, of a competent number of jurors; the names of the same persons to be inserted in the panel annexed to every such writ, for the trial of all issues in civil and criminal causes, at the said courts in each respective county; which number of jurors, in any county shall not be less than thirty-six, nor more than sixty, without direction of two or more of the judges of such court respectively, who are hereby empowered, and required, if they see cause, by order under their hands, to direct a greater number, not exceeding eighty-four; and then the number so directed shall be the number to serve on such juries respectively; and the Sheriff, or other returning officer in every county respectively, shall summon, in writing, each of the said jurors, at least

What it shall contain

The same names to be inserted in the panel annexed to every such writ.

Number of jurors.

May be enlarged.

Shall be summoned ten days.

(a) In art. 9.

(b) And not having any matter of fact at issue depending for trial at the same court as Per chap. 204. s. sect. 27.

least ten days before the day of the return of the said writ or process.

C H A P.  
VIII.

SECT. 4. *And be it further enacted,* That the name of each and every person, who shall be summoned and impaneled, shall be written on several and distinct pieces of parchment or paper, being all as nearly as may be of equal size, by the Clerk or Prothonotary of the Court, or his agent, who shall, by direction and under the care of the judges therein presiding, roll the the said pieces, severally, in the same manner as nearly as may be, and put them together in a box, to be provided by the said Clerks or Prothonotary for that purpose; and when any cause shall be brought on to be tried, some indifferent person, by the direction of the court, may and shall, in open court, draw out twelve of the said pieces of parchment or paper, one after another; and if any of the persons, whose names shall be so drawn, shall not appear or be challenged and set aside, then such further number, until twelve persons be drawn, who shall appear, and, after all causes of challenge, be allowed as fair and indifferent; and the said twelve persons, so first drawn, appearing and allowed, their names being marked in the panel, and they being sworn or affirmed, shall be the jury to try the cause; and the names of the persons so drawn, and sworn or affirmed, shall be kept apart by themselves in some other box, to be provided as aforesaid, and kept for that purpose, till such jury shall have given in their verdict, and the same is recorded, or until the jury shall by leave of the court, or consent of the parties, be discharged; and then the same names shall be rolled up again, and returned to the first mentioned box, there to be kept with the other names remaining at that time undrawn; and so, *toties quoties*, as long as any cause remains there to be tried.

1793.

Names of the jurors summoned to be rolled up, and put into a box.

How a jury shall be drawn therefrom.

Names of the jury drawn to be kept apart till discharged;

Then returned to the first box.

SECT. 5. *Provided always, and be it enacted,* That if any cause shall be brought on to be tried, in any of the said courts respectively, before the jury in any other cause shall have brought in their verdict or be discharged, it shall and may be lawful for the court to order twelve of the residue of the said pieces of parchment or paper, not containing the names of any

How a jury shall be drawn, if a cause be brought on before the jury in another cause be discharged.

of

C. H. A. P.

VIII.

1793.

Jurors making  
default,

of the jurors in such other cause, to be drawn in manner aforesaid, for the trial of the cause which shall be brought on to be tried.

SECT. 6. *And be it further enacted*, That every person, whose name shall be so drawn as aforesaid, and who shall not appear, after being openly called three times, due proof being made by the oath or affirmation of the Sheriff, or some other credible person, *That such person so making default had been lawfully summoned*, shall forfeit and pay for every such default, in not appearing upon call as aforesaid, unless some reasonable cause of his absence be proved to the satisfaction of the court, such fine, not exceeding Ten Dollars, nor less than Three Dollars, as the court shall think proper to inflict; which fine the Sheriff of the county, or other proper officer shall, within twenty days next ensuing, levy and pay to the Clerk or Prothonotary of the court. (c)

the fine.

How levied.  
To whom paid.Tales de Circumstantibus awarded.  
By whom summoned.

Penalty for non-attendance.

In case of view, the viewiers appearing to be first sworn, before drawing, &amp;c.

SECT. 7. *Provided always, and be it enacted*, That, if a sufficient number of the persons so summoned to serve as jurors, shall not appear at any of the said courts respectively, or by reason of challenges, or otherwise, there shall not be a sufficient number of them ready for the trial of any cause then brought on to be tried; in such case, upon an order of the court for filling up the jury, *tales de circumstantibus* shall be immediately summoned and returned by the Sheriff, unless he be liable to some legal exceptions; and in such case to be returned by the Coroner, unless he also be liable to some such exception; and then to be returned by two proper and indifferent persons, to be appointed by the court for that purpose; and the persons thereupon summoned and returned are hereby required to attend, and serve as jurors at such court accordingly, under the penalties aforesaid, to be levied as aforesaid.

SECT. 8. *And be it further enacted by the authority aforesaid*, That where a view shall be allowed in any cause, six of the jurors named in the panel, or more, shall have the view, and such of them as appear upon the

(c) For other provisions relating to the fining of jurors for non-attendance, see chap. 48. a.—chap. 204. a. sect. 28.

the jury to try the said cause, shall be first sworn or affirmed to try the same, before any drawing as aforesaid, and so many only shall be drawn, to be added to the viewers who appear, as shall, after default and allowed challenges, make up the number of twelve, to be sworn or affirmed for the trial of such cause.

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SECT. 9. *And be it further enacted,* That the Clerk or Prothonotary, shall, from time to time enter or register, in a book to be kept for that purpose, the surnames alphabetically, of every such person as shall be summoned, and shall attend or serve as jurors at the said courts respectively as aforesaid, together with their christian names, additions, and places of abode, and also the times of their services; and every person so summoned, and attending or serving as aforesaid, shall, upon application by him made to such Clerk or Prothonotary, have a certificate, testifying such his attendance or service; which certificate, such Clerk, or Prothonotary, is hereby directed and required to give without fee or reward; and the said book shall be transmitted by such Clerk or Prothonotary, to his or their successor or successors, from time to time.

Names of attending jurors to be registered.

Intituled to certificates.

SECT. 10. *And be it enacted,* That the Clerk or Prothonotary, of the said several courts, is hereby required to make out a list of the several jurors attending the court, together with the amount due to each juror for his attendance, to be approved and signed by the judges presiding in the said courts; and after such list shall be so approved and signed, the Clerk or Prothonotary shall make out an order, payable to each juror, or his order, for such sum as may be due for his attendance or service as aforesaid, (d) on the Treasurer of the county, who is hereby required and authorized to pay the same; and the said lists so made out, approved, and signed by the judges as aforesaid, shall be transmitted by the Clerk or Prothonotary to the Levy Court. (e)

List of jurors to be signed by the judges.

Order for payment.

Lists to be sent to the Levy Court.

Passed February 2, 1793.

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CHAP.

(d) For which see after in chap. 27. c. sect. 23--and chap. 104. c. passed Feb. 9, 1796.

(e) For preceding acts of Assembly relating to jurors, see chap. 48. a.—chap. 94. a.—chap. 204. a.

C. H. A. P.  
IX.

C. H. A. P. IX. c.

1793.

An ACT for the erecting and keeping in good repair, a bridge over Murderkill-creek; where the state road crosses the said creek; at a place called Zachariah Goforth's Old Landing.

Commissioners appointed for building the bridge.

Space to be left between the wings, &c.

Breadth of the draw or platform.

Penalty for damaging it.

Mode of recovery.

Commissioners accounts how settled,

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That William Berry, esq; James Douglals and Benjamin Dill, gentlemen, or the survivors or survivor of them, are hereby nominated and appointed Commissioners for the building and erecting a draw-bridge across Murderkill creek, where the state road now crosses said creek, at a place called Zachariah Goforth's Old Landing.

SECT. 2. And be it enacted, That there shall be left clear, in the place between the abutments, wings and other works, erected for the use, support and preservation of the said bridge, the space of twenty feet at all times, for the waters of the said creek to pass through; and that there shall be left between the said abutments, and over the channel of the said creek, the clear space of nineteen feet at least; over which shall be erected and placed a draw or platform, of the breadth of eighteen feet; with good and sufficient chains for raising up the same, for the accommodation of all such persons as have occasion to pass with any vessel through the said bridge; who are hereby obliged to raise and lower the said draw or platform, so that the same receive no damage thereby, under penalty of Four Dollars for every neglect or offence therein; to be recovered with costs, in the name of the state, before any Justice of the Peace of Kent county, to and for the use of Kent county: And for the purpose of building and erecting the said bridge, the said Commissioners or the survivors or survivor of them, are hereby empowered and required to purchase materials, and employ labourers and other proper persons for that purpose; and any two Justices of the Peace of Kent county are hereby directed and required to examine and adjust the accounts of the said Commissioners, after

after the said bridge shall be so built; and, after such settlement, the said justices shall draw an order on the Treasurer of said county, to pay out of the public monies in his hands levied for emergencies, the said accounts so adjusted, and the same shall be allowed to the said Treasurer on the settlement of his accounts, by the Levy Court, or a Committee thereof.

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IX.  
1793.

SECT. 3. *And be it enacted*, That the Levy Court of Kent county, shall, after the said bridge shall be erected and built as aforesaid, cause the said bridge to be supported, maintained and repaired from time to time; always keeping up a draw or platform as aforesaid, in like manner as other bridges are supported, maintained and repaired in said county.

and paid  
Bridge when  
finished, to be  
supported by  
Kent county.

SECT. 4. *And be it enacted*, That the said draw-bridge shall be deemed and taken to be a common highway.

Deemed a com-  
mon highway.

Passed February 2, 1793.

CHAP. X. c.

An ACT concerning vacant and uncultivated lands. (a)

1793.

WHEREAS the minds of the good people of this state are much alarmed and disquieted by warrants for surveying lands, being issued without the authority of the state; and it appears that the peace thereof will be greatly disturbed by such proceeding: Therefore, for preventing the evil consequences thereof,

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That, if any person or persons, inhabitants of this state, shall, after the passing of this act, take or receive any warrant, or shall make, or cause to be made, any survey in consequence of such warrant, or shall

Taking any  
warrant, making  
survey, or re-  
ceiving any pa-  
tent, &c. for  
vacant land,  
from persons un-  
authorized by  
the state,

(a) See after chap. 45. c. an act for opening a Land Office for the sale of such, &c.—and chap. 57. c. a supplement thereto.

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X.

1793.

Penalty.

No warrant issued since July 4, 1776, shall be laid, nor patent granted, &amp;c.

Penalty.

shall take or receive any grant, deed, indenture, or other writing, from any person or persons not acting under the authority of this state, for any vacant and uncultivated lands in this state, the person or persons so offending shall forfeit and pay for every such offence, the sum of One Hundred Dollars, to be recovered in any Court of General Quarter Sessions of the Peace and Gaol Delivery.

SECT. 2. *And be it enacted*, That no warrant issued since the fourth day of July, One Thousand Seven Hundred and Seventy-six, shall be laid or surveyed by any surveyor; nor any patent granted, or deed received, on any warrant or survey, either issued or made since the fourth day of July aforesaid, under the penalty of One Hundred Dollars for each and every such warrant, survey, patent, or deed, to be recovered as aforesaid. (*b*)

*Passed February 2, 1793.*

## C H A P. XI. c.

1793.

*An ACT to empower the Treasurer of this state to pay Captain Enoch Anderson a certain sum of money, due him on the settlement of his recruiting accounts.*

The Treasurer to pay Captain Enoch Anderson One Hundred and Twenty-two Pounds Two Shillings and Eight-pence, with interest.

**B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the Treasurer of this state be empowered and directed to pay unto Captain Enoch Anderson, or his order, the sum of One Hundred and Twenty-two Pounds Two Shillings and Eight-pence, with interest from the passing of this act until the same shall be paid, out of such monies as may be in his hands.

*Passed February 2, 1793.*

CHAP.

(*b*) See chap. 45. c. sects. 10, 11, that nothing in this act (chap. 10) shall be construed so as to vacate or annul any warrant issued between Jan. 1, 1776, and Jan. 1, 1792, or any survey, patent, deed, or grant, made or obtained thereon, between the said times; but such title to any lands in this state is there confirmed.

## C H A P. XII. c.

C H A P.  
XII.

1793.

*An ACT to provide for the opening and improving a road from Christiana Bridge to the line between this state and the state of Maryland, where a road leading from Peach Bottom Ferry and Bald Friar Ferry intersects the said line.*

**W**HEREAS, pursuant to an act of the state of <sup>Preamble.</sup> Pennsylvania, a road hath been laid out, beginning at the river Susquehanna, at or near the Ferry commonly called and known by the name of Peach Bottom Ferry, and running towards such part of the navigable water of Christiana creek, in the state of Delaware, until it intersects the line of the state of Maryland. *And whereas* the owners of the land over which the aforesaid road will run, continuing the same from the Pennsylvania line, through part of the state of Maryland, three miles and forty-four perches, until it intersects the Bald Friar Road, at or near the west side of Big Elk, have signed an agreement for the purpose of opening the same road as aforesaid. *And whereas* the aforesaid road called the Bald Friar Road, from the west side of Big Elk, where it is intersected by the Peach Bottom Ferry Road aforesaid, running from thence to the line of the state of Delaware, about thirty perches northward of the place where the Nottingham Road, leading from Christiana Bridge through New-Ark, crosses the said line, hath been laid out pursuant to an act of the state of Maryland. *And whereas* the road at present used, leading from the intersection of the aforesaid Bald Friar Ferry Road with the Delaware line aforesaid; to Christiana Bridge aforesaid, does not run in a direct course, nor on good ground; and it would be conducive to the convenience and ease of the transportation of the produce of the country generally, and be cooperating with the plans of the states of Pennsylvania and Maryland, for straightening of the roads from Peach Bottom Ferry and Bald Friar Ferry to the navigable water of Christiana creek, in the state of Delaware, to lay out a good and convenient road for the purpose aforesaid.

SECTION

CHAP.  
XII.

1793.

Commissioners  
appointed to lay  
out the road.

Its direction.

To employ Sur-  
veyors, &c.

To make return  
to the Supreme  
Court.

Procedure of the  
court thereon.

Chap. 184. a.

To be deemed a  
state road.

SECTION I. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware, That Jacob Broom, William Cooch, William Armor, James M'Cullough and Peter Williams, be, and they are hereby appointed Commissioners, and they, or a majority of them, are hereby authorized and required to view and lay out a road, beginning at the Maryland line, where the road leading from Peach Bottom Ferry and Bald Friar Ferry intersects the same, and running the most direct course, consistent with the most level and otherwise eligible ground, to the intersection of a road called the Nottingham Road and the New London Road, in the village of New-Ark, and from thence to Christiana Bridge, as in the opinion of the said Commissioners, or a majority of them, shall be most conducive to the convenience and ease of the transportation of the produce of the country generally, and in such manner as they shall judge to be most advantageous to the public, and least injurious to any person or persons whatsoever; and to employ such Surveyor or Surveyors, labourers and workmen as they shall think necessary, in platting and laying out the same; and that the said Commissioners, or any three of them, shall make a return thereof to the Justices of the Supreme Court, to be held at New-Castle, for the county of New-Castle aforesaid, describing the said road in writing, under their hands, with courses and distances, with a fair map or plan of the same.*

SECT. 2. *And be it enacted, That the Justices of the Supreme Court shall, and they are hereby required to receive the return of the Commissioners, and take the same into their consideration, to exercise the same power, and to proceed in like manner, as is directed by an act, intituled, A supplementary act for the amendment of an act of the General Assembly of this government, intituled, An act for the better regulation of the roads in New-Castle county.*

SECT. 3. *And be it enacted, That the same road, when so established and recorded, shall from thenceforth be deemed, taken and allowed to be a state road; and that the Justices of the Court of Quarter Sessions of the Peace and Gaol Delivery shall not have any power or authority, in any manner whatsoever, to change*

change or alter such road to be laid out and returned as aforesaid; or any part of the same; any law, usage, or custom to the contrary in any wise notwithstanding

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1793

SECT. 4. *And be it enacted,* That each of the Commissioners, hereby appointed for laying out and returning the said road, shall receive for their trouble, in attending on the said business, One Dollar and Fifty Cents per day; each of the Surveyors Two Dollars per day; and the chain-carriers and markmen Sixty-seven Cents per day, each; and no more.

Allowance to the Commissioners, &c.

SECT. 5. *And be it enacted,* That the Levy Court of the county of New-Castle, shall provide for the expence of laying out the said road, in like manner as two Justices of the Peace, together with the Overseer or Overseers of the Poor, were directed in the case of roads by the aforesaid recited supplementary act; and that the said road, after the same has been so laid out, shall be cleared, made, and supported by the hundred of Whiteclay creek, in like manner as other roads in the said hundred are supported or repaired.

Provision for laying out the road.

SECT. 5.

How supported.

SECT. 6. *And be it enacted,* That, if any person or persons shall presume to obstruct the aforesaid state road, to be laid out and confirmed as aforesaid, or to turn the same, or shall commit any nuisance therein, and do not remove the same forthwith, such person or persons so offending, and being duly convicted thereof, shall be fined in the sum of Five Pounds, to be applied for the removing of such nuisances, and repairing and clearing other roads within the hundred where the offence shall be committed.

Penalty for obstructing it, &c.

SECT. 7. *And be it enacted,* That the road now leading from Christiana Bridge to New-Ark, and from thence to the state line, shall, after the said new road is laid out, and made proper for the transportation of grain and other burthens, be no longer supported as heretofore by the said hundred.

When the present road to be vacated.

Passed February 2, 1793.

CHAP.

CHAP.  
XIII.

C. H. A. P. XIII. c.

1793.

An ACT for erecting a causeway and bridge over the head of the Broadkilm creek, in Sussex county.

**W**HEREAS great benefit would arise to the inhabitants of Broadkilm hundred, in the county of Sussex, and to the public in general, if a causeway and bridge were built across the head of the Broadkilm creek in the hundred aforesaid:

Commissioners appointed to erect the bridge and causeway.

SECTION 1. *Therefore be it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That William Peery, George Conwell, Jacob Hazzard, and Thomas Fisher, or a majority of them, are hereby nominated, authorised, and impowered to build and erect a causeway and bridge over the creek aforesaid, to begin and run from a white-oak stump, being a boundary between the lands of William Peery and Jacob Hazzard, situate on the north side of the said Broadkilm creek, near the foot of a causeway already erected by the said parties, and from thence a southerly course to the south side or shore of said creek, being land in tenure and possession of George Conwell; and also to erect, build, and make all proper and necessary abutments, wings, banks, ways, and other works for the use, support, and preservation of said intended bridge and causeway.

Space to be left over the channel.

Breadth of the draw or platform.

Penalty for damaging it.

Mode of recovery.

SECT. 2. *And be it further enacted by the authority aforesaid,* That, in the deepest part of the channel of said creek, there shall be left the clear space of sixteen and a half feet at least, over which shall be erected and placed a draw or platform, of the breadth of sixteen and a half feet, with good and sufficient chains, and other things necessary for raising up the same, for the use of all and every such person or persons as shall have occasion to pass or repass with any vessel through the said bridge; who are hereby obliged carefully to raise and lower the said draw-bridge, so as the same receive no damage thereby, under the penalty of Ten Shillings for every neglect or offence therein, together with the expence of repairing and amending the said bridge, to be recovered, with costs, in the name of

of any one of the Commissioners aforesaid, before any Justice of the Peace of said county, and applied to the use of the said bridge.

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XIII.  
1793.

*Passed February 2, 1793.*

C H A P. XIV. c.

*An ACT for the cutting of a canal, to begin at or near the mouth of Lewis's Ditch, in Cedar creek, and to run into the Delaware bay or Mispillion creek.*

1793.

**W**HEREAS divers inhabitants of the county of Preamble. Sussex, for the purpose of improving the navigation of Cedar creek, have prayed of this General Assembly, that a canal be cut at or near the mouth of Lewis's ditch intersecting said creek, and to run from thence northerly of the Cedar Hammock, situate near the shore of the Delaware bay, into the said bay, or otherwise into Mispillion creek, which ever shall be deemed most convenient and practicable.

**SECTION 1.** *BE it therefore enacted by the Senate and* Commissioners appointed. *House of Representatives of the state of Delaware in General Assembly met, That Daniel Rogers, Joseph Hasslet and John Mircalf, be, and are hereby nominated, authorized and impowered, to cut a canal, to begin at or near the mouth of Lewis's ditch, intersecting Cedar creek, and to run from thence northerly of the Cedar Hammock, situate near the shore of the Delaware bay, into the said bay, or otherwise into Mispillion creek, which ever, by the persons herein before appointed Commissioners, shall be deemed most convenient and practicable.*

**SECT. 2.** *And, for the better securing a sufficient* Enabled to receive subscriptions. *stock of money, for the purpose of defraying the expence of cutting said canal, Be it enacted, That the persons herein before appointed Commissioners, the survivor or survivors of them, be, and are hereby authorized, impowered and enabled, to receive of and from any person or persons, any sum or sums of money which are, have been, or hereafter shall be, sub-*

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How applied.

To build a  
bridge over the  
canal.Penalty for ne-  
glect or refusal.Mode of recove-  
ry.Settlement of  
their accounts.Surplus of sub-  
scriptions to be  
refunded.

scribed and given for the purpose of defraying the ex-  
pence of cutting said canal; *Provided*, That the same  
in the whole, do not exceed the sum of Five Hun-  
dred Pounds; and to apply the same to and for the  
use of cutting the said canal, and to and for no other  
use or purpose whatsoever.

SECT. 3. *And be it further enacted*, That, after cut-  
ting the said canal in manner aforesaid, the said Com-  
missioners are hereby directed and required to build  
and place over the said canal, within two months af-  
ter the same shall be cut, a good and sufficient floating  
or draw-bridge, at least twelve feet wide, which ever  
by the said Commissioners, or a majority of them,  
shall be deemed and thought the most convenient and  
eligible, for the accommodation of all and every such  
person or persons as shall have occasion to pass or re-  
pass, to or from the Cedar Hammock aforesaid, with  
their waggons, carts, carriages or horses, or other-  
wise howsoever; any thing in this act contained to  
the contrary in any wise notwithstanding.

SECT. 4. *And be it enacted*, That, if the said Com-  
missioners, or the survivors or survivor of them, shall  
neglect or refuse to build and place a good and suf-  
ficient floating or draw-bridge, properly secured at  
each end, at least twelve feet wide, across the said ca-  
nal, within two months after the same shall be cut,  
sufficient for the accommodation of all and every such  
person or persons, as shall have occasion to pass or re-  
pass to or from the said Cedar Hammock, with their  
waggons, carts, carriages, or horses, the said Com-  
missioners, or the survivors, or survivor of them, shall  
forfeit and pay the sum of Fifty Dollars for every  
month the said Commissioners shall neglect or refuse  
as aforesaid, to be recovered in the Court of Quarter  
Sessions, or any other Court of Record in Suffex  
county; one half thereof to the use of the state, and  
the other half thereof to such person as may sue or  
prosecute for the same.

SECT. 5. *And be it enacted*, That the said Commis-  
sioners, or the survivors or survivor of them, their  
executors, or administrators, shall settle their accounts  
for cutting the said canal, with the Levy Court of  
Suffex county; and, if on the settlement of such ac-  
counts,

counts, any sum of money, subscribed for the purpose aforesaid, should remain unappropriated; the same shall be refunded to the subscribers in proportion to the amount of their respective subscriptions.

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XIV.  
1793.

Passed February 2, 1793.

C H A P. XV. c.

An ACT granting to Betty Cannon and Isaac Cannon, in the manner therein prescribed, for the term of fourteen years, the sole and exclusive right of keeping a ferry over the river Nanticoke, in Sussex county, known by the name of Cannon's Ferry.

1793.

Passed February 2, 1793.—Private act.

C H A P. XVI. c.

An ACT to enable Jacob Broom to build a mill upon the main branch of Murderkill creek.

1793.

Passed February 2, 1793.—Private act.

C H A P. XVII. c.

An ACT for the better improvement of a tract or parcel of meadow, marsh and cripple, commonly called the Mill-creek marshes, situated on St. Jones's river, in Kent county.

1793.

Passed February 2, 1793.—Private act.

CHAP.

C H A P.

XVIII.

1795.

C H A P. XVIII. c.

An ACT to amend the laws of this state, for raising county rates and levies,

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, from and after the passing of this act, the Levy Court and Court of Appeal in the respective counties of this state, shall be composed of Commissioners, to be elected by the people as hereinafter is directed; *That is to say*, Eleven Commissioners for the county of New-Castle, nine Commissioners for the county of Kent, and ten Commissioners for the county of Suffex, to be chosen by the inhabitants qualified to vote for Members of the General Assembly; who shall elect, in the county of New-Castle, two good and substantial freeholders residing in each of the hundreds of Christiana and Appoquinimink, and one good and substantial freeholder residing in each of the other hundreds in the county aforesaid; and in the county of Kent, two good and substantial freeholders residing in each of the hundreds of Duck-creek and Millpillion, one good and substantial freeholder residing in each of the hundreds of Little-creek and Jones's, and three good and substantial freeholders residing in the hundred of Murderkill; and in the county of Suffex, one good and substantial freeholder residing in each of their respective hundreds, at the same time and place, and in the same manner, that Senators and Representatives for the respective counties are chosen.

Levy Court and Court of Appeal to be composed of commissioners.

Their number.

Residence.

How and when elected.

Their power.

Who shall be ineligible.

SECT. 2. *And be it further enacted*, That the Commissioners elected as aforesaid, or a majority of them, attending in their respective counties, are hereby authorized and required to exercise all the powers, and perform all the duties, heretofore vested in the Levy Court and Court of Appeal, in this state, by virtue of any law of this state.

SECT. 3. *And be it enacted*, That no Commissioner shall, during the time for which he shall have been elected, be elected, nominated, or appointed County Treasurer;

Treasurer: And that no County Treasurer shall be capable of being elected one of the Commissioners aforesaid, or of holding a seat in, or exercising any power as a Member of, the Levy Court and Court of Appeals.

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SECT. 4. *And be it enacted,* That all the books and papers, relating to the treasury of the respective counties, shall be open to the inspection of the Levy Court and Court of Appeal of their respective counties, and to the Committees nominated to settle with the Treasurer.

Treasury books open to inspection.

SECT. 5. *And be it further enacted,* That, immediately after the first meeting of the Commissioners, in each county after the first election, they shall be divided as nearly as may be, into three classes; the seats of the first shall be vacated at the expiration of the second year; of the second class at the expiration of the third year; and of the third class at the expiration of the fourth year.

Commissioners classed.

Vacation of their seats.

SECT. 6. *And be it further enacted,* That the vacancies which shall happen as aforesaid, by the expiration of the times for which the Commissioners shall have been elected, or by death, removal, inability, or otherwise, shall be supplied by new elections in the several counties, as herein before directed; and, in order that the inhabitants and electors shall be duly notified, the Clerk of the Peace of the county, shall cause at least ten advertisements to be posted up in different parts of the county, and five advertisements to be transmitted to the Assessor of the hundred, where such vacancies may happen, who is hereby required to have the same posted up at the most public places of such hundred, at least ten days before the day of election.

Vacancies how supplied.

Electors how notified.

SECT. 7. *And be it further enacted,* That the Commissioners of the said Levy Court and Court of Appeal, and the Assessors that may attend said courts in the respective counties, shall be allowed One Dollar and Thirty-three Cents for every day's attendance, and no more.

Allowance to Commissioners and Assessors.

SECT. 8. *And be it further enacted,* That so much

Repeal.

of

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1793.

of the act for raising county rates and levies, (a) as by this act is altered, is hereby repealed and made void.

Passed June 14, 1793.

C H A P. XIX. c.

An ACT to regulate the courts in this state.

1793.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, from and after the first Tuesday of October next, the Court of Chancery, Supreme Court, Court of Common Pleas, and Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be held in each county twice in every year; (b) and that the terms of the said several courts shall commence and be held as follows, *That is to say*, The Supreme Court in New-Castle county on the second Tuesday of April and October, in Kent county on the fourth Tuesday of April and October, and in Suffex county on the second Tuesday after the terms shall commence in Kent county; and the Court of Common Pleas shall commence and be held in Suffex county on the second Tuesday after the terms of the Supreme Court shall commence in Suffex county, in Kent county on the second Tuesday after the terms of the Court of Common Pleas shall commence in Suffex county, and in New-Castle county on the second Tuesday after the terms of that court shall commence in Kent county. (c)

Terms,

of the Supreme Court.

Of the Court of Common Pleas.

Of the Court of Chancery.

SECT. 2. *And be it enacted*, That the Court of Chancery shall be commenced, and held in each county, on the first Tuesdays next immediately succeeding the

(a) Chap. 102. s. 16 Geo. 11.

(b) See art. 6, of the constitution of this state adopted in 1792—and the schedule.

(c) Times of holding those two courts altered in chap. 61. c. after.

the times above appointed, for the commencing and holding the Courts of Common Pleas. (d)

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SECT. 3. *And be it enacted*, That the Chancellor and Justices of the respective Courts aforesaid, shall and may, from time to time, as they shall judge it convenient and necessary, adjourn over the terms aforesaid for the purpose of trying causes, receiving motions, hearing arguments, laying rules, and doing all other business necessary for the expediting and ending suits.

Terms may be adjourned over for trying causes, &c.

SECT. 4. *And be it enacted*, That all actions, suits, indictments, pleas, writs, process or processes, relative to any cause civil or criminal, which shall be depending before, or returnable to, the Court of Appeals, the Court of Chancery, Supreme Court, Court of Common Pleas, or Court of General Quarter Sessions of the Peace and Gaol Delivery, when this act shall commence, shall depend and be returned to the court they severally belong; and shall be heard, tried and determined by the said respective courts, on the days and times herein appointed, in as full and ample manner as any suit, action, indictment, plea, writ, process or processes, now can, or ever could have been, tried, heard and determined before any such courts.

Suits, &c. pending at the commencement of this act, where triable.

SECT. 5. *And be it enacted*, That all commitments and recognizances for all felonies, crimes, offences, or misdemeanors, committed in any county, and triable by law before the Court of Oyer and Terminer and General Gaol Delivery, or before the Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be returned to the said courts respectively, having cognizance of such felonies, crimes, offences or misdemeanors, by the Justice or Conservator of the Peace (e) taking such recognizances, or Sheriff or Gaoler to whom such commitment is directed, on the first day of holding the Supreme Court, or Court of General Quarter Sessions of the Peace and Gaol

Commitments and recognizances to what court, and when, returnable.

(d) Time of holding the Court of Chancery altered first in chap. 61. c. sect. 2-- and again in chap. 79. c.

(e) See art. 8, sect. 1, of the constitution of this state adopted in June, 1792, for the persons vested with that authority.

C H A P.  
XIX.

1793.

Power of the  
judges in certain  
cases.

Actions com-  
menced in the  
Common Pleas  
after the first  
Tuesday of Oc-  
tober, 1793,  
not to be re-  
moved ;

nor indictments  
in the Quarter  
Sessions, found  
after 1st Octo-  
ber, 1793,

except for capi-  
tal offences,

Gaol Delivery, respectively, in the several counties  
aforesaid.

SECT. 6. *And be it enacted,* That the Justices of the  
Supreme Court, and Court of Common Pleas, shall  
respectively have power to make regulations for the  
returns of all judicial writs, entering rules thereon,  
and on the Sheriff, filing declarations and other sub-  
sequent pleadings, in vacation, and all other rules  
necessary for the bringing forward and expediting the  
trial of causes, and finishing executions.

SECT. 7. *And be it further enacted,* That no writ or  
writs of error, (*f*) *habeas corpus*, or *certiorari*, or any o-  
ther writ or writs, process or processses, to be sued forth  
after the first Tuesday of October next, by any per-  
son or persons whatsoever, to stay or remove any ac-  
tion, bill, plaint, suit or cause, to be brought or  
commenced in the Court of Common Pleas after the  
said first Tuesday of October next, shall be received  
or allowed by the Judge or Judges of the said Court of  
Common Pleas, wherein or to whom any such writ or  
writs shall be directed and delivered ; but that he and  
they shall and may proceed in the said cause or causes,  
as though no such writ or writs were sued forth, or  
delivered to him or them.

SECT. 8. *And be it enacted,* That no writ or writs  
of error, (*f*) *habeas corpus*, or *certiorari*, or any other  
writ or writs, process or processses, to be sued forth af-  
ter the first day of October next, by any person or  
persons whatsoever, to stay or remove any indictment  
found or depending, or hereafter to be found or de-  
pending, in any Court of General Quarter Sessions of  
the Peace and Gaol Delivery within any county, ex-  
cept for the removal of an indictment or indictments  
for capital offences, shall, after the first Tuesday of  
October next, be received or allowed by the said  
Court of General Quarter Sessions of the Peace and  
Gaol Delivery, wherein or to whom any such writ or  
writs shall be directed or delivered ; but that the said  
courts shall proceed in the said indictment or indict-  
ments,

(*f*) Except writs of errors issued from the High Court of Errors and Appeals as  
established in art. 7, of the constitution adopted in June, 1792.

ments, as though no such writ or writs were sued forth or delivered to them or any of them.

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1793.

SECT. 9. *And be it enacted,* That it shall and may be lawful for any party or parties, to any suit or suits depending in the Court of Common Pleas, which may have originated previous to the first Tuesday of October next, after that day to remove all and every such suit or suits, before issue joined, by *habeas corpus* or *certiorari*, at any time previous to the first Tuesday of October, One Thousand Seven Hundred and Ninety-four, in like manner as they now can be moved in such causes; (2) any law to the contrary notwithstanding.

What suits may be removed, and when.

SECT. 10. *And be it enacted,* That the High Court of Errors and Appeals (b) shall be held and kept, once in every year, at the town of Dover, in Kent county, on the first Tuesday in August, to receive, hear and judge of appeals in all matters of law and equity, that may come before the said court from the Court of Chancery, the Supreme Court, and the Court of Common Pleas, in every county in this state.

High Court of Errors and Appeals when held.

SECT. 11. *And be it enacted,* That the Sheriff of Kent county, for the time being, shall be attendant on the said High Court of Errors and Appeals during the sitting thereof, and be the officer for the purpose of executing the orders and process of the said court; and in case of neglect or refusal so to do, shall be liable to the like pain, penalty, or forfeiture, as he is in the Court of Chancery, Supreme Court, or Court of Common Pleas.

Sheriff of Kent to be attendant thereon.

Penalty for neglect.

SECT. 12. *And be it enacted,* That the act, intitled, *An act to establish a Court of Appeals in this state*, shall be, and is hereby repealed from and after the first Tuesday of October next.

Chap. 189. b.

Former act repealed.

Passed June 14, 1793:

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CHAP.

(2) For which see chap. 227. b.

(b) For the establishment of this court, see art. 7, of the constitution of June 179

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1793.

An ACT to vest certain powers in the Judges of the Court of Common Pleas.

Procedure to obtain licence to keep an inn;

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met; That from and after the passing of this act, no licence to keep any inn, tavern, ale-house, ordinary, victualling-house, or other public house of entertainment, shall be granted until a petition be first presented to the Judges of the Court of Common Pleas, when they shall be sitting as a Court of General Quarter Sessions, and a recommendation be signed by the same judges in favour of the person applying for such licence. (a)

and at what court.

SECT. 2. *And be it further enacted,* That it shall and may be lawful for the judges aforesaid, to receive petitions and grant recommendations, for such licences, at all times when they shall hold Courts of General Quarter Sessions; any law to the contrary notwithstanding. (b)

Passed June 14, 1793.

1793.

C H A P. XXI.

An ACT requiring the State Treasurer to give security. (c)

Treasurer to give bond annually.

**B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met. That from and after the passing of this act, the State Treasurer shall annually, in the month of March, become

(a) See chap. 75. s. 13 Geo. II. for the original act for regulating Innholders, &c.  
(b) As in chap. 2. b. sect. 5, Anno, 1777.  
(c) By art. 8. sect. 3, of the constitution of this State, Anno, 1792, the State Treasurer is to be appointed annually by the House of Representatives, with the concurrence of the Senate—See this in the several annual tax acts, and in chap. 62. c. sect. 2.

to and to bind to the state of Delaware, with two or more sufficient sureties, to be approved by the Governor or Commander in Chief for the time being, in an obligation of Thirty Thousand Dollars, conditioned for the true and faithful performance of the duty which by the laws of this state, to his said office shall belong; (d) and in case of neglect or refusal of the said State Treasurer so to do, or of his death or inability in the recess of the General Assembly, it shall and may be lawful for the Governor or Commander in Chief, for the time being, to appoint some fit person to supply his place, who shall give security as herein before directed.

CHAP. XXI.

1793.

In case of neglect, &c. his place how supplied.

Passed July 14, 1793.

C H A P. XXII. c.

An ACT to punish the practice of kidnapping free Negroes and free Mulattoes, and for other purposes.

1793.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That from and after the passing of this act, every person who shall feloniously kidnap, take and carry away from this state, into any other state, any free Negro or free Mulatto; or shall aid or assist any person or persons in committing such offence, and being thereof legally convicted or attainted by verdict of a jury, or confession of the party offending, or shall stand mute and not directly answer to the indictment, indorsed with the name of the prosecutor or prosecutors, if required to be indorsed, shall be publicly whipped on his or her bare back with thirty-nine lashes well laid on, and shall stand in the pillory for the space of one hour, with both of his or her ears nailed thereto, and at the expiration of

Persons feloniously kidnapping any free Negro or Mulatto, how punished.

(d) For the general powers and duties of the State Treasurer see chap. 247. b, sects. 2, 3, 7, 9.—and chaps. 59. c. 77. c. 106. c. &c.

CHAP.  
XXII.

1793.

Persons prosecuted for certain offences, required to give special bail.

of the hour, shall have the soft part of both of his or her ears cut off.

SECT. 2. *And be it enacted,* That every person, who shall hereafter be guilty of any offence or offences, contrary to the true intent and meaning of an act, intituled, *An act to prevent the exportation of slaves, and for other purposes,* (a) or of an act, intituled, *An additional supplementary act to an act,* intituled, *An act to prevent the exportation of slaves, and for other purposes,* (b) and shall be prosecuted for the same, shall be obliged to give good and sufficient bail and security, to the officer executing the *capias* against him or them, to appear in the court out of which such *capias* shall issue, at the day and return of such writ, to answer to such suit or prosecution; and shall likewise, at the time of such appearance, give sufficient bail or security, in the said court, to answer and pay the forfeiture and penalty incurred for such offence or offences, in case he, she or they shall be convicted thereof, or to yield his, her or their bodies to prison.

Permit to export a slave, by whom grantable.

SECT. 3. *And be it enacted,* That from and after the first Tuesday of October next, the Justices of the Court of General Quarter Sessions of the Peace and Gaol Delivery, or any two of them, shall have the like power to grant a licence or permit to export, sell or carry out for sale, any Negro or Mulatto slave from this state, that five Justices of the Peace, in open sessions now have. (c)

Every slave exported, &amp;c. without a permit, declared free.

SECT. 4. *And be it further enacted,* That if any person or persons, being the owner or owners of any slave or slaves, his agent or factor, shall, after the passing of this act, export or sell, with an intent for exportation, or carry out for sale, from this state, any Negro or Mulatto slave, without a licence or permit as aforesaid first had and obtained from the justices of the court aforesaid, every such Negro or Mulatto slave, so exported, or sold with an intention for exportation, or carried out for sale, is hereby declared free, and intituled to enjoy

(a) Chap. 145. b. passed February 3, 1787.

(b) Chap. 194. b. passed February 3, 1789.

(c) As in chap. 194. b. sect. 2.

enjoy all the privileges that a free Negro or Mulatto may or can do within this state.

CHAP. XXII.

1793.

Passed June 14, 1793.

C H A P . XXIII. c.

An ACT for the supporting, maintaining and keeping in good repair, the bridge over the north-west fork of Nanticoke river.

1793.

**W**HEREAS the bridge over the north-west fork of Nanticoke river, commonly called Marshyhope Bridge, is of general utility to the inhabitants of Kent and Suffex counties:

Preamble.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That from and after the passing of this act, one moiety, or equal half part of the expences in repairing, supporting and maintaining the said bridge, shall be borne and paid by the county of Kent; and the other moiety, or equal half part, of said expences shall be borne and paid by the county of Suffex; to be levied and raised in the said counties respectively as other county rates and levies.

How the bridge shall be supported.

SECT. 2. *And be it enacted,* That Govey Cox and John Dawson, of the county of Kent, gentlemen, and William Rofs (little) and Roger Adams, of the county of Suffex, gentlemen, or the survivor or survivors of them, are hereby nominated and appointed Commissioners to have the care and oversight of the repairing and amendment of said bridge; and to that end, the said Commissioners, or the survivor or survivors of them, are hereby impowered and required to purchase materials, and to employ labourers and other proper persons, as often as may be necessary; and after said bridge shall be so repaired and amended, the moiety or equal half part of the same, which lieth nearest to the county of Kent aforesaid, shall be put under the care and management of the present Overseer or Overseers of the highways of Mispillion hundred

Commissioners appointed.

Their duty.

Under whose care it shall be put, when finished.

T. H. A. P.  
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1793.

hundred leading to said bridge, or such of them as the Justices of the Court of General Quarter Sessions of the Peace, in said county of Kent, may hereafter appoint; and the other moiety, or equal half part, of said bridge shall be put under the management of the present Overseer or Overseers of the highways of North-west Fork hundred, or such of them as the Justices of the Court of General Quarter Sessions of the Peace in the said county of Sussex, may hereafter nominate and appoint.

How repairs shall be made in certain cases.

SECT. 3. *And be it enacted,* That in case of any breach in said bridge, or any part thereof, or any repairs being necessary, between the time of holding the Levy Courts in the respective counties aforesaid, that then any four of the Justices of the Peace, two from the county of Kent, and two from the county of Sussex, either on their own knowledge, or by notice of the same to them given, shall meet at the laid bridge, view the same, and thereupon are hereby empowered, if they think proper, to estimate the expence necessary for the repairing and amending the said breach, and to draw an order or orders on the respective Treasurers of said counties, in favour of said Commissioners, or the survivor or survivors of them, for a moiety or half part of such sum or sums of money as they shall judge necessary for amending or repairing the same; which the said Treasurer is hereby empowered and required to pay out of the public money in his hands, laid for emergencies; and the same shall be allowed him on settlement of his accounts with the Levy Court of his or their county, or by a Committee to be appointed by them for that purpose.

Expences how detracted.

Overseers to account and pay the surplus in their hands.

SECT. 4. *And be it enacted,* That the Justices of the Peace for the county of Kent, or any two of them, except the justices who may draw such orders on the Treasurer, as herein before they are empowered, and the Justices of the Peace of the county of Sussex, or any two of them, except as before excepted, may and shall from time to time, when any new Overseer or Overseers are to be appointed, or oftener if they shall think it proper, examine and settle the accounts of the former Overseer or Overseers, or any  
of

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of them, and order them to pay the balance or surplus of the monies received by him or them, according to the directions of this act, to the Treasurer of that county in which he or they was or were appointed; and in case the said Commissioners for the time being, Overseer, or Overseers, shall neglect or refuse to account for and pay such balance or surplus, as by this act is directed, then it shall and may be lawful for the Treasurer of such county for the time being, and he is hereby empowered and required to bring, as such, his action or actions of *indebitatus assumpsit* for money had and received to and for the use of the Treasurer aforesaid, against such Commissioners for the time being, for refusing or neglecting to account and pay as aforesaid, his or their executors or administrators, for the recovery thereof.

Neglecting, how proceeded at law gainst.

In what case new Commissioners to be appointed.

SECT. 5. *And be it enacted*, That in case of death, refusal, or removal to any distance above ten miles from said bridge, of the said Commissioners, or any of them hereafter appointed, the Court of General Quarter Sessions, for the county in which such Commissioner originally resided, shall appoint some other fit person as Commissioner in his place.

Passed June 14, 1793.  
~~...~~  
C. H. A. P. XXIV.  
An ACT to regulate certain public buildings in the town of Dover, in Kent county, and in George-Town, in Sussex county.

1793.

SECTION I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the whipping-post and pillory, to be erected in the county of Kent, shall be put up and erected on the Court House lot in the town of Dover, on the east side of the Court House, in such convenient situation as the Prothonotary shall direct; and that the whipping-post and pillory now erected in George-Town, shall be taken down and removed.

Where they shall be placed in Dover.

In George-Town.

C H A P. XXIV.

1793.

removed from the place where they now stand, and shall be put up on the public lot, on the east side of the Court House in George-Town, between that and the gaol, in such convenient situation as the Prothonotary of the county shall direct.

Not to be removed.

SECT. 2. *And be it enacted*, That it shall not be lawful for the Levy Court and Court of Appeal, or any other court whatever, to remove the said whipping-posts and pillories, or to cause new ones to be erected in any other situations.

Allowance to be paid J. Wakeman.

SECT. 3. *And be it enacted*, That the allowance made to James Wakeman, for erecting and building the whipping-post and pillory in Kent county, shall be paid to him in like manner as if the same had been placed in the public square in Dover, fronting the Court House.

Passed June 14, 1793.

C H A P. XXV.

1793.

An additional supplementary ACT to an act, intituled, "An act for stopping St. George's creek, and for embanking and draining a quantity of marsh and cripple on both sides of the said creek; being deemed about three thousand acres, situate in Redlion and St. George's hundreds, and county of New-Castle; and for keeping the dykes and drains belonging to the same in good order, and repair.

Passed June 14, 1793.—Private act.

C H A P. XXVI.

1793.

An ACT for appointing an Auditor of Accounts, and for enjoining certain duties on the said officer.

SECTION I. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That Thomas Montgomery

gomery be, and he is hereby appointed Auditor of Accounts for and during the term of five years, and from thence to the end of the next sitting of the General Assembly, and no longer, if so long he shall behave himself well, unless re-appointed: *Provided*, That if the said Auditor shall happen to die, or be incapacitated for discharging the duties of his office, in the recess of the General Assembly, it shall and may be lawful for the Governor for the time being, to appoint some other fit person as an Auditor of Accounts in his place or stead.

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XXVI.

1793.

Thomas Montgomery appointed Auditor.

Vacancy happening how supplied.

SECT. 2. *And be it enacted*, That the said Auditor be, and he is hereby empowered and directed to exercise all the powers and authority, and perform all the duties, which were vested in, exercised by, or required of, the Auditor of Accounts in and by an act, intituled, *An act for the amending and continuing the provisions made in the act, intituled, An act for the auditing and arranging the accounts of this state, and for the more effectual settlement of the same*, (a) to which this is a supplement, except so much of the ninth section of said act, as relates to the receipt of fines and forfeitures by the County Treasurers. (b)

Powers and duties of the Auditor.

SECT. 3. *And be it enacted*, That Robert Clark, esquire, be, and he is hereby required and directed to deliver over into the hands of the said Auditor, immediately after the passing of this act, all the books, papers, vouchers and transactions of the Auditor's Office, whole, entire and undefaced, as the same were delivered to him by the late Auditor, agreeably to a resolution of the General Assembly.

Books and papers to be delivered him.

SECT. 4. *And be it enacted*, That no entry, either of debt or credit, shall be made in the books of the Auditor's Office, unless accompanied with a proper and sufficient voucher, such as the nature of the case will admit; which shall be by the Auditor regularly numbered, and carefully filed; and every entry so made, shall be marked with a number correspondent to the number of the voucher so numbered and filed.

Further duties enjoined him.

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SECT.

(a) Chap. 143. b. passed February 3, 1787.

(b) For the provision in such case see after in chap. 28. c. sect. 2.

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To be furnished  
with transcripts  
relative to the  
finances.

SECT. 5. *And be it enacted,* That immediately after the passing of any act of the General Assembly having regard to, or concerning the Auditor's Office, or the finances of the state, the Secretary of State shall furnish the Auditor with an authenticated copy thereof; and the Clerks of the Senate and of the House of Representatives shall also furnish the Auditor with authenticated copies of all resolves, minutes, or orders, which may be entered into, made, or ordered by their respective Houses, relating in any manner to the business of the Auditor, or the finances of the state.

Salary.

SECT. 6. *And be it enacted,* That the Auditor of Accounts shall, for his services, receive the annual sum of Three Hundred Dollars, to be paid quarterly at the treasury of the state, out of any monies therein, not otherwise appropriated, and no more. (c)

*Passed June 15, 1793.*

## C H A P. XXVII. c.

*An ACT for regulating and establishing fees.*

Preamble.

FOR preventing extortion, undue exaction of fees by the several officers within this state; and that all fees may be reduced to a certainty, and be established;

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the fees to be paid within this state shall be as herein after are ascertained, limited, and appointed, *That is to say:*

The state.

To the use of the state---

FOR a licence to keep a public house of entertainment, and to sell all liquors, signed and sealed, Twelve Dollars.

A licence for the same, and to sell all liquors, except wine, Eight Dollars. (d) A li-

(c) See after in chaps. 65. c. — 81. c. increased to Five Hundred Dollars, to commence from the time of his appointment, and to continue till first of Jan. 1796.

(d) For the original act for regulating innholders, &c. see chap. 75. a. 13 Geo. II. — See also chap. 2. b. Anno, 1777, sects. 4, 5 — chap. 5. c. sectt. 57 — chap. 20. c.

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1793.

A licence to an hawker or pedlar, travelling on foot,  
Four Dollars.

A licence to such person travelling with one or more  
horses, Six Dollars. (e)

A licence of marriage, Two Dollars. (f)

Every impression of the Great Seal, in private cases,  
One Dollar. (g)

A commission for a Sheriff or Coroner, or writ of as-  
sistance to a Sheriff, under the Great Seal, to be  
paid by the party, Ten Dollars.

A commission for Attorney General, Register, Re-  
corder, or Clerk, under the Great Seal, to be paid  
by the party, Ten Dollars.

SECT. 2. To the Secretary—

The Secretary.

For drawing and engrossing a pardon or reprieve, un-  
der the Great Seal, to be paid by the party, Two  
Dollars.

Every search in private cases, Ten Cents.

A certificate under the Great Seal to any instrument  
of writing, in private cases, to be paid by the party  
requiring the same, One Dollar.

A certificate under his hand and seal of office, in pri-  
vate cases, Fifty Cents. (h)

An exemplification of any record, roll, or paper in  
his office, in private cases, One Cent *per* line of  
twelve words, to be paid by the party requiring the  
same.

Every proclamation, commission of *dedimus protesta-*  
*tem* to qualify officers, commission to Chancellor,  
Judges of the Supreme Court and Court of Com-  
mon Pleas, every general commission of the peace,  
or commission for a single Justice of the Peace,  
every warrant for the execution of a criminal, all  
licences to keepers of public houses, hawkers, ped-  
lars or petty chapmen, licences of marriage, all  
exemplifications

(e) For the original act for regulating pedlars, &c. see chap. 59. a. 4 Geo. II.—  
see also chap. 2. b. sect. 4.—and chap. 5. c. sects. 5, 6.

(f) See the act to regulate marriages, chap. 211. b. Anno, 1790—See also chap.  
28. c. sects. 4, 5, 6, 7.

(g) See chap. 5. c. sects. 9, 10, 11, directions for making and using such Great  
Seal.

(h) See chap. 5. c. sect. 12, the establishment of such seal of office.

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Judges of Errors  
and Appeals.

exemplifications or transcripts of records, rolls or papers in his office, or other instruments which the public service of this state may require, to be done *ex officio*.

SECT. 3. To the Judges of the High Court of Errors and Appeals—

For taking bail out of court to prosecute a writ of error, One Dollar.

Judges of Su-  
preme Court.

SECT. 4. To the Justices of the Supreme Court—

For allowing and signing, out of court, every *certiorari*, *habeas corpus*, Thirty-three Cents.

Taking a deposition out of court, drawn in form, Thirty-three Cents.

Taking the acknowledgment of a deed out of court, and certifying it under his hand, Sixty Cents. (i)

Judges of Com-  
mon Pleas.

SECT. 5. To the Justices of the Court of Common Pleas, the same fees as are allowed to the Justices of the Supreme Court for the like services.

Justices of the  
Peace.

SECT. 6. To the Justices of the Peace—

For writing, signing, and sealing every warrant upon complaint, in criminal matters, Twenty Cents.

Every mittimus, recognizance or pass, Twenty Cents.

See chaps. 73. a.  
230. b.

Writing, signing, and sealing every warrant for debt, attachment, arrest, or summons, Thirteen Cents.

See chap. 186.  
a. sect. 6.  
Chap. 248. b.  
sects. 3, 6, 7.

Administering, and certifying at large, an oath or affirmation in proving specialities, notes, or accounts, against deceased persons, if drawn by the justices, Seven Cents; otherwise, without fee or reward.

See chap. 77. a.  
sect. 3.

Taking the acknowledgment of an indenture of apprenticeship, signing the same, and making a record thereof, Fifty Cents.

See chap. 77. a.  
sect. 2.

Writing the assignment of a servant, signing the same, and making a record thereof, Twenty Cents.

Taking a deposition or affidavit, drawn in form, Twenty Cents.

Writing and signing a summons for witnesses in all complaints, Seven Cents for one witness; and not exceeding Thirteen Cents for two or more.

Signing judgment, Ten Cents.

Execution thereon, Thirteen Cents.

Viewing

(i) For the authority of doing this act, see art. 6, sect. 6, of the constitution of this state adopted in 1792—and chap. 67. c.

Viewing a force, Sixty-seven Cents.

Drawing a record thereof, Sixty-seven Cents.

Drawing a record in every case before them, removed by *certiorari*, and returning the same, Thirty-three Cents.

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1793.

SECT. 7. To the Attorney General—

The Attorney  
General.

For the whole prosecution in every capital cause, to be paid by the party, if convicted and able; but if acquitted, to be paid by the county or party, as the court shall direct; Ten Dollars.

But if the bill be not found by the Grand Inquest, to be paid by the county; Two Dollars and Forty Cents.

Every other matter by bill of indictment, if found by the Grand Inquest, to be paid by the party, if convicted and able; but if not convicted, to be paid by the county or party, as the court shall direct, Two Dollars and Forty Cents. If not found, to be paid by the county, One Dollar and Twenty Cents.

Every attachment in the Court of General Quarter Sessions of the Peace and Goal Delivery, One Dollar.

SECT. 8. To the Recorder of Deeds—

Recorder of  
Deeds.  
See chap. 83. a.

For recording, alphabeting, and comparing deeds and other writings, for each line of twelve words, One Cent.

A copy or exemplification of any record in the said office, for each line of twelve words, One Cent, to be paid by the party demanding the same.

Searching any roll or record, Seven Cents.

An indorsement or certificate on each deed proved and acknowledged, and every other certificate, and his hand and seal of said office thereto, Thirty Cents.

SECT. 9. To the Sheriff of each county (*k*)---

Sheriff.

For serving and making return of every summons, *capias*, or replevin, Forty-seven Cents.

Serving every bench warrant or attachment for contempt, in vacation, Sixty-seven Cents.

Serving

(*k*) See chap. 58. c. an amendatory act, in sect. 2, whereof every Sheriff, under the penalty of One Hundred Dollars, is to return the amount of his fees on all process directed to him.

C H A P.  
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- Serving every bench warrant or attachment issued returnable in term time, One Dollar.
- Every writ of entry and return in a common recovery, Thirty-three Cents.
- Every writ of seisin, and return in the same, Thirty-three Cents.
- Taking goods into custody for safe keeping, when any part of the debt may be satisfied on such execution, Forty-seven Cents.
- Taking the body into custody for safe keeping on an execution, Forty-seven Cents.
- Serving a summons, citation, *subpoena*, injunction out of Chancery, Orphans Court, or from the Register for the probate of wills and granting letters of administration, Fifty-three Cents.
- Every proclamation of rebellion out of Chancery, One Dollar.
- Summoning and serving a witness with *subpoena*, and making return thereof, and mileage, Thirteen Cents.
- See chap. 173. b. sect. 4. Serving execution, and making return thereof, with an inventory and appraisement, &c. Eighty Cents.
- Every return of *non est inventus, nulla bona, nihil habet*, including mileage, Twenty Cents.
- Copy of a summons, *subpoena*, &c. Thirteen Cents.
- Delivery of a copy of declaration in ejectment, Twenty-seven Cents, and mileage.
- In every other action, Seven Cents.
- Every bail bond, replevin bond, or bond of indemnity, Thirty-three Cents.
- Mileage to and from the place of serving a writ, to be counted from the Court House, except where mileage is included, Two Cents.
- Turnkey fees on every committitur, when the person is actually in prison in the county gaol, but not without, Twenty-seven Cents.
- A copy of a panel when demanded, Seven Cents.
- Assigning every bail bond, Twenty Cents.
- As per chap. 94. a. Summoning the Grand Jury to attend for one year, Three Dollars.
- Summoning and qualifying two appraisers, to appraise goods taken in execution, including mileage, Fifty-three Cents.

Advertising

Advertising goods or lands for sale, to be paid by the party only in whose suits the said advertisements are made, for once advertising and no more, Sixty-seven Cents. (1)

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1793.

Selling goods or lands executed, or delivering to the creditors, and returning *feri facias*, *venditioni exponas*, *liberari facias*, or *levari facias*, for any sum not exceeding Fifty Dollars, Fifty-three Cents; and for all other debts, where the sum is above Fifty Dollars, Three Cents *per* Dollar on the sale of personal estate, and Two Cents *per* Dollar, on the sale of real estate, for the whole debt and no more; and that no dollarage shall be paid for more than the real debt or damage due to the plaintiff named in the execution; and One Cent *per* Dollar on all prior judgments not on execution, paid off by money arising on the sale of lands by any execution; and that no dollarage shall be exacted in case there is not sufficient to satisfy the debt or damages, other than to the amount the goods or lands actually sold for; and that no creditor who may have had an execution laid on such goods or lands, or judgments on such lands, they being subject to prior executions or judgments, shall pay any dollarage, but for such sum as he or she actually receives on his or her debt.

Summoning and enquiring into the value of rents, issues and profits of lands, by two freeholders, making inquisition and return thereon, Sixty-seven Cents, and mileage to the respective lands inquired on. As per chap. 46. a. sect. 3.

Executing writs of *elegit*, summoning and qualifying the jury, and making return thereon, including mileage and the inquisition thereon, Four Dollars. As per chap. 46. a. sect. 2.

Executing writ of enquiry of damages, and every other writ of enquiry, summoning and attesting the jury and return thereof, including mileage, Three Dollars.

Executing writs of partition, summoning and attesting

(1) See after in chap. 58. a. this allowance altered, "for advertising, &c. the first time, Sixty Cents; and for the second and third time, Forty-five Cents each."

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- ing the jury, and making return thereof, including mileage, Four Dollars.
- Attending on the land to be divided, the first day, One Dollar.
- Every day longer, Sixty-seven Cents.
- Serving a *venire facias* for a struck jury to attend on view and trial, including mileage, Four Dollars.
- Serving a *venire facias* for a struck jury to attend on trial, Two Dollars. (m)
- Summoning and returning a jury, and annexing a panel to each *venire facias juratores*, Thirteen Cents. (m)
- Attending the first day, One Dollar. (m)
- Every day longer, Sixty-seven Cents. (m)
- Returning the *habeas corpora juratorum*, and *venire facias* thereon, Thirteen Cents.
- Serving writs of attachment, taking the goods or lands, and making return, Sixty-seven Cents, and mileage.
- Levying the attachment in the hands of garnishees, and summoning them, Forty Cents.
- Selling goods or lands upon an attachment, the same as on *feri facias*.
- Executing precepts in cases of forcible entry and detainer, *to wit*,
- Summoning the jury and return, including mileage, Three Dollars.
- Attending the first day, One Dollar.
- Every day longer, Sixty-seven Cents.
- Serving a precept or writ of restitution, and mileage, One Dollar and Thirty-three Cents.
- Executing a writ of estrepement, for all services, besides mileage, One Dollar and Thirty-three Cents.
- Levying fines and forfeitures, Two Cents *per* Dollar.
- Whipping every person by judgment of court, Sixty-seven Cents.
- Branding and pilloring a person, One Dollar and Thirty-three Cents.
- Branding only, Sixty-seven Cents.
- Pilloring only, Sixty-seven Cents.

Executing

See chap. 204.  
a. sect. 9.

(m) These several allowances altered, repealed and supplied in chap. 58. c. sect. 1.

Executing a sentence of death, Sixteen Dollars.  
Every indictment tried or submitted, Sixty-seven Cents.

Summoning the Members of the General Assembly, in their respective counties, on a writ from the Governor, Two Dollars, to be paid by the county.

In the Courts of Oyer and Terminer—

Making proclamation throughout the county, to be paid by the county, Two Dollars.

Summoning the Grand Jury and Petit Jury, to be paid as above, Eight Dollars.

Every committitur, to be paid by the party, Fifty-three Cents.

Serving and returning every summons for a witness, Thirteen Cents and mileage.

Attending on the said court, during the sitting thereof, to be *ex officio*.

In the Court of Appeals—

For his attendance on the said court every day it is held, One Dollar, to be paid by the state. See chap. 19. c. 2 sect. 11.

Same fees and mileage on writs, &c. as in the Supreme Court.

SECT. 10. *And be it enacted*, That none of the above fees shall be taken by any Sheriff, on any execution issued by a Justice of the Peace. But see after in sect. 30.

SECT. 11. To the Clerk of the High Court of Errors and Appeals—

For writing, signing, &c. a writ of error; One Dollar. Clerk of the High Court of Errors and Appeals.

Entering every action or appeal, Twenty Cents.

Filing errors assigned, or causes of appeal, Thirteen Cents.

Reading the record with all the proceedings below, Twenty Cents.

Every *retraxit* actually filed, Thirteen Cents.

Every discontinuance, or quashing of a writ of error or appeal, Thirteen Cents.

Entering every appearance at the first term, to be paid by the party appearing, Thirteen Cents.

Every imparlance or continuance, Thirteen Cents.

Entering every judgment, Twenty Cents.

Writing every writ of restitution, *procedendo*, or other writ not before mentioned, One Dollar.

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Clerk of the  
Supreme Court  
and Prothono-  
tary of the Com-  
mon Pleas.

Entering every warrant of attorney, or rule of court,  
Thirteen Cents.

Drawing a bill of costs, containing and specifying the  
particulars in words at length, and delivering same  
to party applying, Sixty-seven Cents. (u)

SECT. 12. To the Clerk of the Supreme Court and  
the Prothonotary of the Court of Common Pleas, in  
their respective courts—

For writing, signing and sealing every *certiorari*, *ha-  
beas corpus*, *venire facias*, *habeas corpora juratorum*,  
writ of arrest, attachment, replevin, summons, or  
judicial writ, if drawn by the Clerk, Forty-seven  
Cents.

Entering every action or indictment, Four Cents.

Filing every declaration or indictment, Four Cents.

Copy of a declaration in any action or suit, made out  
and delivered, if required, Twenty Cents.

Withdrawing or discontinuing every action, Four  
Cents.

Every *retraxit*, if actually entered and filed, Four  
Cents.

Filing every demurrer, plea, replication, and plead-  
ing, subsequent, and issue, in any action, to be  
paid by the party pleading, Seven Cents.

Filing record returned on a *certiorari*, Seven Cents.

Reading *certiorari* and return, Thirteen Cents.

Copy of every plea, replication, or pleading subse-  
quent, to be paid by the party requiring the same,  
One Cent for each line of twelve words.

Calling the jury, and attesting them, Thirteen Cents.

Attesting each witness on a trial, to be paid by the  
party producing such, Four Cents.

Attesting the bailiff to attend the jury, Seven Cents.

Entering an arrest of judgment, to be paid by the par-  
ty moving, Seven Cents.

Filing reasons in arrest of judgment, Three Cents.

Recording every verdict, Thirteen Cents.

Entering a judgment, Seven Cents.

Entering

(u) See chap. 58. c. sects. 2, 3, that every Clerk, Prothonotary or Register, up-  
on the ending of every suit, &c. is to docket all the costs, specifying the amount of  
each officer's fees—and on issuing every execution, to indorse thereon the amount of  
the fees due to the several officers, under the penalty of One Hundred Dollars for  
every neglect.

- Entering every appearance at the first term, to be paid by the party appearing, Seven Cents.
- Every imparlance or continuance, Three Cents.
- Entering a committitur, Three Cents.
- Admission of every guardian or next friend, and copy signed and sealed, Thirteen Cents.
- Entering and filing every warrant of attorney, Four Cents.
- Drawing a bill of costs, containing and specifying the particulars in words at length, Seven Cents. See chap. 58. c. sect. 3.
- Acknowledging satisfaction of a judgment on record, Seven Cents.
- Acknowledgment or proving of a deed in court, with a certificate signed and sealed, the whole business, Forty Cents.
- Reading a deposition or affidavit, Three Cents.
- Recording a mark or brand, Thirteen Cents.
- Search of a record, Seven Cents.
- Entering an appeal from the Register or Orphans Court, Seven Cents.
- Filing exceptions, Seven Cents.
- Filing record and proceedings returned, Seven Cents.
- Every rule of reference, rule to plead, or other rule of court, Four Cents.
- Copy thereof signed and sealed, Thirteen Cents.
- Entering and filing every writ, original or judicial, which by law is a returnable process, Four Cents.
- Taking and filing every affidavit in attachment or other matters, required to be done by him, Ten Cents.
- Reading and entering a report of Auditors, and filing the same, Seven Cents.
- Entering on record the title of every deed acknowledged or proved in court, Seven Cents.
- Entering and filing every recognizance of bail, Seven Cents.
- A copy of the same, with seal, and certificate signed, Thirteen Cents.
- Adjudication of a debtor to serve his creditors, and all proceedings relating thereto, Sixty-seven Cents. See chaps. 86. a. 18. a. 194. a.
- Copy thereof, with seal, and certificate signed, Thirty-three Cents.
- Reading and entering every petition, and order thereon, As per chap. 46. a. sect. 9.

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on, for a Sheriff to convey lands sold by any former Sheriff, Sixty-seven Cents.

Copy thereof, with seal, and certificate signed, if required, Sixty-seven Cents.

An exemplification in every common recovery, under seal, Two Dollars.

Entering, recording and filing all the proceedings therein, One Dollar and Thirty-three Cents.

Writing, signing, and sealing, every *subpoena* to give evidence, containing the names of four persons, to be paid by the party summoning, Thirty-three Cents.

Every *subpoena*, containing a less number, to be paid as above, Twenty Cents.

Drawing out a list of forty-eight names, from the Sheriff's book of freeholders, for a special or struck jury, and all his services in striking the same, Forty Cents.

Copy of every record, or other proceeding, for every line, twelve words to a line, One Cent.

Signing any writing not before enumerated, or where it is not written by the Clerk, Seven Cents.

Affixing the seal of office to any writing not before enumerated, Thirteen Cents.

Entering up judgment by warrant of attorney, and all the services thereon, Sixty-seven Cents.

Confession of a judgment on an amicable suit, and all the services thereon, Fifty Cents.

Recording a *testatum fieri facias*, Forty Cents.

SECT. 13. And to the Clerk of the Supreme Court in the Court of Oyer and Terminer and General Gaol Delivery, double the fees allowed the Clerk of the General Quarter Sessions of the Peace and Gaol Delivery. (o)

And for writing, signing, and sealing a precept for holding a Court of Oyer and Terminer and General Gaol Delivery to be paid by the county, One Dollar.

For making a complete transcript of the whole record on a conviction for a capital offence, to be sent to the Governor, Two Dollars.

SECT.

(o) For these see after in sect. 15.

See also note  
(n) at end of  
sect. 11, Ante.

Clerk of the  
Court of Oyer  
and Terminer.

SECT. 14. And that the fees belonging to the Register of the Courts of Chancery shall be as follow, viz.

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For writing, signing, and sealing every original writ, Forty Cents. Register in Chancery.

Every *subpœna ad respondendum*, or other *subpœna*, with four names if required, Thirty-three Cents; if only one name, Twenty Cents.

Every attachment under seal, Forty-seven Cents.

Every commission of rebellion, under seal, Eighty Cents.

Every *audita querela*, or writ of sequestration, if drawn by the Clerk, under seal, Sixty-seven Cents.

Every writ of injunction, *habeas corpus*, or *ne exeat*, Forty-seven Cents.

A writ of execution of a decree, and seal, Sixty-seven Cents.

Entering every appearance, Seven Cents.

Writing and filing every decree, One Cent per line of twelve words.

Entering every dismissal, Seven Cents.

Filing every bill, plea, answer, demurrer, replication, or rejoinder, Seven Cents.

Filing every affidavit, Four Cents.

Filing interrogatories, depositions, per sheet, Seven Cents.

Filing a petition, Seven Cents.

Every rule, order to plead, answer or demurrer, reply, or other rule, Seven Cents.

A commission to examine witnesses, under hand and seal, Sixty-seven Cents.

Recording in books by him provided for that purpose, of commission or depositions of witnesses, One Cent per line, twelve words in a line.

A *dedimus potestatem*, Forty Cents.

Searching for every order or decree, Seven Cents.

Copy of any bill, answer, replication, decree, affidavit, order, &c. or of any deeds, papers, letters, or accounts, left with him pursuant to an order of court, with certificate under hand, One Cent per line, twelve words to a line. See also note (n) at end of sect. 11; Ante.

SECT. 15. And that the fees belonging to the Clerk of the Peace.

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of the Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be as follow, *viz.*

For writing, signing, and sealing, every warrant of the peace or good behaviour, requiring to bring sureties, if drawn by the Clerk, Ten Cents.

Writing, signing and sealing, every common warrant or mittimus, if drawn by the Clerk, Thirteen Cents.

Every recognizance, if drawn by him, Ten Cents.

Every recognizance returned by a Justice or Conservator (p) of the Peace, Four Cents.

Entering and filing an indictment, Four Cents.

Copy thereof, if required, Thirteen Cents.

Making out process against the defendant upon an indictment, and fixing seal, Twenty-seven Cents.

Discharge of every person upon bail for the peace, good behaviour, contempt, or indictment returned *ignoramus*, (q) Four Cents.

Every plea of not guilty, Four Cents.

Entering special plea or demurrer, Four Cents.

Entering every submission, Seven Cents.

Calling the jury and attesting them, Thirteen Cents.

Attesting each witness on every trial, Four Cents.

Entering every verdict, Ten Cents.

Entering every judgment, Four Cents.

Copy of every judgment with certificate, signed and sealed, Twenty Cents.

Respiteing a recognizance, Four Cents.

Every writ of restitution, signed and sealed, Thirty-three Cents.

Reading, entering, and filing every petition, Twenty Cents.

Reading and filing the return of a road, Thirteen Cents.

Recording the same, or a copy thereof, One Cent per line.

Entering *noli prosequi*, Seven Cents.

A similitur to join issue, Seven Cents.

A *venire facias*, signed and sealed, Twenty Cents.

Reading the indictment and arraigning the criminal, Four Cents.

Continuing

(p) For who are Conservators see art. 8, sect. 1, of the constitution in 1792.

(q) See art. 8, sect. 8, of the constitution of 1792, when costs thereon to be paid by the accused.

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- Continuing the cause, Four Cents.
- Reading every deposition on trial, Four Cents.
- Entering the allowance of *certiorari*, writ of error, or *procedendo*, Four Cents.
- Entering a rule upon motion to arrest judgment, Seven Cents.
- Entering every committitur, Thirteen Cents.
- Entering the arrest of judgment, Seven Cents.
- An *habeas corpus*, signed and sealed, Twenty Cents.
- Drawing up and examining every record of all the proceedings upon an indictment, in a book of good paper, for every line containing twelve words, One Cent.
- Copy thereof, One Cent *per* line of twelve words.
- Making out the estreats for levying fines and forfeitures, Three Cents.
- Writing every recommendation for licence to keep a public house, inn, tavern, or ale-house, Thirteen Cents. See chap. 20. c.
- A process against a master to answer the complaint of an apprentice, or servant, signed and sealed, Twenty Cents. As per chap. 12y. a.
- Writing, signing, and sealing every *subpœna* to give evidence, containing the names of four witnesses, Thirty-three Cents.
- And for every lesser number, Twenty Cents.
- Bill of costs, containing and specifying the particulars in words at length, on each indictment, Seven Cents.
- Writing, signing, and sealing, every judicial writ in criminal causes, Twenty Cents.
- Every search, to be paid by the party, Seven Cents.
- His hand to any writing, other than as above mentioned, Seven Cents.
- Affixing seal of said office to any writing other than as above mentioned, Seven Cents.
- Reading every petition or other paper to the court, not before mentioned, to be done *ex officio*. See also note (n) at end of sect. 11, Acte. Register.
- SECT. 16. And that the fees belonging to the several Registers in this state, shall be as follow, *viz.*
- For granting letters of administration, with seal, and registering the same, and taking bond, Two Dollars;

- lars; but if the estate be under Eighty Dollars, then half fees, and no more.
- Proving a will, with copy and seal, and recording the same, Two Dollars and Twenty-seven Cents.
- Letters testamentary, with seal, and registering them, One Dollar and Seven Cents.
- Drawing, taking, filing every bond to be given by executors, - Fifty-three Cents.
- Every citation or attachment, with seal, Forty Cents.
- Entering every citation, Four Cents.
- Filing an inventory, Seven Cents.
- Copy of an inventory, for every line, One Cent.
- A search, Seven Cents.
- A copy of letters of administration, administration bond, or letters testamentary, being signed and sealed, Fifty-three Cents.
- A caveat, Thirteen Cents.
- Every renunciation entered in the office, Thirteen Cents.
- A copy of any record, paper, account, or will, to any person requiring the same, One Cent per line, twelve words to a line.
- Appointing and qualifying two freeholders as appraisers, or warrant to swear them, Ten Cents.
- Administering an oath or affirmation to executors, administrators, or subscribing witnesses to a will, to be done *ex officio*.
- Administering an oath or affirmation to any other witness, Seven Cents.
- Taking a deposition in writing in any cause before him, Twenty Cents.
- Definitive sentence in any case before him, and recording the same, Fifty-three Cents.
- Every interlocutory order, Thirty Cents.
- Affixing his hand to any certificate not before mentioned, Thirteen Cents.
- Filing every account, Seven Cents.
- Adjusting and settling an executor, or administrator, or guardian's account, examining and casting up the inventory and appraisement, entering the order and final sentence thereon, making the calculations and distribution on said account, and making a record of such settlement; if such account be under  
One

One Hundred and Twenty Dollars, One Dollar; if under Eight Hundred Dollars, Two Dollars; and if above Eight Hundred Dollars, Three Dollars.

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Writing, signing and sealing every *subpœna* to give evidence, containing the names of four persons, to be paid by the party summoning, Thirty-three Cents;

And for every *subpœna* containing a less number, to be paid as above, Twenty Cents.

Entering and filing every writ, which is by law a returnable process, Four Cents.

Affixing the seal of office to any writing, not hereinbefore enumerated, Thirteen Cents.

See also note (n) at end of sect. 11, Ante.

SECT. 17. That the fees belonging to the several Clerks of the Orphans Courts in this state, shall be as follow, *viz.*

Clerk of the Orphans Court.

For reading and filing a petition, Seven Cents.

Reading a will or inventory, Four Cents.

Entering an order of court or final sentence, Ten Cents.

Reading letters of administration or testamentary, Four Cents.

The appointment of a guardian, taking bond, recording same, with a copy under seal, Forty Cents.

Binding an orphan, with a copy under seal, Thirty-three Cents.

Reading, entering, and filing, a petition for a division, or valuation, or sale of lands, &c. and order thereon, Twenty Cents.

Recording and copying the same, One Cent *per* line.

Filing an appeal, and exceptions on an executor, administrator, or guardian's account, entering the order and final sentence, making the calculation and distribution on said account, filing the same, and all other services, Sixty-seven Cents.

Entering every order of court, Four Cents.

Entering an acceptance and assignment of lands at the valuation, Seven Cents.

Drawing and taking a recognizance at large, in the name of the state, from any person accepting lands and tenements on a valuation, Twenty Cents.

Each advertisement for sale of land, Seven Cents.

Every citation, signed and sealed, Twenty Cents.

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Qualifying every witness brought before the court,  
Four Cents.

Every attachment for contempt, Twenty Cents.

Every *subpoena*, containing the names of four persons,  
Thirty-three Cents; less than four, Twenty Cents.

Recording every other matter and thing in the same  
court, copy of an administrator's account, or other  
record, when required, for every line, not less than  
twelve words, One Cent *per* line.

The seal of office to any writing not before enumerat-  
ed, if required, Ten Cents.

Certificate to any copy, not before enumerated, Se-  
ven Cents.

Every search, Seven Cents.

Every bill of costs, containing and specifying the par-  
ticulars, Seven Cents.

Reading and filing every return of division, valuation,  
or sale of lands, Twenty Cents.

SECT. 18. Attorney at law—

See also note  
(n) at end of  
sect. 11, Ante.

Attorney at Law.

For every writ, if drawn by the Attorney, Forty Cents.

Every appearance, for either plaintiff or defendant,  
in a suit, Two Dollars and Sixty Cents.

Every appeal bond for prosecuting an appeal in the  
Court of Appeals, One Dollar.

Every appeal bond for prosecuting an appeal from the  
Orphans Court, One Dollar.

Drawing every warrant of attorney, Thirteen Cents.

Giving oyer of a bond or other oyer, One Cent *per*  
line, twelve words to a line, to be paid by the party  
craving oyer.

Drawing out the general issue, Ten Cents.

All pleadings in a cause, subsequent to a declaration,  
to be paid by the party pleading, every line of twelve  
words, injunction, prohibition, &c. One Cent.

Declaration, plea, &c. by warrant of attorney, Two  
Dollars and Sixty-seven Cents.

Notaries and  
Tabellions Pub-  
lic.

SECT. 19. And that the fees belonging to the Nota-  
ries and Tabellions Public for this state, shall be as  
follow, *viz.*

For registering a bill of exchange, promissory note,  
or bank note, Twenty Cents.

Registering a foreign sea protest, One Dollar.

Registering an obligation, letter of attorney, or writ-  
ing

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ing of the usual length of one of these, with a probate under seal and certificate, One Dollar.

Registering a bill of lading, probate, &c. Eighty Cents.

Registering a foreign bill of exchange protested, with a certificate, Sixty-seven Cents.

A certified copy of such protest, Sixty-seven Cents.

Drawing and registering a common sea protest, with seal, Sixty-seven Cents.

Drawing and registering a protest against a merchant or merchants for detaining a ship beyond proper time, with answer and permissance to protest, with seal and registering, Four Dollars.

A certified copy of a common sea protest under seal, One Dollar and Sixty-seven Cents.

A certified copy, under seal, of protest against a merchant, &c. Two Dollars.

Attestation to a letter of attorney, obligation, &c. under seal, Sixty Cents.

Notarial affidavit to an account, under seal, Fifty-three Cents.

Protest of a bill of exchange for non-acceptance or non-payment, or promissory note for non-payment, and registering, seal, &c. Eighty Cents.

SECT. 20. That the fees belonging to the Clerks of the Senate and House of Representatives shall be as follow, viz.

For reading every petition of a private nature, and the several entries attendant thereon, to be paid by the party, Fifty Cents.

Copy of every petition, when required, with the names of the signers thereof, and certificate, Fifty Cents, to be paid as above.

Copy of every order of the House in private matters, and certificate, Twenty-three Cents, to be paid as above.

Copy of any papers filed in the House, when required, for every line, twelve words to a line, One Cent per line.

Certificate thereof, Seven Cents.

Every search in private matters, Seven Cents.

Engrossing a bill, for every meet, Two Cents per line of twelve words.

See chap. 40. 4.

Clerks of the Senate and House of Representatives.

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Sergeant at  
Arms.

Every day's attendance as Clerk, transcribing, &c.  
Two Dollars, *per* day, and no more.

SECT. 21. And the fees belonging to the Sergeant  
at Arms shall be as follow, *viz.*

For serving every order, One Dollar.

Taking any person into custody, Thirty-three Cents.

Travelling charges *per* mile, Two Cents going, and  
the same returning.

Every day's attendance on any person, where commit-  
ted, Twenty-six Cents.

Door-keeper.

SECT. 22. Fees to the Door-keepers of the respective  
Houses—

For every day's attendance, One Dollar.

Bell-ringer.

SECT. 23. To the Bell-ringer of the General Affem-  
bly, each day, Thirty-three Cents.

Coroner.

SECT. 24. Fees to the Coroner of each county—

For viewing the body of any person slain or murder-  
ed, to be paid out of the goods and chattels, lands  
and tenements, of the murderer or slayer, if he hath  
any; but if he hath not, by the county, besides  
mileage, from the Court House to where the bo-  
dy is found, One Dollar.

Summoning and qualifying the inquest, drawing and  
returning the inquisition, including mileage, Two  
Dollars.

Summoning and qualifying each witness, and mile-  
age from the place where the body is found, Thir-  
ty-three Cents.

Taking examinations, or depositions of witnesses,  
in writing, for each, Twenty Cents.

Taking every recognizance, Ten Cents.

In sect. 9, Ante.

Summoning or arresting the Sheriff, or any other per-  
son where he is party, executing a writ of *feri fa-*  
*cias*, or other execution, the same fees as are al-  
lowed the Sheriff in like cases.

Travelling charges, Two Cents *per* mile.

The Cryer.

SECT. 25. To the Cryer—

For every action entered in the Supreme Court, and  
in the Court of Common Pleas, Thirteen Cents.

Every suit in the Court of Appeals, Sixty-seven Cents.

Calling each witness on a trial, Two Cents.

Calling a jury sworn at the bar, Seven Cents.

Every indictment, Thirteen Cents.

Calling a non suit, Seven Cents.

Calling

Calling a default, Seven Cents.

Every Attorney admitted on record, One Dollar.

Every common recovery suffered in court, Forty Cents.

Every Prothonotary, Sheriff, Clerk of the Peace, or Clerk of the Supreme Court, the first time after they undertake the execution of their respective offices, One Dollar.

Clearing every person by proclamation, Seven Cents.

Every judgment in the Orphans Court, each, Ten Cents.

Opening and adjourning the court, to be paid by the county, Seven Cents.

SECT. 26. To the Surveyors of lands---(r)

Surveyors.

For each days attendance as a Surveyor on view of land, or other service required to be performed by any act of Assembly of this state, for each day's necessary attendance, Two Dollars.

Every map, plot, or draught, with explanatory notes, such sum as the court shall allow.

SECT. 27. To the Chain-carriers—

Chain-carriers.

For each day, with accommodation, Fifty Cents.

SECT. 28. And that the fees belonging to the jurors and inquests, within this state, shall be as follow, viz.

Jurors and Inquests, &c.

For trying all actions on issue joined, each juror sworn or affirmed, Thirteen Cents.

Every inquisition on writ of enquiry of damages, *eligit*, partition, inquest of office, or any other enquiry, each *per diem*, Thirty-three Cents.

Every inquisition made by the Coroner, or other proper officer, on view of a dead body, to each juror, Thirty-three Cents.

Each juryman summoned, and attending on view, *per diem*, Thirty-three Cents.

Each juror or freeholder appointed by the Orphans Court, to divide or value lands under the intestate act of this state, or to view and make an estimate of the annual value, &c. of minors lands, under the act for amending the laws relating to testamentary

(r) See after in chap. 45. c. sects. 1, 9.

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- tary affairs, and for the better settling intestates estates, Fifty Cents *per diem*.
- Every Auditor appointed by rule of court, for making report or award, Sixty-seven Cents.
- For every day after the first, Thirty-three Cents. (s)
- Bailiffs.** Every Bailiff or Constable attending the Grand Jury, Fifty Cents *per diem*, to be paid by the county.
- Attending each Petit Jury, on a trial, till they give in a verdict, Twenty-three Cents, to be paid by the party.
- Sheriff, inspectors, &c.** The Sheriff and every Inspector and Clerk sworn and attending the general elections in each of the counties, One Dollar and Fifty Cents *per day*, and no more, to be paid by the county.
- Constable attending court.** Every Constable who shall attend the Court of Oyer and Terminer and General Gaol Delivery, or Court of General Quarter Sessions of the Peace and Gaol Delivery, not exceeding three, to be selected by the court, *per diem*, Fifty Cents. (t)
- Grand and Petit Jurors.** Every Grand Juror summoned and sworn, for every day of his attendance and service, in any of the courts of this state, provided he is sworn or affirmed before the charge is given, to be paid by the county, Eighty Cents. (v)
- Every Petit Juror summoned, for every day of his attendance, provided he appears at every calling of his name by order of the court, to be paid by the county, Eighty Cents. (w)
- Witnesses.** Every witness, for every day of his or her attendance in any of the courts of this state, if he or she resides out of the county from whence the summons issues,

(s) See chap. 204. a. sects. 29, 30, 31, providing a mode of qualification and imposing a penalty for non-attendance—and chap. 89; b2.

(t) Two Constables to be appointed annually by the Court of Common Pleas in each county to attend the Commissioners of the tax and Levy Court—for this see chap. 98. c. sects. 21, 23.

(u) And in chap. 104. c. the Judges of the Supreme Court are authorized to appoint two Bailiffs or Constables to attend in each term, with an allowance of One Dollar per day, to be paid by the county—and who are to have a like allowance for their attendance during the sitting of the Common Pleas.

(v) An additional allowance of Three Cents per mile from place of abode to Court House, for each day of their attendance, in chap. 104. c.

(w) A like additional allowance in chap. 104. c. as in preceding note (v).

issues, Eighty Cents; and if in the county, Fifty-three Cents. (x)

Every witness, for every day's attendance before a Justice of the Peace, Twenty Cents, and no more.

SECT. 29. *And be it enacted*, That the act, entitled, *An act to increase the daily allowance of Grand and Petit Jurors and witnesses*, is hereby repealed, made null and void.

Former allowance to jurors annulled, viz. chaps. 115. b. 175. b.

SECT. 30. To the Sheriff for serving executions issued by a Justice of the Peace—

Sheriff.

For all executions for debts not exceeding Fourteen Dollars, the sum of Forty Cents.

For his other fees see sect. 9, Ante.

All executions on debts above Fourteen Dollars, and not exceeding Thirty-two Dollars, at the rate of five per cent. on the sum actually levied and raised.

And that no mileage, or other fees, shall be paid or allowed to any Sheriff on any execution issued by a Justice of the Peace.

SECT. 31. Appraisers appointed by the Register for the probate of wills and granting letters of administration, for any estate not exceeding One Hundred and Thirty-six Dollars, by them appraised or valued, shall have and receive at the rate of Two Cents for every Dollar; and for all estates above One Hundred and Thirty-six Dollars, and not exceeding Three Hundred Dollars, at the rate of One Cent for every Dollar; and for all estates exceeding Three Hundred Dollars, at the rate of One Cent for every Three Dollars, and no more. (y)

Appraisers.

SECT. 32. *And be it enacted*, That the act, intitled, *An act for appraisement of goods taken in execution*, shall be, and is hereby repealed.

Chap. 47. e.

SECT. 33. To a Constable for serving a warrant or summons in cases of debt; for every warrant or summons, including mileage, and all services, except summoning of witnesses, until judgment is obtained, Thirty-three Cents.

Constable.

For

(x) In said chap. 104. c. like additional allowance as to jurors before.

(y) Quere if the provision made in sect. 32, of chap. 204. a. for fees to appraisers appointed by Sheriffs is to be considered as repealed, when not there supplied; yet the duty to be performed by such appraisers exists in many, and is implicitly required in some acts of Assembly, and especially in chap. 178. b. sect. 4.

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1793.

For summoning witnesses, or auditors for the trial of any matter before a Justice of the Peace, Ten Cents each, and mileage.

For serving every warrant in criminal matters, including mileage, Fifty Cents.

For summoning every witness, Ten Cents, and mileage.

For conveying any person to gaol under a commitment, Twenty Cents, and mileage. (z)

Former fees to Constables annulled. Chap. 205. B. sects. 10, 11.

SECT. 34. *And be it enacted*, That all fees established by an act, entitled, *An act obliging persons returned and appointed for Constables, to serve accordingly, and for ascertaining their fees*, be, and are hereby repealed, and made null and void.

Penalty for extortion, &c. See also chap. 58. c. sect. 4.

SECT. 35. *And be it enacted*, That if any officer, or other person herein before mentioned, his executor or administrator, shall take any greater or more fees than are herein before limited and appointed, for doing or performing of the services, duties or things before enumerated or mentioned; or shall make demand of any fee or fees, without giving to the party of whom such fee or fees shall be demanded, a bill specifying each particular article, and the charge for it, written in words at full length, containing the dates of the services done, if required; or shall refuse to give to the party or parties a receipt under his hand, on such bill so drawn, for the payment thereof; such officer or person, his executors or administrators, shall forfeit and pay for the first offence, Sixty Dollars; for the second offence One Hundred and Twenty Dollars; and for the third offence, if an officer, Two Hundred Dollars, and be displaced or removed from his office; which said penalties shall be to the use of the state, to be recovered by an indictment in any Court of General Quarter Sessions of the Peace and Gaol Delivery of the county where the offence may be committed.

Repealed. Bills of costs to be entered at large on the docket.

SECT. 36. *And be it enacted*, That every Clerk, Prothonotary, or Register, shall on every non suit, discontinuance, abatement, *retraxit*, decree, judgment

(z) See after in chap. 58. c. sect. 5, further fees allowed to a Constable, to wit, on executions.

ment or other final order or sentence, of every suit, action, bill, or indictment; enter on the docket of the courts they respectively officiate in, a bill of all the costs; specifying therein each officer's several fees; each particular article; and the charge for it; and the Sheriff shall, on all process directed to him, return thereon his several fees on such process, specifying the particular articles; and charges thereon; and in case of neglect to enter the fees as aforesaid, such officer so neglecting, shall forfeit and pay Thirty Dollars for each offence, to be recovered as aforesaid. (a)

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Penalty for neglect.

SECT. 37. *And be it enacted*, That on every execution directed to the Sheriff, the officer issuing such execution, shall indorse thereon the fees due to the several officers; so far as they may have accrued to the time of issuing such execution, with the particulars of each officer's fees; and the charges thereon; and in case of neglect to indorse the fees as aforesaid, such officer so neglecting, shall forfeit and pay Thirty Dollars for each offence, to be recovered as aforesaid; which said bills and returns and indorsements shall be without fee or reward. (b)

Repealed.  
Bills to be entered at large on executions.

Penalty.

SECT. 38. *And be it enacted*, That it shall be the duty of the Clerk of the High Court of Errors and Appeals, the Register in Chancery, the Clerk of the Supreme Court, the Prothonotary of the Court of Common Pleas, and the Clerk of the Peace, in the respective counties; at their own proper costs and charges, to procure good and sufficient record books, necessary for recording all actions, suits and indictments, which shall be brought, prosecuted, found, or instituted in their respective courts; and that the said officers, respectively, shall record in a strong, legible hand, in the said books, faithfully, legally, and in a Clerk-like manner, all actions, suits, and indictments, together with the processes, pleadings, and proceedings thereon, which shall be brought, prosecuted, found, or instituted in their said respective courts, after August term next of the Court of Com-

Repealed.  
Records of all suits, brought to final decree or judgment, to be made up at large.

(a) This section (36) repealed and supplied in chap. 58. c. sects. 1, 6.

(b) This section (37) also repealed and supplied in sects. 3, 6.

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Other suits how  
transferred.Records to be  
alphabetized.Repealed.  
Penalty for ne-  
glect.This act to be  
given in charge  
to every Grand  
Jury.

mon Pleas, and which shall be brought to final decree or final judgment, according to their order or priority of decree, or judgment; and all actions and suits which shall, before final decree or final judgment, be entered in the common docket agreed, settled, struck off, discontinued or abated, shall be transferred into the said record books according to their order as aforesaid, stating thereon the names of the plaintiff and defendant, the time of their commencement, the kind of action, the continuances from term to term, and the manner in which the same have been ended in said courts; and the said officers shall, respectively, make and keep fair and exact alphabets to the said record books, wherein the names of the plaintiffs and defendants in such suits shall be written at large, both directly and reversedly; which said record books and alphabets shall be for the use of their respective courts, and delivered over to their successors in office, with the other papers and books of their several offices. (c)

SECT. 39. *And be it enacted*, That if any officer abovementioned shall refuse or neglect to record or transfer in manner aforesaid, every action, suit and indictment, as before directed, such officer so refusing or neglecting, shall for every such neglect or refusal, forfeit and pay the sum of Thirty Dollars, to any person or persons who will sue for the same, by action of debt, bill, plaint, or information, in the Supreme Court, or Court of Common Pleas, against such officer, or his executors or administrators; or to the state, to be recovered by indictment against such officer in the Court of General Quarter Sessions of the Peace and Gaol Delivery of the county, where the offence may be committed; and it shall be the duty of the Justices of the Court of General Quarter Sessions of the Peace and Gaol Delivery, to give this act in charge to every Grand Jury, which shall be sworn before them. (c)

*Passed June 15, 1793.*

CHAP.

(c. This section (38) and the following one (39), repealed in chap. 58. c. sect. 6.

C. H. A. P. XXVIII. c.

C. H. A. P.  
XXVIII.

An ACT to regulate and appropriate certain finances of this state.

1793.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State Treasurer shall, and he is hereby required to demand and receive from the United States, from time to time, the interest *per cent. per annum*, payable by the United States, upon so much of the sum of Two Hundred Thousand Dollars, as hath not been subscribed in the debt or certificates of this state, to a loan proposed by the United States; which said interest, when received, shall be applied as follows, *That is to say*, So much thereof as amounts to the interest of the certificates issued for the depreciation of pay to the officers and private men of the regiment of this state, which now are, or hereafter may be, in the hands of the State Treasurer, the said interest to be calculated in like manner as the interest on the stock which hath been created by virtue of the said loan, shall be payable quarterly to the orders of the Governor, and of the Secretary for the discharge of their respective salaries; (a) and the balance of the interest of the said certificates, after the first day of October next, shall be payable quarterly to the respective orders of the Chancellor, and of the Judges of the Supreme Court, and of the Court of Common Pleas, so far as the same may be sufficient towards the discharge of their respective salaries, or of any part thereof; and so much of the said interest upon the said sum of Two Hundred Thousand Dollars, as exceeds the amount of the interest of the certificates issued for the depreciation of pay as aforesaid, which now are or hereafter may be in the hands of the State Treasurer, shall be applied by the

Treasurer to receive from the United States, the interest on the assumed debt of this state.

Application of part thereof to the payment of the salaries of the Governor, Secretary,

Chancellor and Judges.

(a) *Quere*, the propriety of the preference here given—see art. 6. sect. 2, of the constitution of 1792—that the salaries of the Chancellor and Judges are payable quarterly to their respective orders out of any monies in the treasury, and the only appropriation of treasury monies in the said constitution thus specially prescribed.

C H A P.  
XXVII.  
1793.

Residue to non  
subscribing cre-  
ditors,

and to the pur-  
chase of stock.

Fines and for-  
feitures to whom  
payable.

See after sect. 5.

How recovered.

the State Treasurer to the payment of non subscribing creditors of this state, holding the certificates as aforesaid, their interest thereon to be calculated in like manner as the interest on the stock which hath been created by virtue of the said loan, and to the payment of the interest of one quarter of a year, from the first day of January, One Thousand Seven Hundred and Ninety-two, to the first day of April in said year, to be calculated as aforesaid, to such creditor then holding certificates, as have since subscribed to the said loan, by virtue of an act of Congress, intitled, *An act supplementary to the act making provision for the debt of the United States*, upon their producing a certificate to the State Treasurer, from the Loan Officer of the United States for this state, that such interest hath not been allowed to them on their subscription; and the residue of the interest of the said Two Hundred Thousand Dollars (b) shall be applied to purchase, for the use of the state, on the lowest and best terms to be had, the stock of the United States; bearing an interest of three per centum per annum; and the interest arising thereon shall be payable quarterly to the respective orders of the Chancellor and of the Judges aforesaid, towards the discharge of their respective salaries.

SECT. 2. *And be it enacted*, That all fines and forfeitures which belong to, and are for the use of, the state, which have been or may be incurred, and not remitted, (c) and which were formerly payable in each county, (d) to the Treasurer of such county where the fine was imposed or the forfeiture happened, shall hereafter be payable to the State Treasurer; and in case any officer, who may have the collection of such fines and forfeitures, shall not within sixty days after the same are collected and received by him, or ought to have been collected and received by him, pay the same as aforesaid, the State Treasurer is hereby charged and required to commence a suit on such officer, his

(b) No part of this interest was drawn for on the behalf of this state.

(c) To wit, by the power given to the Governor so to do in art. 3, sect. 9, of the constitution of 1792.

(d) As in chap. 6. b. sect. 13, Anno, 1777.

his bond or recognizance, or by action of *indebitatus assumpsit*, for money had and received to and for the use of the state, for the recovery of such fines and forfeitures.

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XXVIII.  
1793.

SECT. 3. *And be it enacted*, That no tavern licence, or licence to an hawk or pedlar, shall be dispensed to any person or persons until the fees for the same are paid; and in case any person or persons, intrusted with the dispensation of any such licence, shall dispense the same before the fees therefor are paid, or shall neglect, for the space of sixty days, to pay over to the Secretary the fees received thereon at the time of the dispensation of such licences, he shall forthwith be immediately liable to a suit for the recovery of the money due for such licences, and if an officer, he shall *ipso facto* forfeit his office.

Tavern licences, &c. not to be dispensed before payment.

Penalty.

SECT. 4. *And be it enacted*, That all marriage licences shall be lodged with the Prothonotaries and Justices of the Peace of the respective counties, or with such of them as the Secretary shall think fit, for the greater convenience of the people; and every Prothonotary or Justice of the Peace dispensing such licences, and taking bonds as directed by the act, intitled, *An act to regulate marriages*, shall be entitled to the fee given thereby for taking every such bond.

Marriage licences with whom to be lodged.

Chap. 211. b. sect. 5.

SECT. 5. *And be it enacted*, That every such Prothonotary, Justice of the Peace, Clerk of the Peace, or other officer, shall once in every six months, report to the Secretary, the number of licences dispensed, and the number of those which still remain on hand; and shall, at the same time, pay over to the Secretary the fees for all such as have been dispensed; and in case of neglect so to do, the Secretary shall immediately cause a suit to be instituted for the recovery of the fees due thereon: And all such fines, forfeitures, and fees, when so recovered, shall be, and are hereby appropriated to the discharge of the salaries of the Chancellor, of the Judges of the Supreme Court, and of the Judges of the Court of Common Pleas. (c)

Returns thereof, and payment to be made, every six months.

vide chap. 5. c. sect. 5.

Appropriation of fines, &c.

SECT. 6. *And be it enacted*, That if any minister,

or

(c) See chap. 105. c. another appropriation proposed.

C H A P.  
XXVIII.

1793.

Penalty upon  
ministers for  
celebrating  
marriages with-  
out licence, &c.  
Chap. 211. b.

or preacher of the gospel, shall within this state marry any persons, without such marriage licence as by the said act, intituled, *An act to regulate marriages*, or before the bans of marriage shall be published, between such persons intending to marry, at some church, chapel, meeting-house, or stationary place of public religious worship, belonging to the district or congregation wherein the woman so intending to be married shall be resident, or in the next adjacent congregation of the same society, on the two several Sundays next before the celebration thereof, immediately after divine service, and where such publication of bans and celebration shall not be forbid or objected to; and in case there be no minister or preacher of the gospel within such district, or of the congregation aforesaid, then in the church, chapel, or meeting-house, or other stationary place of religious worship, of the next district or congregation of the society to which she belongs, having a minister or preacher of the gospel, every such minister, or preacher of the gospel, shall forfeit and pay to the state the sum of Thirty Dollars, to be recovered by indictment in any Court of General Quarter Sessions of the Peace and Gaol Delivery, in the county where such offence shall be committed.

Mode of reco-  
very.Repeal of for-  
mer acts.  
Chap. 143. b.

Chap. 6. b.

Chap. 211. b.

SECT. 7. *And be it enacted*, That the ninth article of an act, intituled, *An act for the amending and continuing the provisions made in the act, intituled, An act for the auditing and arranging the accounts of this state, and for the more effectual settlement of the same*, and so much of an act, intituled, *An act for ascertaining the salaries and allowances to the officers and persons herein mentioned, employed in the government of this state, and for providing a fund for the payment thereof*, as directs the payment of the fines and forfeitures to the County Treasurers, and the second article of an act, intituled, *An act to regulate marriages*, be, and are hereby repealed, made null and void.

Passed June 15, 1793.

CHAP..

## C H A P. XXIX. c.

C H A P.

XXIX.

1793.

An ACT to enable James Black, of the county of New-Castle, to bring into this state three slaves belonging to him, and now in the state of Maryland.

Passed June 15, 1793.—Private act.

## C H A P. XXX. c.

An ACT to enable Nathaniel Hum and Jonathan Hum, their heirs or assigns, or either of them, to erect a forge and saw mill at the Forest Landing, near the mouth of Tidbury Branch, in Kent county.

Passed June 15, 1793.—Private act.

1793.

## C H A P. XXXI. c.

An ACT to enable the Governor of this state to incorporate a company, for opening a canal and lock navigation on the waters of Brandywine creek:—No incorporation under this act having been made or applied for, though three years and an half have elapsed since the enacting thereof, it is omitted in this impression of the laws.

Passed June 17, 1793.

1793

## C H A P. XXXII. c.

An ACT requiring Sheriffs to give security.

1793

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That every Sheriff now in commission, or hereafter to be commissioned, within the several counties of this state, at the next Court of Common Pleas to be held in the respective counties thereof after the first Tuesday of October annually, and within the three first days of the term, shall en-

Sheriff shall annually enter into recognizance with sufficient sureties.

C H A P.  
XXXII.  
1793.

Condition of the  
recognizance.

To be in trust  
for the use of  
the party injur-  
ed.

How proceeded  
on.

ter into a recognizance, (a) jointly and severally, in the same court, with three or more good and substantial freeholders of the county, to be approved of by the said court, *That is to say*, The Sheriff of the county of New-Castle, and his sureties, in the sum of Sixteen Thousand Dollars; and the Sheriff of the county of Kent, and his sureties, in the sum of Fourteen Thousand Dollars; and the Sheriff of the county of Suffex, and his sureties, in the sum of Twelve Thousand Dollars; upon condition, *That if he the said Sheriff shall and do well and truly serve and execute all writs and process, to him directed without delay, and shall from time to time, upon request to him made for that purpose; well and truly pay or cause to be paid to the several suitors and parties interested therein, their lawful agents, factors, or assigns, and to the several officers, all and every sum and sums of money to them respectively belonging, which shall come to his hands, or which it shall be his duty to collect and receive; and receive, collect and pay over, all public taxes whatsoever committed to him for collection, and shall and do from time to time, and at all times during his continuance in office of Sheriff, well and faithfully execute the said office, and perform in every thing the duty in him imposed; then the said recognizance to be void, otherwise to be and remain in full force and virtue; which said recognizance shall be; and are hereby declared to be, only in trust to and for the use and benefit of the state, (b) or any individuals who shall be injured by any breach or neglect of duty in such Sheriffs respectively; whereupon the party grieved may proceed by way of *scire facias*, or other legal process, and upon proving what damage hath been sustained, and verdict found therefor, the court in such case shall give judgment for so much as the jury or inquest shall then find, and no more, and shall award execution for the same with costs: And the said recognizances, so to be proceeded*

(a) To be taken in the name of the state, see chap. 2, b. sect. 3—chap. 5, c. sect. 6, and in the above section thereafter.

(b) See Chap. 143, b. sect. 7, where the sureties are made liable for a penalty of ten Per Cent, imposed upon Sheriffs for non payment of monies to the State Treasurer received for the use of the state on execution sued out by the Auditor of Accounts.

proceeded upon, are hereby declared still to remain cautionary for the satisfaction of such others as shall prove themselves damnified, and recover their damages as aforesaid by due course of law.

C H A P.  
XXXII.  
1793.

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

Sheriff neglecting to give security shall forfeit his office;

and the Governor, unless certified that security is given, shall appoint another.

SECT. 3. *And be it enacted,* That if the said court shall neglect or refuse to certify to the Governor, within the time limited, that the said Sheriff hath given security at the time, and in the manner aforesaid, provided he hath so done, the said judges of the said court shall forfeit and pay to the said Sheriff so injured Four Thousand Dollars, to be recovered by action of debt, bill, or plaint, in the Supreme Court.

Judges neglecting to certify shall forfeit Four Thousand Dollars.

SECT. 4. *And be it enacted,* That the first and second sections of the act, intituled, *An act directing the manner and form of securities to be given by Sheriffs for the due execution of their trusts, and prescribing a time for their returns on writs of fieri facias,* be and are hereby repealed, made null and void.

Repeal;

Passed June 17, 1793.

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CHAP.

(c) A provision nearly similar to this existed in chap. 1:3. b. sect 2, from June 1788, until the repeal in sect. 4, of this act.

C H A P.  
XXXIII.

C H A P. XXXIII. c.

1793.

*An ACT granting compensation to James Booth for certain public services.*

Preamble.

**W**HEREAS James Booth hath, from the second day of February, One Thousand Seven Hundred and Eighty-six, to the fifteenth day of January last past, in the capacity of Secretary of this state, not only performed considerable public services, but in the execution thereof, incurred considerable expences; for which no provision hath been made by law: In order therefore, that such compensation be made as justice and equity require,

Allowance to  
J. Booth.

*BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the Treasurer of this state be, and he is hereby authorized and directed to pay, out of such public monies as may be in his hands, unto the said James Booth, or to his order, the sum of Four Hundred and Twenty Dollars; which said sum shall be deemed and considered to be in full compensation and satisfaction for all public services rendered as aforesaid, from the said second day of February, One Thousand Seven Hundred and Eighty-six, to the fifteenth day of January, One Thousand Seven Hundred and Ninety-three.

*Passed June 17, 1793.*

C H A P. XXXIV. c.

1793.

*An ACT to authorize the owners and possessors of the marsh or low ground, commonly called and known by the name of the Cow Marsh, situate in the forest of Murderkill hundred, in Kent county, to cut a ditch or drain through the same.*

*Passed June 17, 1793.—Private act.*

CHAP.

C H A P. XXXV. c.

C H A P.  
XXXV.

1793.

An ACT, intitled, A Supplement to an additional supplement to an act, intitled, An act for the limitation of actions, and proving accounts against the estates of persons dying within this state. (a)

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That nothing contained in the act, intitled, *An additional supplement to an act, intitled, An act for the limitation of actions, and proving accounts against the estates of persons dying within this state,* shall extend to any intercourse of traffic between merchant and merchant, according to the usual course of mercantile business, nor to any demands founded on mortgages, bonds, bills, promissory notes, or settlements under the hands of the parties concerned.

The operation of the recited act restrained.  
Chap. 248. b.

SECT. 2. And be it further enacted, That so much of the last part of the third section of the act aforesaid, intitled, *An additional supplement to an act, intitled, An act for the limitation of actions, and proving accounts against the estates of persons dying within this state,* as directs a settlement between a creditor and the executor or administrator of the deceased person, before such creditor shall be admitted to require payment of any account against the estate of persons so dying as aforesaid, and the fourth section of said act, shall be, and is hereby repealed.

Parts of it repealed.

Chap. 248. b.

Passed June 18, 1793.

CHAP.

(a) For the original act see chap. 86. a. 15 Geo. II.—first supplementary act thereto, chap. 216. a. Anno, 1773, 12 Geo. III.—second supplement, chap. 248. b. in 1792—third ditto above—fourth in chap. 40. c, after.

C H A P.  
XXXVI.

C H A P. XXXVI. c.

1793.

*An ACT for establishing the militia in this state. (a)*

Preambl.:

**W**HEREAS a well regulated militia is the proper and natural defence of every free state : And as the several laws enacted by the Legislature of this state for the regulation of the militia thereof have been found to require material alterations ; in order to which it has been thought more advisable to revise the whole system, than to amend it by supplementary statutes ; therefore,

Who shall be  
enrolled, and  
by whom.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, and it is hereby enacted by the authority of the same,* That each and every free able bodied white male citizen of this state, who is or shall be of the age of eighteen years, and under the age of forty-five years, except as herein after excepted, shall severally and respectively be enrolled in the militia, by the Captain or Commanding Officer of the company within whose bounds such citizens shall reside, such bounds to be limited and fixed agreeable to the subdivisions which have been made by the Lieutenants and Sub-lieutenants of the different counties, and that within four months after the passing of this act ; (b) and that it shall be at all times hereafter the duty of every such Captain or Commanding Officer of a company to enrol every such citizen as aforesaid, and also those who shall from time to time arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, and not excepted by this act, shall come to reside within his bounds, and shall without delay notify such citizen of the said enrolment, by a proper non-commissioned officer of the company by whom such notice may be proved ; and in all cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned

Notification of  
the enrolment.

(a) See a supplement hereto, chap. 95. c. Anlo, 1796.

(b) See chap. 95. c. sect. 1, provision made for dividing the counties into regimental and battalion districts, and these into company districts.

tioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them.

CHAP.  
XXXVI.  
1793.

SECT. 2. *And be it further enacted,* That the Vice-President of the United States, officers judicial and executive of the government of the United States, the Members of both Houses of Congress and their respective officers; all Customhouse Officers and their Clerks, Judges of the Supreme Court and of the Court of Common Pleas, Chancellor, Attorney General, Secretary, and Treasurer of the State, Sheriffs, Gaolers and keepers of workhouses, all post-officers and stage-drivers who are employed in the care and conveyance of the mail of the Post-office of the United States, all ferrymen employed at any ferry on the post roads, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, ministers of religion of every denomination, professors and teachers in colleges, academies, Latin schools, and schoolmasters having twenty English scholars, and no other person or persons, shall be excepted from militia duty; but all young men under the age of twenty-one years, and all servants purchased *bona fide*, and for a valuable consideration, though enrolled agreeable to the first section of this law, shall be exempted from furnishing the necessary arms, ammunition and accoutrements as are required by the fourth section thereof, and shall be exempted from militia duties and fines during such minority or servitude, except in cases of rebellion, or an actual or threatened invasion of this or any of the neighbouring states.

Persons exempted from military duty.

From furnishing arms, &c.

SECT. 3. *And be it further enacted,* That the militia of this state be arranged into divisions, brigades, regiments, battalions and companies in manner and form following: The whole state to make one division, and each county to consist of one brigade; each brigade to consist of not less than two, or more than eight regiments; each regiment to consist of two battalions, and each battalion to consist of four companies, in such manner that no company shall consist of more than eighty, or less than forty privates, or as near as may be, having regard to their local situation; there

Arrangement of the militia.

C H A P.  
XXXVI.  
1793.

How the militia  
shall be armed.

there shall be to each regiment at least one company of grenadiers; light infantry, or riflemen; and to each brigade there shall be at least one company of artillery, and one troop of horse, which shall be formed of volunteers from the respective regiments, at the discretion of the Governor. (c)

SECT. 4. *And be it further enacted,* That in order that the militia may be properly armed, equipped and accoutred, every citizen enrolled, and notified of his enrolment in manner aforesaid, except as herein before excepted, shall, within six months after receiving such notice, provide himself with the arms, ammunition and accoutrements herein after mentioned, *viz.* every non-commissioned officer and private of the infantry (including grenadiers and light infantry, and of the artillery) shall have a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch, with a box therein to contain not less than twenty-four cartridges suited to the bore of his gun, each cartridge to contain a proper quantity of powder and ball, or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; the commissioned officers of the infantry shall be armed with a sword or hanger, and an epon-toon, and those of artillery with a sword or hanger, a fuzee, bayonet and belt, and a cartridge box to contain twelve cartridges; the commissioned officers of the troops of horse shall furnish themselves with good horses of at least fourteen hands and a half high, and shall be armed with a sword and pair of pistols, the holsters of which shall be covered with bear skin caps; each light-horseman or dragoon shall furnish himself with a serviceable horse at least fourteen hands and an half high, a good saddle, bridle, mail pillion and valise holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartouch box to contain twelve cartridges for pistols; the artillery and horse shall be uniformly clothed in regimentals, to be furnished at their own expence, the colour

(c) Sec chap. 95. c. sects. 2, 5, further and other arrangement of the militia.

colour and fashion to be determined by the Brigadier commanding the brigade to which they shall belong; every militia-man shall appear so armed, accoutred and provided, when called out to exercise, or into service (except that when called out on company days, to exercise only, he may appear without a knapsack;) and every man so enrolled as aforesaid, and providing himself with the arms, accoutrements and ammunition required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt, or payment of taxes; each battalion and regiment shall be provided with the state and regimental colours, by the field officers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company; the expences of such colours, drums, fifes, or bugle horns to be repaid to the officers out of the fines incurred by this act: (d) *Provided always*, That whenever the field-officers of any regiment shall judge any person enrolled therein unable to equip himself as aforesaid, such person shall not be subject to any fine for not arming, any thing herein contained to the contrary notwithstanding.

SECT. 5. *And be it further enacted*, That the militia shall be officered as follows: To a division one Major General, and two Aids de Camp, with the rank of Major; to each brigade one Brigadier General, with one Brigade Inspector, to serve also as Brigade Major, with rank of Major; to each regiment one Lieutenant Colonel Commandant, and to each battalion one Major; to each company of infantry (including light infantry and grenadiers) one Captain, one Lieutenant, one Ensign, four Sergeants, four Corporals, one Clerk, one Drummer, and one Fifer or Bugler; there shall be a regimental staff, to consist of one Adjutant and one Quarter Master, to rank as Lieutenants, one Paymaster, one Surgeon, and one Surgeon's Mate, one Sergeant Major, one Drum Major, and one Fife Major; there shall be to each company of artillery,

one

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Shall appear  
armed on days  
of exercise.

Arms exempted  
from distresses.

Who shall be ex-  
empted from  
fines for not  
arming.

How the militia  
shall be officered.

(d) As per sect. 18, hereafter—but see chap. 95, c. sect. 10, the appropriation of fines given to the Commissary of military stores provided for in sect. 9, of that chap.

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one Captain, two Lieutenants, four Sergeants, four Corporals, six Gunners, six Bombardiers, one Drummer, and one Fifer; and to each troop of horse there shall be, one Captain, two Lieutenants, one Cornet, four Sergeants, four Corporals, one Saddler, one Farrier, and one Trumpeter.

Officers, by whom to be appointed.

SECT. 6. *And be it further enacted,* That the Governor shall on or before the first day of September next, appoint and commission the Major General, Brigadiers, Lieutenant Colonels, Majors, Captains, Lieutenants, Ensigns, and Cornets; that the Major General shall appoint their own Aids de Camp out of the line of Captains or Subalterns; that the Brigadiers shall appoint their Brigade Majors out of the line of Subalterns; (e) that the fieldofficers of each regiment shall appoint their respective regimental staffs; and that each Captain shall appoint his Sergeants, one of which shall be appointed Clerk to the company, Corporals, Drummer and Fifer; that all commissioned officers shall be commissioned for seven years, and shall take rank according to the date of their commissions; and when two of the same grade bear equal date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

Of their commissions and rank.

How the companies shall be classed.

SECT. 7. *And be it further enacted,* That on the first Tuesday in April next ensuing, the Captain or Commanding Officer of each company shall call the persons belonging to the same together, giving due notice, and shall divide them into eight classes, as nearly equal in number to each other as conveniently may be, allotting a Sergeant or Corporal to each class; and eight slips of paper, numbered respectively from one to eight, being prepared, every private shall determine by drawing a ballot, what class he is to serve in; and in case any of the persons belonging to any company shall neglect to attend, at the time and place appointed for classing the said company, or if present, shall refuse to draw as aforesaid, then the said

(e) Or "non-commissioned officers or privates," by sect. 15, of chap. 95. c.

said Captain or Commanding Officer thereof shall appoint one disinterested freeholder to draw for the absentees, or persons so refusing; and when the classes shall be so settled, the Captain or Commanding Officer of each company shall form a roll, consisting of the eight classes, and the names and surnames of the men in each class, numbered according to the order of balloting, which he shall keep for his own use, (f) transmitting forthwith a copy thereof, with a list of his commissioned and non-commissioned officers prefixed, to the Colonel or Commanding Officer of the regiment, who shall enter the same in a book by him to be provided for that purpose; and the said Captain or Commanding Officer shall, on the first Tuesday in April, in every succeeding year, add to the said roll the names and surnames of all such male white inhabitants between the ages aforesaid, who, on the next preceding twelve months, have removed to and are then residing in that subdivision, or therein have attained the age of eighteen years, except as herein before are excepted, annexing them respectively to such class or classes as may still render all the classes of a company as nearly equal in number to each other as conveniently may be.

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The Captain shall form a roll of the classes, and transmit a copy to the Colonel.

SECT. 8. *And be it further enacted,* That to the end the militia when called by classes shall be properly officered, the following order is hereby directed and enjoined, *That is to say,* For the first draft, the Captain of the first company, the Lieutenant of the second, and the Ensign of the fourth; second draft, the Captain of the second company, the Lieutenant of the first, and the Ensign of the third; third draft, the Captain of the third company, the Lieutenant of the fourth; and the Ensign of the second; fourth draft, the fourth Captain, the Lieutenant of the third company, and the Ensign of the first; fifth draft, the fifth Captain, the Lieutenant of the sixth company, and the Ensign of the eighth; sixth draft, the sixth Captain, the Lieutenant of the fifth company, and

Drafts of the militia how officered, and called into service by classes.

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(f) See chap. 95. c. sect. 3. further provision for classing of companies and directing what shall be the best mode of enrolment in such class lists.

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the Ensign of the seventh; seventh draft, the Captain of the seventh company, the Lieutenant of the eighth, and the Ensign of the sixth; the eighth draft; the Captain of the eighth company, the Lieutenant of the seventh, and the Ensign of the fifth; non-commissioned officers to take tour with the commissioned officers; and the field officers of regiments, in every division and brigade in the state, shall be divided in like manner; and each class to be considered as a detachment from different corps, liable to serve two months, and no longer, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved; but nothing herein contained shall prevent the Governor from employing and calling out part of any class, or any company or companies, regiment or regiments, without respect to this rule, whenever the exigency is too sudden to allow the assembling of the scattered militia, which compose the particular classes; and the service of the persons so called out shall be accounted as part of their tour of duty; and the pay of the militia in actual service shall commence two days before marching, and they shall receive pay and rations at the rate of fifteen miles *per* day on their return home.

The rule not to be regarded in case of emergency.

When pay shall commence and end.

Pay of the militia.

Penalty for neglecting a tour of duty.

SECT. 9. *And be it further enacted*, That when the militia, or any detachment thereof are called on duty, the pay of a Major General shall be Sixty Dollars *per* month; of each Brigadier General Fifty Dollars *per* month; of each Lieutenant Colonel Forty Dollars *per* month; of each Major Thirty Dollars *per* month; of each Captain Twenty-five Dollars; of each Lieutenant Twenty Dollars *per* month; of each Ensign Fifteen Dollars *per* month; of each Sergeant Eight Dollars *per* month; of each Corporal Seven Dollars *per* month; and of each private and musician Six Dollars *per* month; and that every person refusing or neglecting to perform his tour of duty, if a commissioned officer, shall pay the sum of Twenty-five Dollars, and forfeit such his commission, and if a non-commissioned officer or private, the sum of Twelve Dollars for every such neglect or refusal.

SECT. 10. *And be it further enacted*, That when any  
class

class or classes of the militia shall be called to perform any tour of duty; the Brigade Major shall cause each and every such person so called to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other fit person to be employed for that purpose, at least three days before the time of assembling the said militia, unless the Governor on a sudden exigency, shall think proper to order any part of the militia into immediate service, and then the notice shall be given for immediate attendance. (g)

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How the militia called into service shall be notified.

SECT. 11. *And be it further enacted*, That every male white person within this state, between the ages of eighteen and forty-five, or who shall hereafter attain the age of eighteen years, except as before excepted, shall attend at the time and places appointed, in pursuance of this act, for the appearance of the company or regiment to which he belongs; and if any non-commissioned officer or private as aforesaid, required to be armed and accoutred with his firelock and accoutrements aforesaid in good order, or if any male white person between the ages aforesaid, although not required to be so armed and accoutred, shall neglect or refuse to appear on the parade, and answer to his name when the roll is called over, which the commanding officer is hereby directed to have done at the distance of one hour after the time appointed for meeting, not having a reasonable excuse, to be adjudged of by a Court Martial to be appointed by the commanding officer of the company, which shall consist of a Subaltern and four privates, the Subaltern to be President thereof, every such person shall forfeit and pay the sum of Fifty Cents. (h)

Penalty on privates for non-attendance on days of review and exercise;

As in sect. 4, Ante.

SECT. 12. *And be it further enacted*, That every person required to attend as aforesaid, at the time and place

and for neglect of duty.

(g) For further and more special provision relating to notification of tour of duty, called for to be performed by classes of the militia, and the penalties on privates and officers for non-performance thereof, see chap. 95. c. sects. 12, 13, 14.

(h) See chap. 95. c. sect. 6, alterations in the penalties above in sects. 11 and 13, distinguishing between non-attendance on days of exercise in company or battalion, and in regiments—and see sect. 18, there penalties for neglect of exercise or duty in the troops of horse—and see also sect. 20, for the penalty on persons enrolled in the militia who shall thereafter continue to meet in volunteer companies.

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place of exercise in company or in regiment, who shall then and there appear, and shall neglect or refuse to answer to his name when the roll is called over, or to obey the lawful commands of his commanding officer, or to perform his exercise with the care and attention requisite therein, being convicted of any of the said offences by a Court Martial, to be appointed as aforesaid, shall forfeit and pay for every such offence any sum not exceeding One Dollar and Forty Cents.

Penalty on officers for non-attendance on field days.

SECT. 13. *And be it further enacted*, That every commissioned officer who shall neglect or refuse to appear at the time and place appointed for exercise in battalion or regiment, having no reasonable excuse, to be adjudged of by such of the officers present, as any two of the field officers shall appoint, and there do and perform his duty, according to his office and station, shall forfeit and pay, if a Lieutenant Colonel Commandant Four Dollars, if a Major Three Dollars, if a Captain Two Dollars, and if a Subaltern or Staff Officer One Dollar and Twenty-five Cents; and every commissioned officer, who shall refuse or neglect to appear at the time and place appointed for exercise or other muster days, having no reasonable excuse, to be adjudged of by the officers present, or a majority of them, shall forfeit and pay for every such neglect or refusal, if a Captain One Dollar and Twenty-five Cents, and if a Subaltern One Dollar. (b)

On other muster days.

A Clerk to be appointed for each company.

SECT. 14. *And be it further enacted*, That the commissioned officers of every company shall appoint such Sergeant thereof, as they shall judge best qualified, to be Clerk thereto, who shall keep in a book to be provided by him for that purpose, to be viewed and examined from time to time by the commanding officer thereof, a fair and exact account of all fines and forfeitures incurred by persons belonging to the same, noting therein, at the time and place appointed for meeting in company, battalion or regiment, the names of the persons belonging to his company, and then absent; a transcript of which entries of fines and forfeitures, the said Clerk shall deliver to the Treasurer of his regiment, once in every three months, (i) by whom

It's duty.

And pay.

(i) In sect. 7, chap. 95. c. an account of all fines is to be signed by the Captain

whom he shall be paid Four Dollars a year for his services as Clerk aforesaid:

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SECT. 15. *And be it further enacted,* That it shall and may be lawful for the commissioned officers of each regiment, to meet on the first Tuesday in September annually, and chuse by ballot, to be taken under the inspection of the field officers, or such of them as attend; one reputable freeholder to be Treasurer to such regiment for the year thence next ensuing.

Treasurer for each regiment, to be chosen annually.

SECT. 16. *And be it further enacted,* That the Treasurer of each regiment, before he enters on the duties by this act required of him, shall give bond to the Lieutenant Colonel Commandant of the same, in such sum and with such sureties as he shall approve of, conditioned for the faithful performance of the duties hereby enjoined him, and shall pay over all such sums of money as shall come to his hands, in pursuance of this act, in manner herein directed, and at the expiration of the year for which he was chosen, shall render an account (k) to the State Treasurer of all monies that have come into his hands as Treasurer of said regiment, and in what manner he hath disposed of the same; and the balance remaining in his hands, if any, shall be paid over to the State Treasurer, after deducting Twenty Cents in the Pound for his trouble.

To give bond.

Shall account with the State Treasurer.

His compensation.

SECT. 17. *And be it further enacted,* That the Treasurer is hereby impowered and required to sue for and recover all fines and forfeitures incurred by this act, (l) and if he shall neglect or refuse to sue for and recover all fines and forfeitures incurred by this act, once in every six months, he shall forfeit and pay for the first

Shall sue for all fines.

or Commanding Officer of each company or troop, and by him transmitted to the Treasurer of the regiment, and a duplicate thereof to the Commissary of military stores, once in three months at the least, under the penalty of Twenty Dollars for every neglect.

(k) And pay over to the Military Commissary of his county all sums collected, every four months, deducting twelve Per Cent. for collection, by sect. 8, of said chap. 95. c.—and in sect. 11, the said Military Commissary is to account annually with the Auditor of Accounts, retaining four Per Cent.

(l) See sect. 7, of said chap. 95. c. a summary mode of collection prescribed, viz. distress and sale under a justices warrant, as in the case of county rates and levies. See also sect. 16, there.

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Appropriation of  
fines and forfei-  
tures.Who shall have  
power to call the  
militia into ser-  
vice.Militia exempt-  
ed from arrests  
in civil actions.

first offence the sum of Eight Dollars, and for the second, and every other offence, the sum of Sixteen Dollars.

SECT. 18. *And be it further enacted,* That all fines and forfeitures, that shall be paid into the hands of any Treasurer of a regiment in pursuance of this act, shall be applied for the purpose of purchasing arms, accoutrements and ammunition for the use of the regiment, as the Governor shall order and direct, and for purchasing such drums, colours and fifes for the several companies; and also for paying adjutants, drummers and fifers, and in such manner as the field-officers thereof shall from time to time direct. (m).

SECT. 19. *And be it further enacted,* That the Governor shall have full power and authority, in case of an invasion, rebellion, or insurrection within this state, or any of the neighbouring states, to call into service such part of the militia, by classes, as to him shall seem necessary; and in case of the absence of the Governor of this state on any insurrection, rebellion, or invasion, the commanding officer of each brigade is hereby authorized and directed to issue his orders, to call out such part of the militia as he may judge immediately necessary.

SECT. 20. *And be it further enacted,* That no person or persons by this act directed to meet and muster, or perform any military duty, shall be liable to be arrested or taken by any Sheriff, Constable, or other officer, in any civil actions whatsoever, on the day of such meeting, in going to, or returning home from the place of such meeting or muster or other military duty; but every such arrest shall be void, and the officer making the same shall be liable to an action of trespass for false imprisonment at the suit of the party so arrested, and he shall be forthwith set at liberty and discharged from the custody of such officer, by order of any one Judge or Justice of the Peace of the county where such arrest is made, or of the Captain of the company to which such person doth belong.

SECT.

(m) See also sect. 10, of chap. 95. c. the power of appropriation of fines given to the Military Commissary, and the execution of them to a greater number of objects.

SECT. 21. *And be it further enacted,* That the rules of discipline approved and established by Congress, in their resolution of the twenty-ninth of March, One Thousand Seven Hundred and Seventy-nine, shall be the rules of discipline to be observed by the militia of this state; except such deviations from the said rules as may be rendered necessary by the requisitions of an act of Congress, intitled, *An act more effectually to provide for the national defense, by establishing a uniform militia throughout the United States,* or by some other unavoidable circumstances: It shall be the duty of the commanding officer at every muster, whether by regiment, battalion, or single company, to cause the militia to be exercised and trained agreeable to the said rules of discipline.

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What rules of discipline shall be observed by the militia.

SECT. 22. *And be it further enacted,* That if any person, whether officer or soldier, belonging to the militia, and called out into service, be wounded or disabled while in service, he shall be taken care of, and provided for, at the public expense: That the Brigade Inspector, and two reputable freeholders, shall appraise the horse of each person serving as light-horsemen, immediately before the time of going into actual service, and enter the same in a book; and in case such horse shall be killed, die, or taken by the enemy, otherwise than by neglect, he shall be paid the full value of his horse.

Persons disabled shall be supported at the public expense.

Horses of light-horsemen to be appraised,

and if killed, the value to be paid.

SECT. 23. *And be it further enacted,* That the militia of this state shall be subject to such articles of war, as may be established by the General Assembly; and that they shall be tried by their own officers only.

Of articles of war, and trial of the militia.

SECT. 24. *And be it further enacted,* That the militia in this state shall be exercised and instructed in companies, in the months of April, June and September annually, at such time and place as the Captain or Commanding Officer shall direct, he giving notice thereof by advertisements at three of the most public places in his district, at least five days before the day of muster; and in regiments as follows: The first regiment on the second Monday in October in every year, the second regiment on the Tuesday following, and the third regiment on the Wednesday, and so on, according to their numerical rank, on

When to be exercised in companies,

and in regiments.

every

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Monies paid in-  
to the treasury,  
by virtue of this  
act, how appro-  
priated.

The Governor  
shall appoint an  
Adjutant Gene-  
ral.

His duty.

every day in the week, Saturdays and Sundays ex-  
cepted; until the whole number of regiments shall  
have mustered and exercised in the aforesaid man-  
ner. (n)

SECT. 25. *And be it further enacted,* That all monies  
passing into the treasury, by virtue of the directions  
of this act, shall be appropriated as a fund for the  
purpose of supporting the necessary officers for carry-  
ing this law into effect, and of equipping and fur-  
nishing the militia with every necessary apparatus for  
the defence and security of the state; the surplus, if  
any, to be appropriated in such manner, and to such  
uses, as the General Assembly shall from time to time  
direct and appoint; and the State Treasurer shall keep  
all the monies arising from fines by the militia law, se-  
parate from all other monies, and keep a separate  
book of the same, and the expenditures thereof pur-  
suant to the directions of this act. (o)

SECT. 26. *And be it further enacted;* That the Go-  
vernor shall appoint an Adjutant General in the state,  
whose duty it shall be to distribute all orders from the  
Commander in Chief of the state to the several corps,  
to attend all public reviews, when the Commander  
in Chief shall review the militia; or any part thereof;  
to obey all orders from him relative to carrying into  
execution and perfecting the systems of military disci-  
pline established by this act, to furnish blank forms  
of different returns that may be required, and to ex-  
plain the principles on which they should be made,  
to receive from the several officers of the different  
corps throughout the state returns of the militia un-  
der their command, reporting the actual situation of  
their arms, accoutrements and ammunition, and  
every other thing which relates to the general ad-  
vancement of good order and discipline; all which  
the several officers of brigades, regiments and batta-  
lions are hereby required and directed to make in the  
usual

(n) See sect. 5, of chap. 95. c. the foregoing times altered, to wit, of exercise in  
companies once in the months of April, August and November—in battalions in the  
month of May—and in regiments in the month of June annually.

(o) See also sects. 20, 21, of chap. 95. c. some alterations herein with more spe-  
cific appropriations.

usual manner, so that the Adjutant General may be duly furnished therewith; from all which returns he shall make proper extracts, and lay the same annually before the Governor or Commander in Chief of the state, and transmit a duplicate of the same to the President of the United States. (p)

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Passed June 18, 1793.

C H A P. XXXVII. c.

An ACT to enable Anna Adams, and John Brown of Kent county, to bring from the state of Maryland into this state, two Negro slaves.

1793.

Passed June 18, 1793.—Private act.

C H A P. XXXVIII. c.

An ACT to vest the title of a tract of land in Phebe Snow, Jane Wilson, and Robert Rees.

1793.

Passed June 18, 1793.—Private act.

C H A P. XXXIX. c.

An ACT for the better regulation of distresses for rent, and for other purposes therein mentioned.

1793.

**W**HEREAS for want of due regulation of distresses for rent much injury hath been suffered, Preamble.

SECTION I. BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That from and after the publication

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of

(p) See sect. 21, of chap. 95. c. a repeal of so much of this act as is there altered and amended, or otherways provided.

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Distresses for  
rent, if not re-  
plevied within  
five days, shall  
be appraised.

Allowance.

Oath of apprais-  
ers.

Distress may be  
sold after six  
days public no-  
tice.

Persons grieved  
by pound breach  
or rescous shall  
recover double  
damages and  
costs.

of this act, where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the tenant or owner of the goods so distrained, shall not, within five days next after such distress taken, and notice thereof in writing, with the cause of such taking, left at the mansion house, or other most notorious place on the premises charged with the rent distrained for, replevy the same with sufficient security, to be given to the Sheriff according to law, that then and in such case, after such distress and notice as aforesaid, and expiration of the said five days, the person distraining shall and may with the Sheriff, Under Sheriff, or any Constable, in the county or borough where such distress shall be taken, (who are hereby required to be aiding and assisting therein,) cause the goods and chattels so distrained, to be appraised by two reputable freeholders, who shall have and receive for their trouble, the sum of Twenty Cents *per diem* each, and shall first take the following oath or affirmation:

*I A. B. will well and truly, according to the best of my understanding, appraise the goods and chattels of C. D. distrained on for rent by E. F.*

Which oath or affirmation such Sheriff, Under Sheriff or Constable is hereby impowered and required to administer; and after such appraisement, shall or may, after six days public notice in writing, lawfully sell the goods and chattels so distrained, for the best price that can be gotten for the same, for and towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement and sale, leaving the overplus, if any, in the hands of the said Sheriff, Under Sheriff, or Constable, for the owner's use.

SECT. 2. *And be it further enacted by the authority aforesaid, That upon any pound breach or rescous of goods or chattels, distrained for rent, the person or persons grieved thereby shall, in a special action upon the case for the wrong thereby sustained, recover his, her, or their double damages and cost of suit, against the offender or offenders in such rescous or pound breach, any or either of them, or against the owner or owners of the goods distrained, in case the*

the same be afterwards found to have come to his or their use or possession.

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SECT. 3. *Provided always, and be it further enacted,* That in case any distress and sale shall be made, by virtue of this act, for rent pretended to be in arrear and due, when in truth no rent shall appear to be in arrear and due to the person or persons distraining, or to him or them in whose name or names or right such distress shall be taken as aforesaid, that then the owner of such goods and chattels distrained and sold as aforesaid, his executors or administrators, shall and may by action of trespass, or upon the case, to be brought against the person or persons so distraining, any or either of them, his or their executors or administrators, recover double the value of the goods or chattels so distrained and sold, together with full cost of suit.

Remedy for distress and sale made, when no rent is due.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the goods and chattels lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, or otherwise taken by virtue of any execution, shall be liable to the payment of all such sum or sums of money as are or shall be due for rent for the premises, at the time of taking such goods and chattels by virtue of such execution; and the said Sheriff or other proper officer, shall, after sale of the said goods and chattels, pay to the landlord, or other person impowered to receive the same, such rent so due, if so much shall be in his hands, and if not, so much as shall be in his hands, and apply the overplus thereof, if any, towards satisfying the debt and costs in such execution mentioned: *Provided always,* That the said rent, so to be paid to the landlord, shall not exceed one year's rent.

Goods and chattels under execution liable to the payment of rent due.

Proviso.

SECT. 5. *And be it further enacted by the authority aforesaid,* That in case any lessee for life or lives, term of years, at will, or otherwise, of any messuages, lands or tenements, upon the demise whereof any rents are or shall be reserved, or made payable, shall, from and after the publication of this act, where any arrears of rent are due, convey or carry off or from such demised premises, his goods or chattels, without the

Goods or chattels conveyed from the demised premises, without leave of the lessor, may be seized as a distress, and sold.

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the leave of the lessor or landlord in writing first had; it shall and may be lawful to and for such landlord or lessor, or any other person or persons by him for that purpose lawfully impowered, within the space of forty days next ensuing such conveying away, or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels, wherever the same may be found, as a distress for the said arrears of such rent, and the same to sell, or otherwise dispose of, in such manner as if the said goods and chattels had actually been distrained by such lessor or landlord in and upon such demised premises for such arrears of rent; any law, custom or usage to the contrary notwithstanding.

Proviso, as to  
sales made Bona  
fide.

SECT. 6. *Provided nevertheless,* That nothing herein contained shall extend, or be deemed or construed to extend, to impower such lessor or landlord to take or seize any such goods or chattels, as a distress for arrears of rent, which shall be *bona fide*, and for a valuable consideration, sold, before such seizure made, to any person or persons not privy to such conveying or carrying off such goods and chattels as aforesaid; and actually in the possession of such buyer or buyers, separately from the possession of the seller, any thing herein to the contrary notwithstanding.

What may be  
taken and sold  
as a distress for  
rent.

SECT. 7. *And be it further enacted by the authority aforesaid,* That from and after the publication of this act, it shall and may be lawful to and for every lessor or landlord, lessors or landlords, or his, her, or their bailiff, receiver, or other person or persons authorised by him, her, or them, to take and seize, as a distress for arrears of rent, any cattle or stock of his or their respective tenant or tenants, feeding or depasturing upon all or any part of the premises demised or holden, and also to take and seize all sorts of corn and grass, hops, roots, fruits, pulse, or other product whatsoever, which shall be growing on any part of the estate or estates so demised or holden, as a distress for arrears of rent, and to appraise, sell, or otherwise dispose of the same, towards satisfaction of the rent for which such distress shall have been taken, and of the charges of such distress, appraisement and sale, in the same manner as other goods and chattels may be seized, distrained and disposed of; and that the purchaser

purchaser of any such corn, grass, hops, roots, fruits, pulse, or other product, shall have free egress and regress to and from the same where growing, to repair the fences from time to time, and when ripe, to cut, gather, make, cure, and lay up and thresh, and after to carry the same away, in the same manner as the tenant might legally have done, had such distress never been made.

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Purchasers to have free egress and regress.

SECT. 8. *And whereas*, great inconveniences may frequently happen to landlords, by their tenants secreting declarations in ejectment, which may be delivered to them, or by refusing to appear to such ejectments, or to suffer their landlords to take upon them the defence thereof: *Be it further enacted by the authority aforesaid*, That from and after the publication of this act, every tenant, to whom any declaration in ejectment shall be delivered, for any lands, tenements, or hereditaments within this state, shall forthwith give notice thereof to his or her landlord or landlords, or his or her or their bailiff, receiver, agent or attorney, under penalty of forfeiting the value of two years rent of the premises so demised, or holden in the possession of such tenant, to the person of whom he or she holds, to be recovered by action of debt, to be brought in any of the Courts of Common Pleas within this state, wherein no effoine, protection or wager of law shall be allowed, nor any more than one imparlance.

Penalty on tenants neglecting to give notice of declarations in ejectment delivered to them.

SECT. 9. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the court where such ejectment shall be brought, to suffer the landlord or landlords to make him, her, or themselves, defendant or defendants, by joining with the tenant or tenants to whom such declaration in ejectment shall be delivered, in case he or they shall appear; but in case such tenant or tenants shall refuse or neglect to appear, judgment shall be signed against the casual ejector for want of such appearance; but if the landlord or landlords of any part of the lands, tenements or hereditaments, for which such ejectment was brought, shall desire to appear by himself or themselves, and consent to enter into the like rules that, by the course of the court, the tenant in possession,

What proceedings may be had on such ejectments.

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possession, in case he or she had appeared, ought to have done, then the court where such ejectment shall be brought, shall and may permit such landlords so to do, and order a stay of execution upon such judgment against the casual ejector, until they shall make further order therein.

Defendants in replevin may avow generally, &c. and if the plaintiff become non suit, &c. shall recover double costs.

SECT. 10. *And whereas* great difficulties often arise in making avowries or conuzance upon distresses for rent: *Be it further enacted by the authority aforesaid*, That from and after the publication of this act, it shall and may be lawful for all defendants in replevin, to avow or make conuzance generally, that the plaintiff in replevin, or other tenant of the lands and tenements whereon such distress was made, enjoyed the same under a grant or demise at such a certain rent or service, during the time wherein the rent or service distrained for incurred, which rent or service was then and still remains due, without further setting forth the grant, tenure, demise, or title of such landlord or landlords, lessor or lessors, any law or usage to the contrary notwithstanding; and if the plaintiff or plaintiffs in such action shall become non suit, discontinue his, her, or their action, or have judgment given against him, her or them, the defendant or defendants in such replevin shall recover double costs of suit.

Sheriffs serving replevins shall take bond;

SECT. 11. *And to prevent vexatious replevins of distresses taken for rent*, *Be it enacted by the authority aforesaid*, That from and after the publication of this act, all Sheriffs, and other officers having authority, to serve replevins, may and shall, in every replevin of a distress for rent, take in their own names, from the plaintiff and one responsible person as surety, a bond in double the value of the goods distrained, (such value to be ascertained by the oath or affirmation of one or more credible persons or person, not interested in the goods or distress, which oath or affirmation the person serving such replevin is hereby authorized and required to administer) and conditioned for prosecuting the suit with effect, and without delay, and for duly returning the goods and chattels distrained, in case a return shall be awarded before any deliverance be made of the distress; and that such Sheriff,

or

or other officer as aforesaid, taking any such bond, shall at the request and cost of the avowant, or person making conuzance, assign such bond to the avowant, or person aforesaid, by indorsing the same, and attesting it under his hand and seal, in the presence of two credible witnesses; and if the bond so taken and assigned, be forfeited, the avowant, or person making conuzance, may bring an action and recover thereupon in his own name; and the court where such action shall be brought may, by a rule of the same court, give such relief to the parties upon such bond as may be agreeable to justice and reason, and such rule shall have the nature and effect of a defeasance to such bond.

SECT. 12. *And whereas* lessees or tenants for years, or at will, by holding over the tenements to them demised, after the determination of such leases, and although required to deliver them up to the lessors or landlords, thus unjustly obliging the lessors or landlords, at a great expense, to bring ejectments, and to suffer very injurious delays before possession be recovered: Therefore for preventing such unjust practices, *Be it further enacted by the authority aforesaid,* That where any person or persons in this state, having leased or demised any lands or tenements to any person or persons for a term of one or more years, or at will, paying certain rents, and he or they, or his or their heirs or assigns, shall be desirous, upon the determination of the lease, to have again and repossess his or their estate so demised, and for that purpose shall demand, and require his or their lessee or tenant to remove from and leave the same, if the lessee or tenant shall refuse to comply therewith, in three months after such request to him made, it shall and may be lawful to and for such lessor or lessors, his or their heirs or assigns, to complain thereof to any two Justices of the Peace of the county or borough where the demised premises are situate, and upon due proof thereof, made before the said justices, that the lessor or lessors had been quietly and peaceably possessed of the lands or tenements so demanded to be delivered up, that he or they demised the same under certain rents to the then tenant in possession, or some person

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which shall be assigned at the request of the avowant; and if forfeited, may be sued, &c.

If tenants hold over, after the determination of their lease, &c. complaint may be made to any two justices;

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who shall cause  
a jury to be sum-  
moned, &c.

Of the bearing  
and enquiry by  
the justices and  
jury.

Record to be  
made of their  
finding.

Jury to assess  
damages.

Judgment to be  
entered and be  
conclusive.

person or persons under whom such tenant claims or came into possession, and that the term for which the same was demised is fully ended; that then, and in such case, it shall and may be lawful for the said two justices to whom complaint shall be made as aforesaid, and they are hereby enjoined and required, forthwith to issue their warrant, in nature of a summons, directed to the Sheriff of the county, thereby commanding the Sheriff to summon twelve substantial freeholders to appear before the said justices, within four days next after issuing the same summons, and also to summon the lessee or tenant, or other person claiming, or coming into possession, under the said lessee or tenant, at the same time to appear before them the said justices and freeholders, to shew cause, if any he has, why restitution of the possession of the demised premises should not forthwith be made to such lessor or lessors, his or their heirs or assigns; and if upon hearing the parties, or in case of the tenant's, or other persons claiming or coming into possession under the said lessee or tenant, neglecting to appear, after being summoned as aforesaid, it shall appear to the said justices and freeholders, that the lessor or lessors had been possessed of the lands or tenements in question, that he or they had demised the same for a term of one or more years, or at will, to the person in possession, or some other under whom he or she claims, or came into possession, at a certain yearly or other rent, and that the term is fully ended, that demand had been made of the lessee, or other person in possession as aforesaid, to leave the premises, three months before such application to the said justices; that then, and in every such case, it shall and may be lawful for the said two justices to make a record of such finding by them the said justices and freeholders; and the said freeholders shall assess such damages as they think right, against the tenant or other person in possession as aforesaid, for the unjust detention of the demised premises; for which damages and reasonable costs, judgment shall be entered by the said justices, which judgment shall be final and conclusive to the parties; and upon which, the said justices shall, and they are hereby enjoined and required,

ed, to issue their warrant under their hands and seals, directed to the Sheriff of the county, commanding him forthwith to deliver to the lessor or lessors, his or their heirs or assigns, full possession of the demised premises aforesaid, and to levy the costs taxed by the justices, and damages so by the freeholders aforesaid assessed, of the goods and chattels of the lessee or tenant, or other person in possession as aforesaid; any law, custom, or usage to the contrary notwithstanding.

SECT. 13. *And whereas* after the determination of such leases so made as aforesaid, no distress can by law be made for any arrears of rent, that grew due on such respective leases before the determination thereof: *Be it therefore further enacted by the authority aforesaid,* That from and after the publication of this act, it shall and may be lawful for any person or persons, having any rent in arrear or due upon any lease for life or lives, or for one or more years, or at will, ended or determined; to distrain for such arrears after the determination of the said respective leases, whether the goods or chattels remain upon the premises, or be conveyed away or carried off as aforesaid, in the same manner as they might have done, if such lease or leases had not been ended or determined; *Provided,* That such distress be made during the continuance of the title or interest of such lessors, their heirs or assigns.

Passed June 19, 1793.

C H A P. XL. c.

*An additional Supplement to the act, intitled,* An act for the limitation of actions, and proving accounts against the estates of persons dying within this government. (a)

1793.

**W**HEREAS peaceable possession of real estates for many years is a strong evidence of right; Preamble.  
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(a) See note (a) at chap. 35. c. before.

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Of restitution,  
and levying da-  
mages and costs.

Distress may be  
made for rent,  
after the expira-  
tion of the  
lease.

Provide,

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No person shall make an entry into lands, but within twenty years; nor maintain any writ of right, &c. or make any claim to lands, &c. and allege any feisin, but an actual feisin of twenty years.

Proviso in favour of persons now having right of entry.

Proviso in favour of infants, Feme Covert, &c.

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

SECTION I. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from henceforth no person or persons whatsoever shall make an entry into any lands, tenements or hereditaments, but within twenty years next after his, her, or their right or title first descended or accrued; nor shall any person or persons whatsoever have or maintain any writ of right, or any action, real, personal or mixed, for, or make any prescription or claim to or in, any lands, tenements, or hereditaments, of the feisin or possession of him, her or them, his, her, or their ancestor or predecessor, and declare or allege, in any manner whatever, any further feisin of him, her or them, his, her, or their ancestor or predecessor, but only an actual feisin or possession of him, her or them, his, her or their ancestor or predecessor, of the premises sued for or claimed, within twenty years next before such writ or action hereafter to be had or brought: *Provided nevertheless, That any person or persons now having right or title of entry, and the heirs of such person or persons, may, within ten years from this time proceed as might have been done heretofore: (b) And Provided also, That if any person having right or title of entry, was and now is, or if any person hereafter having right or title of entry shall be, at the time of such right or title first descended or accrued, an infant, feme covert, non compos mentis, or a prisoner; then, but in no other case whatever, except as before provided, such person, or the heirs of such person, may within ten years next after the removal of such disability, but not afterwards, proceed, notwithstanding the said twenty years be expired, as might have been done before.**

(b) See chaps. 86. a. sect. 1, and 216. a. sects. 1, 2, for prior provisions as to times of entry, and commencing and maintaining actions, &c. in cases of lands, &c.

before the same were expired; and if any such person shall die under any of the disabilities aforesaid, the heirs of such person shall have the like benefit that such person might have had by living till the disability had ceased.

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SECT. 2. *And be it enacted*, That so much of an act, intituled, *An act for the limitation of actions, and proving accounts against the estates of persons dying within this government*, and of another act, intituled, *A supplementary act to an act, intituled, An act for the limitation of actions, and proving accounts against the estates of persons dying within this government*, and of every other act, as is hereby altered, contradicted or supplied, shall be, and is hereby repealed.

Parts of former acts repealed.

Chap. 86. a.

Chap. 216. a.

Passed June 19, 1793.

C H A P. XLI. c.

*An ACT to appoint a Trustee of the Loan Office for the county of Kent.*

1793.

**W**HEREAS the place of Trustee of the Loan Office for the county of Kent hath become vacant, by the resignation of Robert Clark, esquire, of that office. (a)

*BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That George M'Call, of the town of Dover, in the county of Kent, be, and he is hereby appointed Trustee of the Loan Office for the said county of Kent; who, upon giving bond, and taking the oath or affirmation required by the laws of this state, to be given and taken by a Trustee of the said office, shall have all the powers and authorities, be entitled to the same rewards, and be liable to the same penalties, as a Trustee of the Loan Office, within this state, can have, or be liable to, by the laws thereof.

George M'Call appointed Trustee.

Passed June 19, 1793.

CHAP.

(a.) For his original appointment, see before in chap. 217. b. passed Jan. 15, 1791.

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1793.

*An ACT to repeal an act, intituled, An act for regulating and establishing fees. (a)*

Chap. 191. b.

**B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That such acts, and parts of acts, as were repealed by the act, intituled, *An act for regulating and establishing fees*, passed at Dover, the third day of February, One Thousand Seven Hundred and Eighty-nine, shall be and continue repealed; and that the said act, so far as it regards all fees and regulations, except those of the Justices of the Orphans Court; shall be and are hereby repealed; (b) but the same, as to the fees to the Justices of the Orphans Court, shall continue in full force until the first Tuesday of October next; and after that day, as to those fees, shall be, and is hereby repealed,

*Passed June 19, 1793.*

C H A P. XLIII. c.

1793.

*An ACT for the support of government by duties upon vellum, parchment and paper.*—This act repealed in chap. 59. c. sect. 13, after.

*Passed June 19, 1793.*

C H A P. XLIV. c.

1793.

*An ACT impowering the Secretary to cause the laws of this state to be printed.*

Preamble.

**W**HEREAS by a resolution of the General Assembly of this state, entered into the third day of

(a) This chap. 42. c. is an appendage to the act for establishing fees in chap. 27. c. before.

(b) That is, all but the repealing clause, to wit, sect. 28, of said chap. 191. b.

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of February; One Thousand Seven Hundred and Eighty-seven, George Read, esq. was appointed and directed to revise, and prepare for publication, the laws of this state: *And whereas* this Legislature are informed, that the said business is by him so far completed, as that the work of printing may be now commenced.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That of the first monies which shall be raised, collected, and paid into the treasury of this state, (a) by an act, intituled, *An act for the support of government by duties upon vellum, parchment, and paper,* the sum of Three Thousand Dollars shall be, and are hereby appropriated to and for the particular use and purpose of causing the laws of this state to be printed and published.

Appropriation for printing the laws.

SECT. 2. *And be it enacted,* That the Secretary is hereby impowered and directed to contract, with any person or persons, for printing, in the best manner, and upon the best terms, one thousand copies of the said laws, in octavo, in a good type, and upon good paper, reserving the copy right thereof in the state, and also for neatly binding and lettering each volume of the said copies; and the said Secretary shall from time to time, as the nature of the business, and the terms of the contract may require, draw upon the Treasurer of this state, for any part of the sum appropriated for that purpose as aforesaid.

The Secretary to contract for one thousand copies,

and to draw for the money appropriated.

SECT. 3. *And be it enacted,* That the Secretary for his trouble and incidental expences, in the prosecution of the duties herein required of him, shall be allowed a reasonable and just compensation.

Compensation to be allowed him.

SECT. 4. *And be it further enacted,* That, as soon as the said laws are printed and published as aforesaid, it shall and may be lawful for the Secretary to calculate and ascertain the whole amount of the costs, charges, and incidental expences attending the publication of the said laws; and after adding thereto the sum

Upon what terms the printed copies may be sold.

(a) See the note (a) at chap. 28. c. before, and art. 6. sect. 2, of the constitution of 1792.

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1793.

Proviso.

sum or rate of ten *per centum*, to apportion the same on each set or copy of the said laws, and to sell and deliver them unto any person or persons, desirous to purchase the said laws, at the rate so by him apportioned: *Provided always*, That he shall not sell or deliver to any one person more than two sets or copies.

*Passed June 19, 1793.*

C H A P. XLV. c.

1793.

*An ACT for opening and establishing a Land Office within this state, and for the sale of all vacant and uncultivated lands therein. (a)*

Preamble.

**W**HEREAS it appears to this General Assembly, that large quantities of vacant and uncultivated land are within this state, which at the present do not, and heretofore have rendered no support to government: Wherefore, *(b)*

Surveyors to be commissioned.

Recorders to issue warrants of location.

**SECTION I.** *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That the Governor shall commissionate in each county some Surveyor of skill and integrity: And that it shall and may be lawful for any person or persons to apply to the Recorder of Deeds in each county, who is hereby directed and required to issue a special warrant, under his hand and the seal of office, directed to the Surveyor of the county, authorising him to survey and locate the land or lands therein mentioned, and to return a plot thereof, which shall contain the courses and distances of the several lines thereof, a description of the boundaries, creeks, branches, and rivulets surveyed, or lying within the lines of the said plot, the names of the owners of the contiguous or adjoining lands, and the quantity of land thereby surveyed, to an examiner, to be appointed and

*(a)* See after chap. 57. c. a supplement hereto—and chap. 102. c. an additional supplement.

*(b)* See before chap. 10. c.

and commissioned by the Governor; (c) which said plot as above described, shall be returned, within six months after the date of such warrant, to the examiner as aforesaid, who shall examine the same, and if it be imperfect, shall return it to the said Surveyor for amendment; but, if the same shall not be returned for amendment, but be approved by the examiner, which approbation shall be certified on the said plot, signed by the examiner, and returned by him, together with the plot, to the said Recorder, who shall, upon payment of the purchase money to the State Treasurer, and a receipt produced as is hereinafter directed, make a grant, and present the same to a Board of Commissioners in each county, consisting of three suitable persons to be appointed by the Governor for the time being, for their approbation, and being attested by them, and signed by the Governor for the time being, the seal of the state shall be annexed thereto. (d)

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Within what time the plots shall be returned to the examiner.

If approved, shall be sent to the Recorder; who shall make out a grant, and present the same to a Board of Commissioners, &c.

SECT. 2. *And be it enacted;* That the Recorder in each county as aforesaid, shall make out a list of every warrant and survey made out, and returned to his office, containing the names of the person or persons in whose favour the same may have issued, the date of the warrant, the date of the survey, and the quantity of land contained in such survey, and transmit the same to the State Treasurer; and in case the person or persons in whose favour the said warrant or warrants issued, shall not, within nine months after the approbation of the said examiner, pay or cause to be paid to the State Treasurer, at the rate of Fifty Cents for every acre of land included in such survey, then and in such case, the said land shall be adjudged, deemed, and taken to be still vacant and unappropriated; and it shall and may be lawful for any person or persons willing to purchase the same, to apply to the State Treasurer, at any time after the expiration of the said nine months, and pay to the State Treasurer the purchase money for the lands contained

List of warrants and surveys, to be returned to the Treasurer.

In case of default in payment of the purchase money, the lands shall be deemed vacant.

(c) To wit, one in each county by sect. 11, of chap. 57. c.  
(d) See said chap. 57. c. sects. 3, 4, 7, 8, that such grant shall be by patent, and the form thereof prescribed, &c.

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How persons  
willing to pur-  
chase the same  
may proceed.

Disputes on the  
location of  
lands shall be  
determined by  
the Board of  
Commissioners.

To whom a pre-  
ference shall be  
given.

How it shall be  
Decided in cer-  
tain cases.

ed in such survey; and upon a payment made to the State Treasurer, for the lands contained in any survey, he shall give a receipt to such person or persons, specifying therein the date of the warrant, the name of the person or persons in whose favour it had issued, the date of the survey, and the quantity of land contained in such survey; which receipt shall be carried to the Recorder, who shall file the same in his office as of record, and thereupon shall immediately make out a grant, as before directed, to such person or persons producing such receipt, reciting therein the particulars mentioned in such receipt: (e)

SECT. 3. *And whereas* disputes may arise between the inhabitants on the location of lands as aforesaid: *Be it enacted*, That whenever different claims or pretensions may arise, or any caveat shall be entered before the Recorder, against any warrant and survey, at any time before the same shall be certified to the State Treasurer as aforesaid, it shall and may be lawful for the aforesaid Board of Commissioners, upon notice of such caveat having been given, ten days previous to the sitting of the said board, to the person or persons in whose favour such warrant and survey was made, to hear and determine all matters in variance, in a summary way, according to the laws of the land, and equity and good conscience; and such determination shall be entered as of record by the said board. *Provided*, That, in all cases, a preference shall be given to such person or persons as have lands contiguous to, or adjoining such vacant or uncultivated and other lands, and to all persons who may have settled any lands, not included or held under any warrant issued previous to the first of January, One Thousand Seven Hundred and Ninety-two, in case such person or persons shall apply for warrants, within six months after the appropriation of such lands as aforesaid to the use of the state; and in case two or more shall have adjoining or contiguous lands as aforesaid, then the said board shall do what to them seems

(e) See chap. 57, c. sect. 4, a similar provision with the extension of the time for paying at the rate of Fifty Dollars Per 100 acres, to two years from date of warrant—in chap. 90, c. time of payment extended to one year more—and in chap. 101, c. sect. 5, further extended for another year

seems equitable and right; and no warrant shall issue to any one person for any greater quantity than two hundred acres of land. (f)

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SECT. 4. *And be it enacted,* That the Recorders, in the respective counties of this state, shall, at their own expense, procure record books well bound and of good paper, wherein shall be recorded the warrants issued, the surveys made thereon, and returned with the certificate of the examiner, the grants made in consequence of such surveys, all caveats entered before the Recorder, with the determination of the Board of Commissioners thereon. (g)

Recorders to enrol all warrants, surveys, &c.

SECT. 5. *And be it further enacted,* That where any warrants have been granted since the first day of January, One Thousand Seven Hundred and Seventy-six, and the terms of such warrants have not been complied with, by the persons to whom they were granted, in all such cases it shall and may be lawful for the persons to whom such warrants were granted, to apply to the Board of Commissioners aforesaid for the respective counties, and upon the payment of the caution money to the State Treasurer as before directed, and agreeably to the original terms contained in such warrants, such persons shall receive certificates attested by the said Board of Commissioners, to be signed by the Governor for the time being, under the seal of the state; which said certificates shall be returned into the Recorder's Office, to be filed as of record, within three months. (h)

Repealed.

What proceedings may be had by persons who have not complied with the terms of their warrants, granted since the first of January, 1776.

SECT. 6. *Provided nevertheless, and be it enacted,* That nothing in this act contained shall prevent an appeal from the Board of Commissioners to the Supreme Court, which shall be held in the respective counties. (i)

Of appeal from the board.

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SECT.

(f) See chap. 57. c. sects. 3, 5, 9, 10—chap. 90. c. sect. 2—chap. 101. c. sects. 2, 5, 6, 7—and chap. 102. c. for further and other powers given to the said Board of Commissioners and for their regulation.

(g) See said chap. 57. c. sects. 4, 8—chap. 101. c. sects. 3, 4—and chap. 102. c. for other duties, &c. prescribed to the Recorders.

(h) See chap. 57. c. sects. 3, 13, this sect. 5, repealed and supplied.

(i) By sect. 10. of chap. 57. c. such appeal is to be to the High Court of Errors and Appeals.

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Of the variation  
of the compass.  
Nature of the  
estate granted.

Repealed.

Confirmation of  
the titles of land  
held under any  
grant, &c. prior  
to 1776.Allowance to the  
Board of Com-  
missioners.

Recorder.

Surveyors.

Examiner.

SECT. 7. *And be it enacted*, That the variation of the compass shall, in all cases, be according to the usage and custom heretofore practised in the different parts of the state: And that all grants made by virtue, or under the authority of this act, shall convey to the grantee or grantees an estate in fee simple.

SECT. 8. *And be it further enacted*, That nothing in this act contained shall impeach, impair, or in any manner whatever call into question, the title to any lands in this state held under any grant, warrant, survey, re survey, or patent, made or issued before the year of our Lord One Thousand Seven Hundred and Seventy-six; but that all such titles shall be good and available in law and equity. *(k)*

SECT. 9. *And be it enacted*, That each Member of the Board of Commissioners, in the respective counties, shall be allowed for every day's attendance, One Dollar and Fifty Cents. *(l)*

The Recorder in each county shall have for every warrant signed and sealed, Fifty Cents.

For every caveat entered, Ten Cents.

Every copy thereof, under seal, Forty Cents.

Every final determination, Twenty Cents.

Filing every survey, Ten Cents.

Every grant made out and ready for signing, Fifty Cents.

Recording every warrant, survey, certificate, grant, caveat, and final determination, One Cent for every line of twelve words. *(m)*

And the Surveyor shall have for every plot, Two Dollars, and every day's attendance in surveying, Two Dollars.

And the Examiner shall have for every plot examined, Fifty Cents.

Every certificate thereof, Twenty Cents.

And

*(k)* This section supplied and repealed in chap. 57. c. sects. 1, 2, 3, 13.

*(l)* See chap. 101. c. sect. 2, an additional allowance to Commissioners which with all expences arising and accruing on the hearing and trial of any caveat since November 1, 1795, to be paid by the party failing in his claim.

*(m)* By chap. 101. c. sect. 4, the Recorders of Deeds in the counties of New-Castle and Kent for every day's attendance on the Board of Property, to be allowed One Dollar per day, to be paid out of the monies arising from the Land Office.

And the State Treasurer shall have for every receipt, Fifty Cents: Which said fees shall be paid by the party, at whose request the said services are done.

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SECT. 10. *And be it enacted,* That nothing in the act, intituled, *An act concerning vacant and uncultivated lands,* (n) shall be construed to extend to vacate, or annul, any warrant issued since the first day of January, 1776, and before the first day of January, 1792, nor any survey, patent, deed, or grant made or obtained thereon between the times aforesaid.

Warrants, &c. made since January 1, 1776, and before January 1, 1792, not to be annulled.

SECT. 11. *And be it enacted,* That the title to any lands in this state, held under any grant, warrant, survey, re-survey, or patent made or issued between the said first day of January, 1776, and the first day of January, 1792, shall be good and available in law and equity. (o)

Confirmation of such grants.

SECT. 12. *And whereas,* from the former communication between Delaware and Pennsylvania, as to jurisdiction and government, many of the warrants, surveys, patents, and grants for lands within the state of Delaware, were filed and recorded in the Land Office in the city of Philadelphia, whereby many of the inhabitants of this state have sustained grievous hardships and great expense, in procuring authenticated copies of such original papers and records: wherefore, *Be it further enacted,* That Joseph Miller, esquire, be and he is hereby appointed, authorized, and impowered, on the part of this state, to attend in the city of Philadelphia, and permission from the proper authority of the state of Pennsylvania being first had, to transcribe, or procure to be transcribed, under his care and direction, in one or more well bound books, in folio, all such warrants, surveys, re-surveys, patents, grants, and other original papers, as may be found in the said office, and which in any wise relate to lands, tenements and hereditaments within this state; being by him also carefully and diligently compared with the originals, in the said office; and that he be also authorized and impowered, on the part of this state, to solicit from the said office, the originals

J. Miller, esq. impowered to procure from Pennsylvania, copies of all warrants, &c. which relate to lands in this state.

In what cases he shall solicit the originals.

(n) For which see chap. 10. c. Ante.

(o) See also chap. 57. c. sect. 3.

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Where to be  
deposited.

originals of all such warrants, surveys, patents, grants, and other papers, when the same can be had and procured without injuring or defacing other records of the said office; to the end that the same, being first examined and approved by the Legislature of this state, may be deposited in the Recorder's Office at Dover, as public records.

Compensation to  
be made him.

SECT. 13. *And be it further enacted;* That Joseph Miller shall receive such compensation for his services in the premises, as shall be hereafter directed by law.

Record book to  
be removed from  
New-Castle to  
Dover.

SECT. 14. *And be it enacted,* That the folio book, certified and signed by Thomas M'Kean, and now lodged in the office of the Master of the Rolls in the town of New-Castle, containing the transcripts of original papers, made under the direction of the said Thomas M'Kean, shall be removed from the said town of New-Castle to the town of Dover, and shall be there deposited in the Recorder's Office. (p)

When proceed-  
ings to com-  
mence under  
this act.

SECT. 15. *And be it enacted,* That no warrant shall be issued, nor any proceedings had under this act, before the first day of October next.

*Passed June 19, 1793.*

## C H A P. XLVI. c.

1793.

*An ACT for improving the navigation of Dover river.*

Preamble.

**W**HEREAS the navigation of Dover river may be greatly improved,

Commissioners  
appointed.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That Robert Clark, James Sykes, Joseph Barker, William M'Kee, and Francis M'Mullan Gardner, be, and are hereby appointed Commissioners, who are authorised and required to go upon and view the grounds adjoining said river, between the bridge erected

Their powers in  
cutting canals  
and improving  
the navigation.

(p) See chap. 199. a. 9 Geo. III, declaring this book a public record, and in sect. 5, to be kept at New-Castle.

erected across the same above the town of Dover, and the mouth thereof, being first duly qualified for that purpose before some Justice of the Peace of this state, and to lay out and cut canals in such manner, and in such places, as they, or a majority of them, shall think most proper and convenient, for shortening the distance and avoiding the shoals in said river; and also to order and direct such ways and means to be taken, as they, or a majority of them, may judge and deem most effectual to remove obstructions, and to prevent them in future, in order to improve and secure the navigation thereof; and the said Commissioners are hereby directed and required to enquire into, and award to all and every person or persons, through whose lands the said canals or other improvements may pass, such damages as they, or a majority of them, shall think the said person or persons may have sustained; which said damages, so as aforesaid assessed, shall be paid by the said Commissioners within three months after the said damage shall have been sustained, to be recovered by the person or persons to whom such damages are payable, by action in any Court of Record in this state. *Provided nevertheless,* That no canal shall be cut through any ground, the owner or owners whereof shall not have first consented to the same, in writing, under his, her or their hands; nor shall the quantity of water at any landing be lessened, without the like consent.

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1793.

Shall award damages to persons who sustain injury.

How to be recovered.

No canal to be cut without consent, &c. nor the quantity of water lessened.

SECT. 2. *And be it further enacted,* That the canal and improvements that may be proper at, and next to, the mouth of the said river, shall be first effectually made; and of all other canals and improvements that may be deemed necessary, those that are lowest down the said river, shall be completed, before the said Commissioners shall have power to make any canals or improvements higher up the said river.

What improvements shall be first completed.

SECT. 3. *And be it further enacted,* That the said Commissioners are hereby authorized and impowered, to open subscriptions for the purpose of carrying on the improvement of the navigation of the said river, and to sue for and recover all such sums of money as shall be subscribed for the purpose aforesaid.

Subscriptions shall be opened by the Commissioners.

SECT. 4. *And be it further enacted,* That in case the said

C H A P.  
XLVI.

1793.

How vacancies  
in their number  
shall be supplied.Of the appeal  
allowed with re-  
spect to the as-  
sessment of da-  
mages.Commissioners  
shall account  
annually.Their allow-  
ance.Surplus of sub-  
scription money  
to be refunded.

said Commissioners, or any of them, should die, re-  
move out of the county, or be otherwise incapable or  
refuse to serve, it shall and may be lawful for the Go-  
vernor of this state, for the time being, to appoint  
others in their place and stead.

SECT. 5. *And be it further enacted by the authority afore-  
said;* That in case any person or persons, through  
whose lands any of the said canals may pass, shall be  
dissatisfied with the damages, which shall be assessed  
by the Commissioners aforesaid, it shall and may be  
lawful for him, her, or them to appeal from the de-  
termination of the said Commissioners, to the Court  
of Common Pleas of Kent county, who are hereby  
authorized, empowered, and required to take the same  
into consideration, and order such damages as they  
shall deem proper and right; which said damages, so  
as aforesaid assessed, shall be paid by the said Com-  
missioners, within three months after the same shall  
be assessed as aforesaid.

SECT. 6. *And be it further enacted by the authority  
aforesaid;* That the said Commissioners shall, annu-  
ally, render and pass an account of their proceedings  
before the Levy Court and Court of Appeals as afore-  
said, deducting thereout such allowances for their  
trouble as the said court shall approve of; and if any  
balance should remain in their hands, after the busi-  
ness shall be finally completed, they are hereby autho-  
rized and required to pay back and return to the sub-  
scribers, their executors, or administrators, the said  
balance, in proportion to the sum they and each of  
them have subscribed.

*Passed June 19, 1793.*

C H A P. XLVII. c.

1794.

*An ACT to enable Sarah Frisby to bring into this state  
five Negro slaves belonging to her, and now in the state  
of Maryland.*

*Passed January 22, 1794.—Private act.*

CHAP.

## C H A P. XLVIII. c.

C. H. A. P.  
XLVIII.

1794.

*An additional Supplement to an Act, intitled, An act to enable the owners and possessors of several tracts of meadow, marsh, and cripple, on Augustine creek and Silver run, in New-Castle county, to make and keep the banks, dams, canals, and sluices in repair; and to raise a fund to defray the yearly expense accruing thereon.*

*Passed January 25, 1794.—Private act.*

## C H A P. XLIX. c.

*An ACT, to enable the owners and possessors of the marshes situate on Blackbird creek and Delaware river, between said Blackbird and Cedar creeks, to erect gates over the road leading from Isaac Doney's smith's shop to Captain Abraham Staats's tide mill.*

1794.

*Passed —Private act.*

## C H A P. L. c.

*An ACT to authorize the owners and possessors of the marsh and low grounds, commonly called and known by the name of Marsby-Hope, in Mispillion Hundred, and county of Kent, to cut a ditch or drain through the same.*

1794.

*Passed —Private act.*

CHAP.

C H A P.  
LII.

## C H A P. LII. c.

1794.

*A Supplement to an Act, intituled, An act directing the election of a Representative for this state in the Congress of the United States, passed at Dover, the twenty-sixth of October, One Thousand Seven Hundred and Ninety. (a)*

Mode of voting  
for Representa-  
tives in Con-  
gress.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, from and after the passing of this act, every person coming to vote for a Representative, agreeably to the directions of the act to which this is a supplement, shall deliver, in writing, on one ticket or piece of paper, the name of one person, and when this state shall be entitled to two Representatives, the names of two persons, inhabitant or inhabitants of this state, to be voted for as Representative or Representatives for this state in the Congress of the United States.

Repeal.  
Chap. 214. b.

SECT. 2. *And be it enacted,* That the second enacting clause of the act to which this is a supplement, be and is hereby repealed, made null and void.

*Passed January 27, 1794.*

## C H A P. LII. c.

1794.

*An additional Supplement to an Act, intituled, An act for erecting a bridge and causeway over Lewes creek, from the town of Lewes to the cape side of the said creek, in the county of Suffex. (b)*

Preamble.

**W**HEREAS by the said act, to which this is an additional supplement, John Rodney, Henry

(a) For this act see chap. 214. b.

(b) Original act chap. 220. a. Anno, 1773—first supplement chap. 223. a. 1775—second ditto, chap. 225. b. 1791—third ditto, as above, 1794—fourth ditto, chap. 110, 1796.

ry Fisher, and Henry Neill, were appointed Commissioners to build and erect a bridge and causeway over Lewes creek, two of which said Commissioners are since dead; and no provision being made in said act for the re-appointment of Commissioners, in case of their death, resignation, removal, or inability to serve in said capacity,

CHAP.  
LII.

1794.

SECTION I. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That David Hall and Caleb Rodney, of the town of Lewes, gentlemen, be, and are hereby nominated and appointed Commissioners in the stead and place of John Rodney and Henry Fisher deceased; and the said Commissioners hereby nominated and appointed in lieu as aforesaid, shall be vested with all the power and authority given to the Commissioners in the act to which this is a supplement; and that the said surviving Commissioners, and the Commissioners hereby nominated and appointed, shall have the full power and authority to appoint a suitable person to collect and receive the toll and pontage of the said bridge, to be applied by the said Commissioners as is directed by the supplement to the act to which this is an additional supplement, passed, at Dover, January the twenty-ninth, One Thousand Seven Hundred and Ninety-one.

Appointment of  
Commissioners.

They shall nominate a Collector of the pontage, and apply the same.

Chap. 25. b.

SECT. 2. *Be it further enacted,* That if vacancies shall hereafter happen, by the death, resignation, removal, or inability to serve, of any of the said Commissioners, that it shall and may be lawful for the Judges of the Court of Quarter Sessions for the county of Suffex, to nominate and appoint a suitable person or persons, as the case may require, to serve as Commissioners for the purposes aforesaid.

Future vacancies, how to be supplied.

*Passed January 28, 1794.*

CHAP.  
LIII.

1794.

C H A P. LIII. c.

*A Supplementary ACT, to an act intitled, An act for the better settling intestates estates.*

Preamble.

**W**HEREAS it is the duty and policy of every republican government to preserve equality amongst its citizens, by maintaining the balance of property as far as is consistent with the rights of individuals.

The eldest son, or his lawful issue, &c. to have but an equal share of the real estate with the other children.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the eldest son, or his lawful issue (if any be), or their representatives, of every person hereafter dying intestate within this state, shall have and receive an equal share, or proportion, of the real or landed estate of such intestate, with the other children of such intestate, and no more.

Part of former act repealed.

SECT. 2. *And be it enacted,* That, from and after the passing this act, so much of the *ACT for the better settling intestates estates*, passed in the twenty-fourth year of the reign of George the Second, as directs that the eldest son, or his lawful issue (if any be) of every person dying intestate within this government, shall have two shares, or a double portion, of the whole of the real or landed estate of the said intestate, be and is hereby repealed, made null and void. (a)

*Passed January 29, 1794.*

C H A P. LIV. c.

1794.

*An ACT to exonerate and discharge James M'Cullough from the payment of certain monies, due on a mortgage to the Trustee of the General Loan Office of New-Castle county.*

Preamble.

**W**HEREAS it appears to this General Assembly, that the said James M'Cullough, on or about the

(a) To wit, in chap. 119. a. sect. 5.

the first day of July, One Thousand Seven Hundred and Ninety, did mortgage to the Trustee of the General Loan Office for the county aforesaid, a certain tract or parcel of land, situate in New-Castle hundred, and in the county aforesaid, for the payment of the sum of Ninety-six Pounds Sixteen Shillings and Three-pence Half-penny. *And whereas* the said mortgage was entered into and made, by the said James M'Cullough, for the sole purpose of discharging one other certain mortgage of the said tract or parcel of land which had previously, *to wit*, on or about the sixteenth day of February, One Thousand Seven Hundred and Seventy-six, been made and entered into by a certain James M'Calla, of the county aforesaid, to the Trustee of the General Loan Office for the county aforesaid: And it appearing that the said James M'Cullough was prevented from having any notice or knowledge of the existence of the last mentioned mortgage, in consequence of the records of the General Loan Office for the county aforesaid having been several years in the possession of the British army, whereby he might have been enabled to have settled the amount of the said mortgage money in his purchase of the said tract or parcel of land; and it being unjust that an innocent purchaser without notice, should sustain injury in such cases; therefore,

SECTION I. *BE it enacted by the Senate and House of Representatives of the State of Delaware,* That the said James M'Cullough, his heirs, executors, and administrators, be, and they are hereby discharged and exonerated from the payment of the principal money and interest of the said mortgage, so made and entered into by the said James M'Cullough to John Stockton, esquire, Trustee of the General Loan Office for the county aforesaid; and that the said mortgage, and any bond or other security for the same demand; be and they are hereby vacated and made void.

C H A P.  
LIV.  
1794.

J. M'Cullough  
exonerated from  
a mortgage to the  
Loan Office of  
New-Castle  
county.

*Passed January 31, 1794.*

CHAP.

C. H. A. P.  
LV.

1794

C H A P. LV. c.

*An ACT to vest certain lands, in the county of Sussex, in the heirs of Jonathan Dolbee, late of the said county, deceased.*

*Passed January 31, 1794.—Private act.*

C H A P. LVI. c.

1794

*A Supplementary ACT to an act, intituled, "An act to enable the owners and possessors of the marsh meadow on the south west side of Christiana river, in New-Castle county, to keep the banks, dams and sluices, in good and sufficient order and repair."*

*Passed February 4, 1794.—Private act.*

C H A P. LVII. c.

1794

*A Supplement to an act, intituled, An act for opening and establishing a Land Office within this state, and for the sale of all vacant and unlocated lands therein. (a)*

Preamble.

**W**HEREAS the right to the soil and lands within the known and established limits of this state, was heretofore claimed by the crown of Great Britain: *And whereas* by the definitive treaty between his Britannic Majesty and the United States of America, his said Majesty relinquished all rights, proprietary and territorial within the limits of the said United States, to the citizens of the same, for their sole use and benefit; by virtue whereof the soil and lands within the limits of this state became the right and property of the citizens thereof, and who at the time

(a) For this see chap. 45. c. Ante, and for an additional supplement, chap. 102. c. Post.

time of passing the act to which this is a supplement, had, and now have, full power and authority, by their Representatives, to dispose of the same for their sole benefit, emolument and advantage, *And whereas* the claims of the late and former pretended proprietaries of this state, to the soil and lands contained within the same, are not founded either in law or equity; (b) and it is just, right, and necessary, that the citizens thereof should be secured in the enjoyment of their estates, rights and properties.

C H A P.  
LVII.  
1791.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all patents, warrants, and grants, for lands within this state, made or granted by James heretofore Duke of York, the proprietaries of Maryland, or the pretended proprietaries of this state, or their or any of their Agents, Officers or Commissioners, duly authorized to grant lands within the same, at any time before the first day of January, in the year of our Lord One Thousand Seven Hundred and Sixty, and all surveys made in pursuance of any such patents, warrants, or grants, shall be, and at all times hereafter shall be deemed and taken to be good and valid both in law and equity, fully, clearly, and absolutely exonerated, discharged and exempted of and from all manner of rents, fines, and services whatsoever; and the said patents, warrants, and grants so fully, clearly and absolutely exonerated, discharged and exempted, are hereby ratified, confirmed, and established forever, according to such estate and estates, rights and interests, and under such limitations and uses, as in and by the said patents, warrants and grants, are expressed, directed and appointed, and no other.

Confirmation of all patents, warrants and grants, made before 1st January 1760, and of all surveys made in pursuance thereof, exonerated from all rents, fines and services.

SECT. 2. *And be it enacted,* That any person or persons legally claiming any lands within this state, under any warrant or grant, issued or made before the first day of January, in the year of our Lord One Thousand Seven Hundred and Sixty aforesaid, for which lands no patent hath yet been issued, are hereby declared to be entitled to a patent for the same, on proceeding

Persons claiming lands under any warrant or grant, made before the 1st January 1760, shall on payment of the officers fees, only, be entitled to patents.

(b) See, Inter Alia, the recitals in chap. 229. 2.

C. H. A. P.  
LVII.

1794.

But the same shall not invalidate the rights of persons claiming under prior grants.

How persons may proceed to obtain patents, who have not complied with the terms of their warrants, issued since the 1st January 1760, and before the 1st January 1792.

Patents to be signed by the Governor, &c.

Nature of the estate conveyed by them.

proceeding in the manner hereinafter directed to procure patents for other lands under this act, without paying any sum or sums of money for the same; other than the legal fees to the several officers, through whom such patent is to be procured: *Provided*, That no patent, to be issued under this act, for any lands held under any warrant or grant, made or issued before the said first day of January, in the year aforesaid, shall operate so as in any manner to invalidate, or take away, the right of any person or persons holding lands under any warrant or grant, prior in date to the warrant or grant under which such patent shall be issued.

SECT. 3. *And be it enacted*, That where any warrants have been issued since the first day of January, in the year of our Lord One Thousand Seven Hundred and Sixty, and before the first day of January, One Thousand Seven Hundred and Ninety-two, and the terms of such warrants have not been complied with by the persons to whom such warrants were granted, it shall and may be lawful for any person or persons legally claiming under any such warrants to apply to the Commissioners appointed, or to be appointed, under the act to which this is a supplement, for a certificate specifying the quantity of land which the person so applying shall be permitted to hold under such warrant, and upon paying to the State Treasurer the sum of Fourteen Dollars for every hundred acres, contained in such certificate, and producing a receipt therefor, from the said Treasurer, to the Recorder of Deeds for the county in which the lands lie, the said Recorder shall make out a patent for the said land, in which patent the State of Delaware shall be the grantor, and the person or persons named in such certificate shall be the grantee or grantees; which patent being produced to the Governor of this state, he shall sign the same, and cause the seal of the state to be affixed thereto; and every patent made in pursuance of this act, and authenticated in manner aforesaid shall convey to the person or persons named as the grantee, or grantees therein, and to his, her, and their heirs and assigns, an absolute and unconditional estate in the land mentioned in such patent.

SECT.

SECT. 4. *And be it enacted,* That the Recorder in each county shall, in the month of November annually, make out a list of all warrants by him granted, and the surveys made in pursuance of such warrants, and returned to his office, containing the names of the person or persons in whose favour the same have issued, the date of the warrant, the date of the survey, and the quantity of land contained in such survey, and transmit the same to the State Treasurer; and in case any person in whose favour any such warrant hath issued or shall issue, shall, within two years after the date of such warrant, (c) pay or cause to be paid to the State Treasurer the sum of Fifty Dollars for every hundred acres, and in proportion for any greater or lesser quantity of land in such survey, he shall be entitled to a patent for the same; but if any person, who heretofore hath or hereafter may obtain a warrant under this, or the act to which this is a supplement, shall not pay the money for such land within the time aforesaid, such land shall still be deemed vacant and unappropriated; and it shall and may be lawful for any other person or persons to apply to the State Treasurer, at any time after the expiration of two years from the date of such warrant, and upon paying the money for the quantity of land mentioned in such survey, at the rate aforesaid, such other person shall be entitled to a patent for such land.

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Lists of warrants and surveys to be returned to the Treasurer.

Persons obtaining warrants shall, upon payment of the purchase money, be entitled to patents; but in case of default, the lands to be deemed vacant;

and may be patented to others.

SECT. 5. *Be it further enacted,* That the proprietary warrants, granted to survey lands to the use of the proprietor, shall not be deemed grants for the quantities of land in the said warrants mentioned, but shall be deemed and taken to be, applications for land made by the person or persons in such warrants mentioned; but all surveys made, or to be made, in pursuance of such warrants, shall be subject to be caveated before the Board of Commissioners, appointed under the act to which this is a supplement; which said Commissioners shall hear and determine, on all such caveats, in such manner, that no survey made, or to be made,

What proprietary warrants shall not be deemed grants, &c.

Surveys made in pursuance of such warrants subject to be caveated.

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(c) By chap. 90. c. sect. 1. Anno 1795, this time of payment extended to one year more—and by chap. 101. c. sect. 5. Anno 1796, a further extension of one year.

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How the Com-  
missioners shall  
determine there-  
on.

Persons obtain-  
ing certificates  
from the Com-  
missioners, &c.  
shall be entitled  
to patents.

But such surveys  
shall not invali-  
date any person's  
title to any pa-  
tent included  
within the  
bounds of such  
proprietary war-  
rant, &c.

Who shall be en-  
titled to the pre-  
ference of war-  
rants and pa-  
tents for lands  
leased by former  
proprietaries of  
Maryland.

in pursuance of any such proprietary warrant, shall deprive the owners of lands held under any patents, or other warrants, of the privilege of taking up and securing such quantity of land adjoining such patents, or other warrants, as will make up to such patents or other warrants; the quantity of two hundred acres, including the land held under such patents or other warrants; and so also, that no survey made in pursuance of such proprietary warrants, shall include any improvement made by any other person before the date of such survey, and such quantity of land adjoining such improvement as added to the same will make two hundred acres; and after all caveats against the confirmation of such surveys shall be determined, the said Commissioners shall give to the person or persons legally claiming under such proprietary warrants, a certificate specifying the courses and distances of the lines including the lands such person or persons shall be permitted to hold under such proprietary warrants; and the person or persons obtaining such certificate, shall be entitled to patents for the lands contained in such certificate, on paying to the State Treasurer, for the use of the state, the sum of Fifty Cents for every acre thereof: *Provided*, That no survey made in pursuance of any such proprietary warrants, shall be permitted to invalidate, or in anywise call in question, any person or persons title to any patent or other warrant, included within the bounds of such proprietary warrant, either prior or subsequent to the date thereof; nor to include more than two hundred acres of land for every person named in any such warrant; and the residue of the quantity of land mentioned in such proprietary warrant, if any, shall be deemed vacant and unappropriated land.

SECT. 6. *And whereas* former proprietaries of the late province, but now State of Maryland, for the purpose of having lands improved, have heretofore made leases to persons for life or lives, for lands then within the jurisdiction of Maryland aforesaid, but now within the established limits of the State of Delaware; which leases have in many instances, expired by the death of the person or persons for whose life or lives the same were at first made: *Be it therefore enacted,*

acted, That the heirs, or other legal representatives, of such lessees, shall be entitled to the preference of warrants and patents for all such leased lands, upon the terms expressed in this act for unappropriated lands. (d)

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LVII.  
1794.

SECT. 7. *And be it enacted,* That patents made pursuant to this act, shall run in the following manner: Form of the patents.

THE STATE OF DELAWARE to all to whom these presents shall come, greeting: Know ye, That for and in consideration of the sum of                      paid into the treasury of this state, by A. B. of                      county, there is granted unto him the said A. B. a certain tract of land situate in                      county, containing                      acres [describing particularly, in words at length, the courses and distances of the several lines, and the boundaries thereof,] with the appurtenances: To have and to hold the said tract of land, with the appurtenances, to him the said A. B. his heirs and assigns forever, as his and their absolute and unconditional estate and property, free and clear of all reservations of rents or services whatsoever. In testimony whereof,                      esquire, Governor, hath hereunto set his hand, and caused the seal of the state to be affixed, the                      day of                      in the year of our Lord, and in the                      year of the independence of the said state.

SECT. 8. *And be it enacted,* That all patents granted in pursuance of this act, shall be recorded in the office for recording of deeds for the county in which the lands granted by such patents respectively lie; for the recording of which said patents, the respective Recorders of Deeds in this state shall be allowed the like sums as for recording deeds of the same length, Fees. and for an indorsement of such patent being recorded, and his hand and seal of office thereto, the same sum as in other-cases of the like nature. (e)

SECT. 9. *And be it enacted,* That the Commissioners appointed, or to be appointed, under the act to which this is a supplement, shall set at the Court House for the county in which they reside, on the first Tuesday Times and places of the sitting of the Commissioners.

(d) See chap. 102, c. Anno 1796, for another provision in favour of Maryland grante.

(e) For which see chap. 27, c. sect. 8.

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Their oath,

Chap. 45. c.

and Per Diem  
allowance.

Of appeal from  
the Commis-  
sioners.

The Governor  
to appoint an ex-  
aminer in each  
county.

The streets of  
Lewes, &c. shall  
not be taken up  
by any warrant,  
&c.

of, April next, and on their own appointments at all times thereafter, for the purpose of discharging the duties enjoined on them by this and the before-recited act; but, before they enter on the said duties, each of them shall take an oath, before the Prothonotary, or Clerk of the Supreme Court, in the respective counties of this state, *That, he will to the best of his skill and judgment, faithfully and impartially discharge the trust in him reposed, by an act of Assembly, intituled, An act for opening and establishing a Land Office within this state, and for the sale of all vacant and uncultivated lands therein, and the supplement thereto, without fear, favour, or affection, or any partiality whatever; and each of the said Commissioners shall be allowed the sum of Two Dollars for every day's attendance, to be paid out of the monies arising from the sale of vacant lands within this state. (f)*

SECT. 10. *And be it enacted, That if any person shall consider him, her, or themselves, aggrieved by any determination of the Commissioners appointed, or to be appointed as aforesaid, it shall and may be lawful for such person or persons to appeal from the determination of the said Commissioners, to the High Court of Errors and Appeals, whose determination shall be binding and final and conclusive to all parties. (g)*

SECT. 11. *And be it enacted, That the Governor shall appoint some fit person in each county respectively as examiner, whose duty and compensation shall be the same as is directed to the examiner, in the act to which this is a supplement. (h)*

SECT. 12. *Be it further enacted, That all the streets of the town of Lewes, and the bank and marshes between Front-street and Lewes creek, and between South-street and Canary creek, which have heretofore been considered as common and public property, shall not be subject to be taken up by any warrant to be issued in pursuance of this act, or the act to which this*

(f) All expences, including the above allowance, arising on any caveats after November 1, 1795, to be paid by the party failing in his claim, with an additional sum of Two Dollars to each Commissioner, by chap. 101. c. sect. 2.

(g) In chap. 45. c. sect. 6, an appeal to the Supreme Court was admitted.

(h) See sect. 1, of chap. 45. c. for his duty, &c.

this is a supplement, but shall from and after the passing of this act, be vested in the inhabitants of the town of Lewes, and the citizens of this state in general, for their common use and benefit; and all warrants already issued to take up any part of the said streets, bank, or marshes, are hereby vacated and made void; and the said streets shall be and remain open as common highways, under such regulations as other highways in this state; and if any person shall in any manner obstruct the said streets, or highways, he shall forfeit and pay the same sum as by law he would forfeit and pay for obstructing any other highway within this state; to be recovered in the same manner that such forfeitures, by the laws of this state, are directed to be recovered.

C. H. A. P. LVII.

1794.

But shall remain open, as common highways.

Penalty for obstructing them.

SECT. 13. *And be it enacted*, That the fifth and eighth sections, and every other matter and clause, in the act to which this is a supplement, which is by this act altered, amended, and otherwise provided for, are hereby declared to be repealed, and made null and void; any thing in the said act to the contrary notwithstanding.

Part of chap. 45. c. repealed.

Passed February 7, 1794.

C. H. A. P. LVIII. c.

An ACT to amend an act, intitled, An act for regulating and establishing fees. (a)

1794.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the Sheriffs in the respective counties, shall have for summoning and returning a jury, and annexing a panel to each *venire facias juratores*, including mileage, Twenty Cents, and no more.

Sheriff's fees.

Serving a *venire facias* for a struck jury, including mileage, Two Dollars.

For

(a) Chap. 27. c.

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1794.

For advertising goods or lands for sale, to be paid by the party only in whose suits the said advertisements are made, the first time, Sixty Cents; and for the second and third time, Forty-five Cents each.

For attending on the view of lands, for the purpose of laying down pretensions in actions of ejectment or trespass, the first day, One Dollar; and for every day longer, Sixty-seven Cents. (b).

Bills of costs to be entered on the dockets.

SECT. 2. *And be it enacted*, That every Clerk, Prothonotary or Register, shall on every non suit, discontinuance, abatement, retraxit, decree, judgment, or other final order or sentence, of every suit, action, bill or indictment, enter on the dockets of the courts they respectively officiate in, a bill of all the costs, specifying therein the amount of each officer's fees; and the Sheriff shall, on all process directed to him, return the amount of his fees thereon; and if any Clerk, Prothonotary, Register, or Sheriff, shall neglect or refuse to enter or return the fees in manner aforesaid, such Clerk, Prothonotary, Register, or Sheriff, so neglecting or refusing, shall forfeit and pay the sum of One Hundred Dollars for every such neglect or refusal, to be recovered in the same manner that forfeitures are directed to be recovered in the said act to which this is a supplement.

Sheriffs to return costs on process.

Penalty for neglect.

Costs to be indorsed on executions.

SECT. 3. *And be it enacted*, That on every execution directed to the Sheriff in each county of this state, the officer issuing such execution, shall indorse thereon the amount of the fees due to the several officers, so far as they may have accrued to the time of issuing such execution, without fee or reward; and every officer neglecting or refusing so to do, shall forfeit and pay the sum of One Hundred Dollars for every such neglect or refusal, to be recovered in manner aforesaid.

Penalty.

Penalty for extortion.

See also chap. 27. c. sect. 35.

SECT. 4. *And be it enacted*, That if any officer here-in before mentioned shall take greater or more fees, for doing or performing the services, herein before mentioned, than by this act is allowed, he shall forfeit

(b) See sect. 9. of chap. 27. c. where other fees for the above services had been prescribed.

feit and pay the sum of One Hundred Dollars for every such offence, to be recovered in manner aforesaid.

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SECT. 5. And be it enacted, That any executions issued by a Justice of the Peace, from and after the passing of this act, and directed to any Constable of the county in which said Justice resides, said Constable shall be allowed the following fees: For taking goods in execution, Twenty Cents; For summoning and qualifying appraisers, including mileage, and other services therein, Twenty Cents; For advertising and selling, Twenty Cents; And for all debts above Five Pounds, double the above fees; and that no fees shall be paid by the debtor for the above services, but when the services are performed.

Constables fees.

SECT. 6. And be it enacted, That the thirty-sixth section of the act to which this is a supplement, and every matter and clause in the same act from the said thirty-sixth section to the end thereof, and so much of the ninth section as is hereby altered and amended, are hereby repealed, made null and void.

Repeal of part of chap. 27. c.

Passed February 7, 1794.

C H A P. LIX. An ACT to establish a fund for the support of government.

1794.

SECTION 1. BE it enacted, That the sum of Fourteen Thousand Dollars shall be raised and paid into the treasury of this state, within the time herein after directed; and shall be assessed and levied in the several counties of this state in the following proportions, That is to say, For the county of New-Castle, the sum of Five Thousand Three Hundred and Thirty-three Dollars and Thirty-four Cents; for the county of Kent, the sum of Four Thousand Six

Fourteen Thousand Dollars to be raised and paid into the Treasury.

Each county's proportion.

(c) For other fees to a Constable, see chap. 27. c. sect. 33.

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LIX.  
1794.

Levy Courts to ascertain the sum on the Pound rate.

Warrants to be issued to the Collectors.

Sec sect. 6.

Auditor to be furnished with a count, and Treasurer with copies of assessment.

Provision for securing the payment of the tax.

Six Hundred and Sixty-six Dollars and Sixty-six Cents; and for the county of Suffex, the sum of Four Thousand Dollars.

SECT. 2. *And be it enacted,* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Levy Court of each county are hereby authorized and required to hold a Special Court, on the first Monday of March next, at the place in the same counties where Levy Courts are usually held, and then and there, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound upon the whole rate of the counties, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised and levied in the counties aforesaid respectively; and the Clerk of the Peace for each county shall thereupon make out a warrant to be signed by any two Justices of the Peace of the same, directed to the Collector of each hundred that may be appointed agreeably to the directions of this act (annexed to a duplicate of the said assessment certified by the Clerk of the Peace) authorizing and requiring such Collector forthwith to demand and receive, from the persons rated in his assessment list, the sum per Pound which they shall ascertain as necessary to raise the several sums as aforesaid; and the said Collectors respectively shall proceed without delay to collect, and, in case of neglect or refusal to pay, to levy and recover the same in the manner directed by the act of Assembly, intitled, *An act for raising county rates and levies,* (a) and the said Clerk of the Peace shall, within ten days next after the day of holding the Special Levy Courts aforesaid, transmit into the Auditor's Office a true account of the sum total which every Collector shall be charged with pursuant to this act; and the said Clerk shall also furnish the State Treasurer with attested copies of the duplicate assessments aforesaid.

SECT. 3. *And whereas* some owners of lands may not reside in the same county where such lands lie,

(a) Chap. 102. 2, sect. 9.

OF

or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on said lands; *Be it therefore enacted*, That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the said tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, that it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owner, by action or suit in any court where the same may be cognizable, together with the costs of suit; and all parents, guardians, or tutors, making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

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SECT. 4. *And be it enacted*, That in all cases where the Collectors can find no effects upon the lands, belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same, if distrained, and the rate cannot be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of the hundred where the lands lie, with the approbation of the Court of General Quarter Sessions of the Peace held for the same county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at public auction, as the said court may judge to be necessary for the payment of the assessment.

*Proviso.*  
In what cases  
the Collector  
may sell land,  
&c.

SECT. 5. *And be it enacted*, That the said Collectors respectively shall, on or before the first Monday of November next, pay to the State Treasurer the sum, or sums of money they may or ought to have levied by virtue of this act, deducting Seven and an Half Dollars for every Hundred Dollars he shall so collect, and pay over to the State Treasurer.

Collectors to pay  
to the State  
Treasurer.

Commission.

SECT. 6. *And be it enacted*, That the State Treasurer,

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State Treasurer  
to appoint Col-  
lectors, who shall  
give bond, and  
for whom he  
shall be answer-  
able.When Collec-  
tors shall pay in-  
to the treasury,shall take dupli-  
cate receipts.State Treasurer  
to account with  
the Auditor.Treasurer's  
commissions.Warrants of at-  
torney to be exe-  
cuted with the  
bonds given un-  
der this or the  
former act;

rer shall appoint Collectors for the several hundreds, who shall each of them give bond, in double the sum he is to collect, with such sureties as the State Treasurer shall approve of, conditioned for the faithful performance and discharge of their duty respectively in the execution of this act; and the State Treasurer shall be answerable to the state for any loss, which may arise to the state from the insufficiency of the Collectors, or their sureties, to pay the monies by them to be collected respectively by virtue of this act.

SECT. 7. *And be it enacted*, That the Collectors appointed as aforesaid shall pay to the State Treasurer all the monies to be collected in their respective districts in pursuance of this act, on or before the first day of November next, taking duplicate receipts for the same; one of which he shall lodge in the Auditor's Office.

SECT. 8. *And be it enacted*, That the State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact statement, as well of all the monies by him received, with the names of the persons by whom paid, as of the monies by him paid, what amount, and the time when; and shall, in the month of December annually, appear in the Auditor's Office with his accounts and vouchers, and proceed to adjust and settle the said accounts with the Auditor; and the State Treasurer shall discharge himself of all monies which shall come to his hands in pursuance of his office; and shall be allowed commissions for all monies which shall come into his hands, and for his services performed in pursuance of this act, and duly accounted for, at the rate of Three Dollars for every Hundred Dollars, and no more.

SECT. 9. *And be it enacted*, That in all cases where bonds or obligations are directed to be given under this act, and the act, intituled, *An act requiring the State Treasurer to give security*, (b) there shall be warrants of attorney to such bonds or obligations respectively, for entering up judgment for the penalties mentioned therein, if the same should become forfeited by neglect of duty; which said bonds or obligations shall be

(b) Chap. 21. c.

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1794.

which bonds shall create a lien from the execution thereof,

How to be proceeded on,

How the debt due, or damages sustained, may be ascertained, in case of controversy,

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In what cases  
the Collectors  
may be allowed  
deductions.

Proviso.

Treasurer's  
bonds to be de-  
posited in the  
Auditor's Office.

Collector's fees  
upon distress or  
execution.

Repeal of the  
act of 1793.  
Chap. 43. c.

tle the same, and proceed according to the inquest that shall be returned; or the report made by such Auditors.

SEC. 10. *And be it enacted,* That no Collector shall be allowed any deduction of any part of the sums mentioned in said duplicate of assessment, except when it shall be made appear, by a certificate under the hands of any two Justices of the Peace of the neighbourhood where any delinquencies may happen, and approved by the Levy Court of the county in which such delinquencies may happen; That the Collector has used all lawful means for the levying and collecting the same: *Provided always,* That no such certificate shall be sufficient, unless signed within two months after the expiration of the time limited as aforesaid, for the collection of the tax to be raised by this act, and approved of by the Levy Court at their next meeting after the time aforesaid.

SEC. 11. *And be it enacted,* That all bonds given by the State Treasurer in pursuance of this act, and the act requiring the State Treasurer to give security, if approved by the Governor, shall be by him transmitted to the Auditor's Office for safe keeping.

SEC. 12. *And be it enacted,* That if any Collectors shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is intitled to by law for the like services, in the recovery of debts under Five Pounds, (c) and any person whose property shall be liable to payment of the said assessment, or any part thereof, may discharge the same at any time before the day of sale of the property distrained; and in such case the Collector shall receive for his trouble, one half of the fees he would be entitled to on a sale; and no more.

SEC. 13. *And be it enacted,* That an act of the General Assembly of this state, intituled, *An act for the support of government by duties on vellum, parchment, and paper,* and every matter and clause in the same, be, and the same are hereby declared to be repealed, made

(c) For which see chap. 27. c. sect. 33—and chap. 58. c. sect. 5.

made null and void; any thing contained in the said act to the contrary notwithstanding.

C H A P.  
LIX.

1794

Passed February 17, 1794.

C H A P. LX, c.

An ACT to enable the persons therein named, to raise a sum, not exceeding Twelve Thousand Dollars, by a lottery, for the purpose of erecting piers in the harbour of the town of New-Castle.

1794

**W**HEREAS it hath been represented to this <sup>Preamble.</sup> General Assembly, that the inhabitants of the town of New-Castle in this state, intend to erect piers in the harbour of the said town, for the security of shipping; which will have a beneficial tendency in promoting the commercial and agricultural interests of this state; and have requested the aid of the Legislature to enable them to accomplish the same, by sanctioning a lottery proposed to be instituted for that purpose; and this General Assembly being willing to advance all undertakings promotive of the public good, have agreed to enact.

SECTION 1. *AND be it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That it shall and may be lawful for the persons hereinafter appointed Managers, to institute, carry on, and draw a lottery for raising a sum not exceeding Twelve Thousand Dollars, clear of all expences; and the said sum, when so raised, shall be applied to the building, erecting, and placing, two or more piers within the said harbour of the town of New-Castle, at such places, and in such manner, as shall afford the most effectual security and safety to shipping lying in the said harbour.

A sum, not exceeding Twelve Thousand Dollars, to be raised, and applied to the building of piers.

SECT. 2. *And be it enacted,* That John Stockton, William Lees, James Riddle, Kensey Johns, Isaac Grantham, Archibald Alexander, George Read, junior, or the survivors of them, shall be, and are hereby appointed, Managers of the said lottery; who shall respectively,

Managers appointed;

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who shall execute bonds;

which shall be lodged in the Secretary's Office.

Declared to be in trust.

When the drawing shall commence.

Prizes when payable.

Managers shall superintend the expenditure of the money raised;

and shall account with a Committee of the town.

respectively, before they enter upon the duties required by this act, give bond, in the name of the state, in the sum of Twenty-four Thousand Dollars, conditioned for the faithful discharge of the trust reposed in them respectively by this act; which bonds shall be lodged in the office of the Secretary of this state, who shall thereupon give six weeks notice in the Delaware Gazette, that such bonds were executed, and lodged in his office, in pursuance of the directions of this act; and are hereby declared to be in trust for, and may be sued by, all and any of the persons aggrieved by the Managers of the said lottery, in conducting and carrying on the same.

SECT. 3. *And be it enacted*, That the said Managers shall, on or before the first Tuesday of September next, if at that time a sufficient number of tickets shall have been sold, and if not, as soon after as conveniently may be, proceed to the drawing and finishing the said lottery; and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within six months after the drawing of said lottery; but if not demanded within that time, the said prizes shall remain in the hands of the said Managers, to be applied to and for the uses and purposes aforesaid.

SECT. 4. *And be it enacted*, That the said Managers, or the survivors of them, shall superintend and direct the expenditure of the said sum of Twelve Thousand Dollars, or so much thereof as they may judge necessary, for the building, erecting, and placing, two or more piers within the harbour of the town of New-Castle, for the uses and purposes aforesaid; and after the said works are completed, the said Managers, or the survivors of them, shall exhibit their accounts of the same to a Committee to be appointed by the inhabitants of the said town of New-Castle, at a town meeting to be held for that purpose, after ten days public notice thereof having been given, by posting up at least three advertisements in the most public places of the said town, by the said Managers, or the survivors of them; and the said Committee shall also report a statement thereof to the Levy Court of New-Castle county, at their next sessions thereafter.

SECT.

SECT. 5. *And be it enacted,* That if any of the said piers shall be built, erected, or placed opposite to any of the public streets of the said town of New-Castle, the said streets shall remain open and unobstructed to low water's mark, so as to afford a free and easy passage, or egress and regress, to and from the town to the said piers.

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1794.

The streets opposite to which the piers may be placed, shall remain open.

SECT. 6. *And be it enacted,* That the said Managers shall have, for their trouble in the discharge of the duties assigned them by this act, the sum of five per centum on the whole sum which shall be raised by the said lottery, and expended as aforesaid.

Allowance to the Managers.

*Passed February 7, 1794.*

C H A P. LXI. c.

*An ACT to alter and amend an act to regulate the courts in this state. (a)*

1794.

**W**HEREAS it is found that the times appointed for holding the Court of Chancery, Supreme Court, Court of Common Pleas, and Court of General Sessions of the Peace and Gaol Delivery, in the respective counties of this state, by the above recited act, will be very inconvenient to the citizens of this state: For remedy whereof,

Preamble.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware,* That the Court of Chancery, Supreme Court, Court of Common Pleas, and Court of General Sessions of the Peace and Gaol Delivery, shall be held in each of the counties of this state, twice in every year; and the terms of the several courts aforesaid shall commence and be held as follows, *That is to say,* The Supreme Court in Suffex county on the third Tuesday of March, and second Tuesday of October; in Kent county, on the second Thursday after the terms of the said court commences in Suffex county; and in New-Castle county,

Terms of the Supreme Court.

(a) Chap. 19, c.

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Of the Court of  
Common Pleas  
and General  
Sessions of the  
Peace.

Of the Court of  
Chancery.

Suits, &c. pend-  
ing in the sever-  
al courts shall  
be heard, &c. at  
the terms herein  
appointed.

Commitments,  
&c. returnable  
to the court ha-  
ving cognizance,  
on the first day  
of the term.

county, on the second Tuesday after the terms of the said court commences in Kent county: And the Court of Common Pleas, and Court of General Sessions of the Peace and Gaol Delivery, shall commence and be held in Suffex county on the second Tuesday after the terms of the Supreme Court shall commence in New-Castle county; in Kent county, on the second Tuesday after the terms of the Court of Common Pleas shall commence in Suffex county; and in New-Castle county, on the second Tuesday after the terms of the said court shall commence in Kent county.

SECT. 2. *And be it enacted*, That the Court of Chancery shall be commenced and held, in each county, on the first Wednesday after the terms of the Supreme Court shall commence; and if the Chancellor comes not, at the times and places aforesaid, the Register of the said court in each county is hereby impowered to open and adjourn the same.

SECT. 3. *And be it enacted*, That all actions, suits, indictments, pleas, writs, process or processses, relative to any cause civil or criminal which shall be depending before, or returnable to, the Court of Chancery, Supreme Court, Court of Common Pleas, or Court of General Sessions of the Peace and Gaol Delivery, from and after the passing of this act, shall depend on, and be returnable to, the court to which they severally belong; and shall be heard, tried, and determined by the said respective courts, on the days and terms herein appointed, in as full and ample manner as any suit, action, indictment, plea, writ, process or processses, now can, or ever could have been tried, heard, and determined before any such court.

SECT. 4. *And be it enacted*, That all commitments and recognizances for all felonies, crimes, offences, or misdemeanors, committed in any county, and triable by law before the Court of Oyer and Terminer and General Gaol Delivery, or before the Court of General Sessions of the Peace and Gaol Delivery, shall be returned to the said courts respectively, having cognizance of such felonies, crimes, offences, or misdemeanors, by the Justices or Conservators of the Peace

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1794.

Peace taking such recognizances, or Sheriff, or Gaoler to whom such commitments are directed, on the first day of holding the Supreme Court, or Court of General Sessions of the Peace and Gaol Delivery, respectively, in the several counties aforesaid.

SECT. 5. *And whereas* licences which were dispensed in the month of February, in the year One Thousand Seven Hundred and Ninety-three, allowing persons to keep houses of public entertainment, will expire in the month of February in the present year; and no provision hath been made for such persons to obtain other licences for that purpose, until the sitting of the Court of Common Pleas in each of the counties in this state thereafter, *Be it enacted*, That all such licences, which were dispensed in the month of February, in the year of our Lord One Thousand Seven Hundred and Ninety-three, shall continue and remain in force until the last day of the next term of the Court of Common Pleas; to be held for the county in which such licences were dispensed; after the passing this act, and no longer; and the aforesaid licences shall be sufficient authority for the person or persons to whom they were dispensed, to keep any tavern, inn, ale-house, victualling house, or other public house of entertainment, until the time herein before mentioned.

Tavern licences to continue in force until the next term of the Court of Common Pleas.

SECT. 6. *And be it further enacted*, That all appointments to be made by the General Sessions, or Common Pleas, that usually were made by said courts in the months of February and May, shall be made at the spring term of said courts; and that all appointments made as aforesaid by said courts, in the months of August and November, shall be made at the fall term of said courts.

What appointments may be made at the spring and fall terms of that court.

SECT. 7. *And be it further enacted*, That every clause, matter, and thing in the before recited act, hereby altered and changed, are hereby repealed and made null and void; any thing in the said recited act to the contrary in any wise notwithstanding.

Parts of chap. 19. c. repealed.

Passed February 7, 1794.

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LXII.

1794.

CHAP. LXII. c.

An ACT to appropriate certain monies that now are, or hereafter may, come into the treasury of this state; and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That all monies which

Appropriation:

Chap. 59. c.

To the payment of the salaries of the Governor, Secretary, Auditor, Judges, and Chancellor;

For printing laws and journals;

For the expences of the General Assembly; for arrearages of salaries under the late constitution;

For debts due to citizens;

and for interest on decrees and certificates.

now are, or hereafter may, come into the treasury of this state; either for arrearages of taxes, interest on the stock of the United States purchased by this state, or in pursuance of an act of the General Assembly of this state; intitled, *An act to establish a fund for the support of government*, passed the seventh day of February in this present year, One Thousand Seven Hundred and Ninety-four, shall be applied in the following manner, *That is to say*, So much thereof as shall be necessary shall be applied to the payment of the salaries due, and to become due, to the Governor, Secretary, and Auditor of Accounts, up to the first day of January next; and so much thereof as shall be necessary shall be applied to the payments of the salaries due, and to become due, to the Judges of the Supreme Court, and Court of Common Pleas, and the Chancellor, up to the time last aforesaid; and so much thereof as shall be necessary shall be applied to pay for printing the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof; and so much of the said monies as shall be necessary shall be applied to the payment of the daily allowance to the Members of the General Assembly, their Clerks, and other expences; and so much thereof as shall be necessary shall be applied to the payment of arrearages of salaries due to officers in the executive and judicial departments, under the late constitution of this state; and the residue thereof, if any there be, shall be applied to the payment of any sums of money due to citizens of this state, or any of the United States, which are or shall be allowed by the Auditor of Accounts, and approved by the General Assembly, and to the payment of interest

interest due on depreciation certificates issued to, and now in the hands of citizens of this state, or so much of the said residue as shall be necessary for the payment of the sums of money last mentioned.

C H A P.  
LXII.

1794.

SECT. 2. *And be it enacted*, That Thomas Sipple shall be, and he is hereby appointed State Treasurer; which said Treasurer shall make returns, and settle his accounts, as often, and in the same manner that the State Treasurer is directed to make returns, and settle his accounts, by an act of Assembly, intituled, *An act for expediting the collection of arrearages of taxes, and other purposes*, passed the fourth day of February, in the year of our Lord One Thousand Seven Hundred and Ninety-two.

T. Sipple appointed State Treasurer.

How often he shall make returns, and settle his accounts.

Chap. 247. b.

SECT. 3. *And be it enacted*, That so much of an act of Assembly, intituled, *An act for expediting the collection of arrearages of taxes, and other purposes*, as directs and impowers the State Treasurer to purchase deferred stock of the United States, on account and for the use of this state, is hereby declared to be repealed and made null and void.

Parts of former act repealed.

Chap. 247. b. sect. 4.

*Passed February 8, 1794.*

C H A P. LXIII. c.

*An ACT for regulating the ferry over Christiana creek, in New-Castle county.*

1794.

**W**HEREAS public convenience, and the better accommodation of individuals, require that fundry new regulations should be adopted in the establishment of the said ferry. Preamble.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware*, That any person or persons keeping a ferry over Christiana creek, in the county of New-Castle, shall make, or cause to be made and erected, a sufficient wharf and landing on both sides of the said Christiana creek, and to keep and maintain the same in good repair, suitable for footmen, horses, and carriages to pass

Keepers of the ferry to provide sufficient wharves, boats, &c.

CHAP.  
LXIII.

1794.

Rates of ferriage.

and repass; and also to provide and maintain good and substantial ferry boats and men, to be kept for the use of the said ferry.

SECT. 2. *And be it enacted,* That the person or persons who shall hereafter keep the said ferry, under the regulations of this act, shall take and receive for ferriage over the same, the rates and prices following, *to wit,* for every single horse and rider the sum of Six Cents; for every led horse, ox, cow, or heifer, Four Cents; for every foot passenger Two Cents; for every sheep and hog One Cent; for a coach, or other four-wheeled carriage, and pair of horses, and passengers, Twenty-five Cents; for a chair and sulkey, horse and riders, Twelve and an Half Cents; for a cart, one horse, and driver, Twelve and an Half Cents; for a waggon, two horses, and driver, Twenty five Cents; and for every other horse in a cart, waggon or other carriage, Four Cents; for every bushel of grain Half a Cent.

Persons may commute the rates for an annual sum.

SECT. 3. *Provided always, and be it further enacted,* That any person or persons, who shall prefer an annual contract for the use of said ferry, shall be entitled for himself and his family, to all the benefits of the same, except as to carts, waggons, or other carriages loaded with hay or wood, any sum that may be agreed on, to be paid in such manner that a quarterly payment shall be always in advance.

Penalty for extortion, and neglecting to keep the wharves and boats in good order.

SECT. 4. *And be it enacted,* That if any person or persons having the care and keeping of the said ferry, shall exact or demand any greater prices or rates, or neglect to keep his wharves and boats in good and sufficient order for the passing over the same, than what is herein before prescribed and specified, he or they so offending, shall, for every offence, forfeit and pay any sum not exceeding Fifty Dollars, one moiety thereof to the party grieved, and the other moiety to the Treasurer of the said county, for the use of the said county, to be recovered by indictment and conviction in the Court of General Sessions of the Peace.

Part of former act repealed.  
Chap. 138. s. sects. 1, 2.

SECT. 5. *And be it enacted,* That so much of an act, intitled, *An act for regulating the ferry over Christiana creek, and the bridge over Brandywine, in New-Castle county,*

county, as hath respect to the said ferry over Christiana creek, be, and the same is hereby repealed and made void.

CHAP.  
LXIII.  
1794.

Passed February 8, 1794.

CHAP. LXIV. c.

An ACT to explain the twelfth section of the second article of the constitution of this state.—Repealed in chap. 107. c. passed Feb. 9, 1796.

1794.

CHAP. LXV. c.

An ACT supplementary to an act, intituled, An act for appointing an Auditor of Accounts, and for enjoining certain duties on said officer. (a)

1794.

**B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the Auditor of Accounts shall receive for his services the annual sum of Five Hundred Dollars, to be paid quarterly at the treasury of this state, to commence from the time of his appointment, and to continue until the first Tuesday of January next, (b) any law to the contrary notwithstanding.

Auditor's salary.

Passed February 8, 1794.

CHAP.

(a) Chap. 26. c.

(b) A like salary allowed for 1795, in chap. 81. c. Post.

C H A P.  
LXVI.

1794.

Chap. 31. c.

C H A P. LXVI. c.

An ACT supplementary to an act, intituled, "An act to enable the Governor of this state to incorporate a company, to open a canal and lock navigation on the waters of Brandywine creek."—No incorporation under the original act, chap. 31. c. having been made or applied for, though three years and an half have elapsed since the enacting thereof, both original and supplement are omitted in this impression of the laws.

C H A P. LXVII. c.

1795.

An ACT to empower the Chancellor and the Judges of the Supreme Court, to take the private examination of femes covert, on the conveyance of lands in certain cases.

Preamble.

**W**HEREAS the citizens of this state have sustained great inconveniencies; in consequence of the Judges of the Court of Common Pleas only, (a) having been heretofore authorised to take the examination of *femes covert*, in conveying, by husband and wife, lands belonging to the wife in her own right; and it being thought expedient to extend such power to other judicial officers of this state, therefore,

The Chancellor and Judges of the Supreme Court, empowered to take the examinations of Femes Covert.

SECTION 1. BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That all grants, bargains, or sales, heretofore or hereafter to be made and executed by husband and wife, of lands belonging to the wife in her own right, lying within any of the counties of this state, the examination of such *feme covert*, apart from her husband, being taken before the Chancellor or any Judge of the Supreme Court of this state, and the

(a) This must refer to chap. 60. a. sect. 9, only, for see chap. 218. a. and 217. 6, sect. 6, of the constitution of 1792.

the same being indorsed on such deed, grant, bargain, or sale, and specifying the time when the same was taken by the said Chancellor or Judge, who shall take such examination, shall be as valid and effectual in law, as if the same had been taken and certified by a Judge of the Court of Common Pleas of this state; any law, usage, or custom to the contrary notwithstanding.

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LXVII.  
1795.

SECT. 2. *And whereas*, under the present constitution of this state, the Judges of the Supreme Court, in taking the acknowledgment of deeds out of court, in some cases may have taken, indorsed, and certified, in manner aforesaid, the examinations of *femes covert* upon deeds, grants, bargains, or sales, made and executed by husband and wife, of lands belonging to the wife in her own right; and it being just that no doubt should remain as to the validity of such examinations. *Be it further enacted*, That all such examinations of *femes covert*, upon deeds, grants, bargains, or sales, made and executed by husband and wife, of lands belonging to the wife in her own right, which have been heretofore taken, indorsed, and certified in manner aforesaid, by any Judge of the Supreme Court of this state, shall be as valid and effectual in law, as if the same had been taken and certified by a Judge of the said Court of Common Pleas; any law, usage, or custom to the contrary notwithstanding.

Examinations  
heretofore taken  
by the said  
judges declared  
valid.

Passed January 21, 1795.

C H A P. LXVIII. c.

An ACT declaring the assent of the state of Delaware to an amendment, therein mentioned, to the Constitution of the United States.

1795.

WHEREAS, in pursuance of the fifth article of the Constitution of the United States, the Senate and House of Representatives of the United States in Congress assembled, by their resolution, passed  
Preamble.  
at

C H A P.  
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1795.

at Philadelphia, at the first Session of the third Congress of the said United States, begun and held on the second day of December, One Thousand Seven Hundred and Ninety-three, have proposed a certain article of amendment to the said constitution, for the consideration of the Legislatures of the several states: *And whereas* the Senate and House of Representatives of the state of Delaware have maturely considered the aforesaid amendment to the said constitution, and have agreed to adopt and ratify the same, on the part of this state, as a part of the said constitution.

Amendment ratified on the part of this state.

*BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the following amendment to the Constitution of the United States, proposed by the Congress thereof, That is to say, The Judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state, be, and the same is hereby ratified on the part of this state, to become, when adopted and ratified by the Legislatures of three-fourths of the several states, part of the Constitution of the United States.*

*Passed January 22, 1795.*

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C H A P. LXIX. c.

1795. *An ACT to vest certain land, in New-Castle county, in Sarah Bond, widow.*  
*Passed* —Private act.

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C H A P. LXX. c.

1795. *An ACT to supply to John Boggs the loss of a certain deed therein mentioned.*  
*Passed January 22, 1795.*—Private act.

C H A P . LXXI. c.

C. H. A. P.  
LXXI.  
1795.

An ACT to repeal part of an act, intituled, An act against adultery and fornication: (a)

**W**HEREAS by the act, intituled, *An act against adultery and fornication*, it is enacted and declared, that if any white woman within this government, shall bear a bastard child, begotten by a Negro or Mulatto man, such child shall be put out to servitude, and shall serve such person or persons as the County Court shall see fit, or order and appoint, to and for the use, benefit, and advantage of the county, wherein such child shall happen to be born as aforesaid, until he or she attain to the age of thirty-one years: *And whereas* it is unjust and inhuman to punish the child for the offence of the parent.

Preamble.  
Chap. 44. a.

*BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That so much of the said recited act, as enacts and declares that a child, so as aforesaid begotten and born, shall be put out to servitude, and shall serve until he or she attain to the age of thirty-one years, is hereby repealed and made void.

Part of the original act repealed.

Chap. 44. a.  
sect. 9.

Passed January 23, 1795.

C H A P . LXXII. c.

An ACT to enable Howes Goldsborough, of the county of Kent, to bring certain slaves into this state.

Passed January 26, 1795.—Private act.

CHAP.

(a) See after chap. 108. c. passed Feb. 9, 1796, A Supplementary act to said chap. 44. a. whereby all fines, forfeitures, and corporal punishments for bastard, &c. fornication are done away.

C H A P.  
LXXIII.

1795.

C H A P. LXXIII. c.

An ACT for enabling George Black to erect a milldam across Mill creek, in Sussex county, and for the condemnation of a small piece of fast land and cripple for the use of a grist mill.

Passed January 29, 1795.—Private act.

C H A P. LXXIV. c.

1795.

An ACT to vest certain land, in Kent county, in Rachel Sullivan.

Passed January 30, 1795.—Private act.

C H A P. LXXV. c.

1795.

An ACT to appoint a Trustee of the Loan Office for the county of New-Castle.

Preamble.

**W**HEREAS the place of Trustee of the Loan Office, for the county of New-Castle, hath become vacant, by the resignation of John Stockton, esquire,

T. M'Kean  
Thompson ap-  
pointed Trustee.

BE it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Thomas M'Kean Thompson, of the said county of New-Castle, be, and he is hereby appointed Trustee of the Loan Office for the said county of New-Castle; and that the said Thomas M'Kean Thompson, upon giving bond, and taking the oath or affirmation, required by the laws of this state to be given and taken respectively, by a Trustee of the said office, shall have all the powers and authorities, be entitled to the same rewards, and be liable to the same penalties, as a Trustee of the Loan Office in any of the counties of this state can have, or be liable to, by the laws thereof.

As Per chap.  
230. a. &c.

Passed January 31, 1795.

CHAP.

*A Supplement to an act, intituled, An act for extending an act, intituled, An act to prevent swine running at large, without rings and yokes, in certain parts of New-Castle county, within this government, to a certain part of Appoquinimink hundred, in the county aforesaid. (a)*

**W**HEREAS it appears to this Legislature, from Preamble.  
a representation to them made, that it is necessary, on account of the scarcity of timber in that part of St. George's hundred in the county of New-Castle, now lying to the westward of the upper road leading through New-Castle county, that the above recited act should be extended, so as to include the lands lying to the westward of the above mentioned road to the stone line, dividing this state from the state of Maryland.

*BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, from and after the passing of this act, the said recited act, and every clause, matter and thing therein contained, shall extend, and be deemed, construed and taken to extend, to that part of St. George's hundred, lying to the westward of the road called the upper road, leading through New-Castle county aforesaid, from Mount Pleasant to Middletown; any thing contained in the said recited act to the contrary notwithstanding.*

Extension of the act to the western part of St. George's hundred.

*Passed January 31, 1795.*

(a) Chap. 192. n. Anno, 1769—and see chap. 113. a. 20 Geo. II. for the original act—and see chap. 226. a. extending the same to Pencader hundred.

C H A P.  
LXXVII.

C H A P. LXXVII. c.

1795.

*An ACT making provision for the support of government for the year One Thousand Seven Hundred and Ninety-five, and for other purposes.*

Preamble.

**W**HEREAS it is requisite and necessary that punctual supplies of money be brought into the treasury, for the purpose of securing a regular and impartial administration of the laws.

Ten Thousand  
Five Hundred  
Dollars to be  
raised and paid  
into the Treasu-  
ry.

Each county's  
proportion.

Levy Courts to  
ascertain the sum  
on the Pound  
rate.

Warrants to be  
issued to the Col-  
lectors.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the sum of Ten Thousand Five Hundred Dollars shall be raised and paid into the treasury of this state within the time herein-after directed, and shall be assessed and levied in the several counties of this state in the following proportions, *That is to say,* For the county of New-Castle, the sum of Four Thousand Dollars; for the county of Kent, the sum of Three Thousand Five Hundred Dollars, and for the county of Sussex, the sum of Three Thousand Dollars.

SECT. 2. *And be it enacted,* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Levy Court of each county are hereby authorized and required to hold a Special Court, on the second Tuesday of March next, at the place in the same counties where Levy Courts are usually held, and then and there, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound, upon the whole rate of the counties respectively, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised, and levied in the counties aforesaid respectively; and the Clerk of the Peace for each county shall thereupon make out a warrant, to be signed by any two Justices of the Peace of the same, directed to the Collector of each hundred that may be appointed agreeably to the directions of this act, annexed to a duplicate of the said assessment, certified by the Clerk of the Peace, authorising

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1795.

authorising and requiring such Collector forthwith to demand and receive, from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums as aforesaid; and the said Collectors respectively shall proceed without delay to collect, and in case of neglect or refusal to pay, to levy and recover the same in the manner directed by the act of Assembly, intitl'd, *An act for raising county rates and levies*; and the said Clerk of the Peace shall, within ten days next after the day of holding the Special Levy Courts aforesaid, transmit into the Auditor's Office a true account of the sum total, which every Collector shall be charged with, pursuant to this act.

Chap. 102, a.  
s. 9.

Auditor to be furnished with account of the sum chargeable to each Collector.

Provision for securing the payment of the tax.

Proviso.

In what cases the Collectors may sell land, &c.

SECT. 3. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on said lands; *Be it therefore enacted*, That the tenant, or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the said tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, that it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owner thereof, by action or suit in any court where the same may be cognizable, together with the costs of suits; and all parents, guardians, or trustees, making payment as aforesaid, shall be allowed the sum so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

SECT. 4. *And be it enacted*, That, in all cases where the Collectors can find no effects upon the lands, belonging to the party chargeable with the assessment, or of his tenant or person having care thereof, sufficient to pay the same if distrained, and the rate cannot

be

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1795.

be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of the hundred where the lands lie, with the approbation of the Court of General Quarter Sessions of the Peace held for the same county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at public auction, as the said court may judge to be necessary for the payment of the assessment.

Time limited  
for Collectors  
to pay into the  
Treasury.

Their commis-  
sions.

Treasurer to ap-  
point the Col-  
lectors, who shall  
give bond, and  
for whom he  
shall be answer-  
able.

Collector shall  
take duplicate  
receipts, one of  
which shall be  
lodged in the  
Auditor's Office.

The State Treas-  
urer shall ac-  
count with the  
Auditor.

SECT. 5. *And be it enacted*, That the said Collectors respectively shall, on or before the first Tuesday in November next, pay to the State Treasurer the sum or sums of money they may or ought to have levied by virtue of this act, deducting Nine Dollars for every Hundred Dollars he shall so collect and pay over to the State Treasurer.

SECT. 6. *And be it enacted*, That the State Treasurer shall appoint Collectors for the several hundreds, who shall each of them give bond in double the sum he is to collect, with such sureties as the State Treasurer shall approve of, conditioned for the faithful performance and discharge of their duty respectively, in the execution of this act; and the State Treasurer shall be answerable to the state for any loss, which may arise to the state, from the insufficiency of the Collectors, or their sureties, to pay the monies by them to be collected respectively by virtue of this act.

SECT. 7. *And be it enacted*, That the Collectors appointed as aforesaid, shall pay to the State Treasurer all the monies to be collected in their respective districts, in pursuance of this act, on or before the second Tuesday of November next, taking duplicate receipts for the same, one of which he shall lodge in the Auditor's Office within one month from the time the same shall be given.

SECT. 8. *And be it enacted*, That the State Treasurer shall, once in every three months, transmit into the Auditor's Office an exact statement, as well of all the monies by him received, with the names of the persons by whom paid, as of the monies by him paid, what amount, and the time when; and shall, in the month of December annually, appear in the Audi-  
tor's

tor's Office with his accounts and vouchers, and proceed to adjust and settle the said accounts with the Auditor, and the State Treasurer shall discharge himself of all monies which shall come to his hands in pursuance of his office, and shall be allowed commissions for all monies which shall come into his hands, and for his services performed in pursuance of this act, and duly accounted for, at the rate of Three Dollars and Fifty Cents for every Hundred Dollars, and no more.

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1795.

Treasurer's commissions.

SECT. 9. *And be it enacted,* That no Collector shall be allowed any deduction of any part of the sums mentioned in said duplicate of assessment, except when it shall be made appear, by a certificate under the hands of any two Justices of the Peace of the neighbourhood where any delinquencies may happen, and approved by the Levy Court of the county in which such delinquencies may happen, that the Collector has used all lawful means for the levying and collecting the same. *Provided always,* That no such certificate shall be sufficient, unless signed within two months after the expiration of the time limited as aforesaid for the collection of the tax to be raised by this act, and approved of by the Levy Court at their next meeting after the time aforesaid.

In what case the Collectors may be allowed deductions.

Proviso.

SECT. 10. *And be it enacted,* That all bonds given by the State Treasurer, in pursuance of this act and the act requiring the State Treasurer to give security, if approved by the Governor, shall be by him transmitted to the Auditor's Office for safe keeping.

Treasurer's bonds to be lodged in the Auditor's Office.

SECT. 11. *And be it enacted,* That if any Collectors shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is intitled to by law for the like services, in the recovery of debts under Five Pounds; (a) and any person, whose property shall be liable to payment of the said assessment, or any part thereof, may discharge the same at any time before the day of sale of the property distrained; and in such case, the Collector shall receive

Collector's fees upon distress or execution.

(a) For which see chap. 27. c. sect. 33.—and chap. 58. c. sect. 5.

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1795.

receive for his trouble one half of the fees he would be entitled to on a sale, and no more.

Appropriation:

For publishing  
the laws of this  
state;

Chap. 44. c.

For the payment  
of salaries;

for the expenses  
of the General  
Assembly, &c.

for payment of  
debts to citizens,  
and interest on  
depreciation cer-  
tificates.

T. Sipple ap-  
pointed State  
Treasurer.

How often he  
shall make re-  
turns, &c.

SECT. 12. *And be it enacted*, That the aforesaid sum of Ten Thousand Five Hundred Dollars, together with all monies which now are, or hereafter may come into the treasury of this state, except such monies as may be derived from the Land or Loan Offices of this state, shall be appropriated and applied to and in the following manner, *That is to say*, The sum of Two Thousand Six Hundred Dollars thereof shall be appropriated and applied to and for the printing and publishing of the laws of this state, conformably to an act of Assembly passed the nineteenth day of June, in the year One Thousand Seven Hundred and Ninety-three, intituled, *An act empowering the Secretary to cause the laws of this state to be printed*; so much thereof as may be necessary shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Supreme Court and of the Court of Common Pleas, Secretary, and Auditor of Accounts, up to the first of January, which will be in the year Seventeen Hundred and Ninety-six; and so much thereof as may be necessary shall be applied to the payment of the daily allowance to the Members of the General Assembly, their Clerks, and other expences, and for printing the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof; and the residue thereof, if any there be, shall be applied to the payment of any sums of money due to the citizens of this state or any of the United States, which are or shall be allowed by the Auditor of Accounts, and approved of by the General Assembly, and to the payment of interest due on depreciation certificates, issued to and now in the hands of citizens of this state, or so much of the said residue as shall be necessary for the payment of the sums of money last mentioned.

SECT. 13. *And be it enacted*, That Thomas Sipple shall be, and he is hereby appointed State Treasurer; which said Treasurer shall make returns and settle his accounts as often, and in the same manner, as the State Treasurer is directed to make returns and settle his

his accounts by an act of Assembly, intituled, *An act for expediting the collection of arrearage taxes, and other purposes*, passed the fourth day of February, in the year One Thousand Seven Hundred and Ninety-two.

C H A P.  
LXXVII.

1795.

Chap. 247. b.

*Passed February 3, 1795.*

C H A P. LXXVIII. c.

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

1795.

**W**HEREAS the penalties, which have heretofore been inflicted upon those who profane the Lord's day, commonly called Sunday, have been found insufficient to deter many persons from such immorality; therefore,

Preamble.

**SECTION 1.** *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That if any person or persons within this state, after the passing of this act, shall do or perform any worldly employment, labour, or business whatsoever, upon the Lord's day, commonly called Sunday (works of necessity and charity only excepted,) and be duly convicted thereof by his or her own confession, or the testimony of one or more credible witnesses, before any one Justice of the Peace, or by the view of such Justice, such person or persons so offending, for every such offence, shall forfeit the sum of Four Dollars; and upon refusal or inability to pay the said fine and the legal costs, he or she shall be imprisoned in the public gaol of the county, where the offence shall be committed, for any space of time not exceeding twenty-four hours.

Penalty for performing labour or business on Sunday.

**SECT. 2.** *And be it enacted,* That if any carrier, pedlar, waggoner, or any driver of a travelling stage-waggon or coachee, carter, butcher, or drover, with his horse, pack, waggon, stage, coachee, cart or drove, shall travel or drive upon the Lord's day, or if any person or persons within this state shall expose

Penalty on carriers, pedlars, &c. travelling, and persons selling goods, on Sunday.

any

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1795.

any goods, wares, or merchandises, to sale, on the said day, and shall thereof be duly convicted in manner aforesaid; the person or persons so offending, shall, for every such offence, forfeit and pay the sum of Eight Dollars, shall be stopped and detained with his horse, pack, stage, coachee, waggon, cart, or drove, until the succeeding day; and, upon refusal or inability to pay the said fine and legal costs, shall be imprisoned in the public gaol of the county, where the offence shall be committed, for any space of time not exceeding two days.

Penalty for fishing, fowling, horse-racing, &c. on Sunday.

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

Penalty for gaming or dancing on Sunday.

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

How the fines under this act shall be recovered and applied.

SECT. 5. *And be it enacted*, That all the fines and forfeitures, and the legal costs thereon, mentioned in this act, shall be levied by distress and sale of the offender's goods and chattels respectively, by warrant under the hand and seal of such Justice before whom the conviction shall be made, the same to be applied to the use of the poor of the county where the offence shall be committed; any law, usage, or custom to the contrary in any wise notwithstanding.

Repeal of former act. Chap. 79. a.

SECT. 6. *And be it enacted*, That an act of Assembly of this state, entitled, *An act to prevent the breach of the Lord's day, commonly called Sunday*, and every matter

matter and thing therein contained, shall be, and the same is hereby repealed, and made null and void.

CHAP. LXXVIII.  
1795.

Passed February 6, 1795.

CHAP. LXXIX. c.

An ACT to alter the time for holding the Courts of Chancery in this state as at present by law directed, and for other purposes therein mentioned.

1795.

**W**HEREAS, by an act of the General Assembly of this state, intituled, *An act to alter and amend an act to regulate the courts in this state*, it is enacted, That the Court of Chancery shall be commenced and held in each county on the first Wednesday after the terms of the Supreme Court shall commence, which is found in practice to be very inconvenient.

Preamble.  
Chap. 61. c.  
sect. 4.

SECTION 1. BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, from and after the passing of this act, the Court of Chancery shall commence and be held in each of the counties of this state, on the days and at the times hereinafter mentioned, *That is to say*; For the counties of Suffex and New-Castle, on the first Tuesday after the commencement of the term of the Supreme Court for the said counties; and for the county of Kent, on the next Thursday after the commencement of the term of the Supreme Court of the said county. (a)

Time of holding the Court of Chancery.

SECT. 2. And be it enacted, That so much of the said two acts above mentioned, as relates to the times for the commencement and holding the Court of Chancery in the several counties of this state, as by this present act is altered, amended, or supplied, is hereby repealed, made null and void.

Part of former acts repealed.  
Chap. 19. c.  
Chap. 61. c.

SECT. 3. And whereas there is no person, but the

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Chancellor

(a) For those times of holding the Supreme Court in the said respective counties see chap. 61. c. sect. 1.

C H A P.  
LXXIX.  
1795.

Chap. 144. 2.

Of administer-  
ing the oath or  
affirmation to  
certain Commis-  
sioners appointed  
by the Court of  
Chancery.

Chancellor, authorised by any law of this state, to administer the oath or affirmation to Commissioners, appointed to take the examination of such witnesses as shall be produced to them to prove any boundary or boundaries of any lands within this state, according to the form and effect of an act, intituled, *An act prescribing an easy and summary method to perpetuate the testimony of witnesses, relating to the bounds of lands within this government*; and it being very inconvenient for such Commissioners, who may live very remote from the Chancellor's place of residence, to repair to him in order to be qualified for the purpose aforesaid: For remedy whereof, *Be it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That, from and after the passing of this present act, it shall and may be lawful for any Judge or Justice of any of the Courts of Law, or any Justice of the Peace in this state, when applied to for that purpose, to administer the oath or affirmation aforesaid to such Commissioners aforesaid, which shall be as good and available in law, as if the same oath or affirmation were administered by the Chancellor of the state; any law, custom, or usage to the contrary thereof in any wise notwithstanding.

*Passed February 7, 1795.*

C H A P. LXXX. c.

1795.

*An ACT to provide for the better regulation of the public offices of the several counties of this state, and for other purposes therein mentioned.*

Preamble.

**W**HEREAS much inconvenience hath been experienced by the good people of this state, from not having access at all times to the offices, and papers belonging to the several public offices, in this state; *And whereas* the safety of the papers and records belonging to, or in the custody of, the respective Prothonotaries of the Court of Common Pleas, Clerks of the Supreme Court, Registers for the probate

bate of wills and granting letters, of administration, Clerks of the Orphans Court, Clerks of the Peace, Recorders of Deeds, and Sheriffs, in the several counties in this state, is an object of great importance to the citizens thereof.

CHAP.  
LXXX.  
1795.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the respective Prothonotaries of the Court of Common Pleas, Clerks of the Supreme Court, Registers for the probate of wills and granting letters of administration, Clerks of the Orphans Court, Clerks of the Peace, Recorders of Deeds, and Sheriffs, in the several counties in this state, shall, from and after the passing of this act, keep all records, record books, original papers, and every other matter and thing belonging to their respective offices, in the town in each county in which the Supreme Court and Court of Common Pleas are usually held; (a) and that the said several offices shall at all times (Sundays excepted) be kept open by the respective officers aforesaid, for the transaction of business.

At what places  
the public offices  
shall be kept.

Shall be open at  
all times except  
Sundays.

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

Penalty on offi-  
cers for non at-  
tendance.

Proviso.

*Passed February 7, 1795.*

CHAP.

(a) See also art. 8. sect. 5, of the constitution of this state of June, 1792.

C H A P.  
LXXXI.

C H A P. LXXXI. c.

1795.

*An additional Supplement to an act, intituled, An act for appointing an Auditor of Accounts, and for enjoining certain duties on said officer. (a)*

Auditor's salary  
for 1795.

**B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the Auditor of Accounts shall receive, for his services during the present year, the sum of Five Hundred Dollars, to commence from the first Tuesday of January in the present year, and to continue until the first Tuesday of January, in the year One Thousand Seven Hundred and Ninety-six.

*Passed February 7, 1795.*

C H A P. LXXXII. c.

1795.

*An ACT to enable the persons therein named to raise a sum, not exceeding Three Thousand Five Hundred Dollars, by a lottery, for the purpose of reimbursing the subscribers to the erection of the present Court House and Gaol in Sussex county, their subscription.*

Institution of  
the lottery.

**SECTION I.** **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That it shall and may be lawful for the persons hereafter appointed Managers, to institute, carry on, and draw a lottery for raising a sum not exceeding Three Thousand Five Hundred Dollars, clear of all expences; and the said sum, when so raised, shall be applied to the reimbursing the subscribers to the building and erection of the present Court House and Gaol of Sussex county, (b) the amount

Application of  
the money to be  
raised.

(a) See chaps. 26. c. and 65. c.

(b) To wit, at George Town, and for its establishment as the county town, see chaps. 222. b. and 237. b.

amount of their several subscriptions, so far as the same shall be unpaid.

C H A P.  
LXXXII.

1795.

SECT. 2. *And be it enacted*, That John Wise Batson, Thomas Laws, Isaac Cooper, Nathaniel Mitchell, and John Collins, esquires, or the survivors of them, shall be, and are hereby appointed, Managers of the said lottery; who shall respectively, before they enter upon the duties required by this act, give bond, in the name of the state, in the sum of Seven Thousand Dollars, conditioned for the faithful discharge of the trust reposed in them respectively by this act; which bonds shall be lodged in the office of the Secretary of this state, who shall thereupon give six weeks notice in the Delaware Gazette, that such bonds were executed and lodged in his office, in pursuance of the direction of this act; and are hereby declared to be in trust for, and may be sued by, all and any of the persons aggrieved by the Managers of the said lottery, in conducting and carrying on the same.

Managers appointed.

Who shall give bonds,

which shall be lodged in the Secretary's Office,

and be in trust.

SECT. 3. *And be it enacted*, That the said Managers shall, on or before the first Tuesday in February next, if at that time a sufficient number of tickets shall have been sold, and if not, as soon after as conveniently may be, proceed to the drawing and finishing the said lottery; and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within twelve months after the drawing of said lottery; but if not demanded within that time, the said prizes remaining in the hands of the said Managers, shall be paid over by them to the Treasurer of said county, and shall be applied to and for the benefit of the same, in such manner as the Levy Court of said county shall order and direct.

When the drawing shall commence.

Prizes, when payable.

If not demanded, how to be applied.

SECT. 4. *And be it enacted*, That the said Managers, or the survivors of them, shall superintend and direct the expenditures of the said sum of Three Thousand Five Hundred Dollars, or so much thereof as they may judge necessary, for the reimbursing the subscribers to the erection of the aforesaid buildings their several subscriptions in manner aforesaid; and the said Managers, or the survivors of them, shall exhibit their accounts of the same, and their settlements with the said subscribers, to the Levy Court of said county

Managers to superintend the expenditure of the money raised,

and to account with the Levy Court.

C H A P.  
LXXXII.

1795.

Their Commis-  
sions.

county, and make a settlement of their proceedings with said court.

SECT. 5. *And be it enacted*, That the said Managers shall have, for their trouble in the discharge of the duties assigned them by this act, the sum of five *per centum* on the whole sum which shall be raised by the said lottery, and expended as aforesaid:

*Passed February 7, 1795.*

C H A P. LXXXIII. c.

1795.

*An ACT to appropriate certain public monies to the payment of Thomas M<sup>c</sup>Kean, esquire, for public services.*

Preamble.

**W**HEREAS there remains due to Thomas M<sup>c</sup>Kean, esquire, for public services rendered to this state, as a Delegate in the Congress of the United States, the sum of One Hundred and Seventy-three Pounds Six Shillings and Eleven-pence, part of a public order drawn in his favour, upon Jesse Higgins, Collector of New-Castle county, on the twenty-first day of October, in the year One Thousand Seven Hundred and Ninety, for the sum of Three Hundred and Sixty-seven Pounds and Seventeen Shillings.

The Treasurer to pay to T. M<sup>c</sup>Kean, esq. One Hundred and Seventy-three Pounds Six Shillings and Eleven-pence, with interest from the 21st October, 1790.

*BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That the Treasurer of this state, be, and he is hereby, authorized and directed to pay to the said Thomas M<sup>c</sup>Kean, or to his order, out of such public monies as are or may hereafter come into his hands, excepting such as are or shall be received from the Trustees of the Loan Office in the several counties, and the Land Office of this state, the said sum of One Hundred and Seventy-three Pounds Six Shillings and Eleven-pence, with the legal interest thereon from the said twenty-first day of October, One Thousand Seven Hundred and Ninety, until the payment thereof. *Provided always*, That the said payment be not made until the said Thomas M<sup>c</sup>Kean, shall

Proviso.

shall deliver or transmit to the said Treasurer the above mentioned order, so drawn in his favour as aforesaid.

C. H. A. P.  
LXXXIII.

1795.

*Passed February 7, 1795.*

C. H. A. P. LXXXIV. c.

*An ACT to appropriate the sum of Ten Hundred and Sixty-six Dollars and Sixty-seven Cents, for covering the flat part of the roof of the State House, in the town of Dover, with copper; and for other purposes.*

1795.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That it shall and may be lawful for King Dougal and Robert Clark, to draw upon the Treasurer of this state for the sum of Ten Hundred and Sixty-six Dollars and Sixty-seven Cents, out of any monies that have, or may come to his hands from the Land and Loan Offices of this state, to be applied towards covering the roof of the said house with copper in the best manner; and the balance, if any, shall be applied towards completing the rooms appropriated to the accommodation of the Legislature, painting the house, completing the battlements, erecting stone steps, and paving before the front of the said house, and in such other manner as they the said Commissioners shall best approve.

Appropriation  
for covering the  
roof with copper,  
&c.

SECT. 2. *And be it further enacted,* That the said King Dougal and Robert Clark, be, and they are hereby appointed, Commissioners to carry the said design into effect; and the said Commissioners are hereby required and directed to keep fair and accurate accounts of all their expenditures, in conducting and completing the aforesaid business, and shall make a settlement of the same with, and lay before, the Legislature of the state, at their next sessions, who are to allow them a reasonable compensation for their services.

Commissioners  
appointed for the  
purpose,

shall lay their  
accounts before  
the Legislature.

SECT. 3. *And be it enacted,* That from and after  
the

C. H. A. P.  
LXXXIV.

1795.

Appropriation of  
part of the house  
for the General  
Assembly and  
Auditor of Ac-  
counts.

the passing of this act, the two rooms on the west side of the said State House, and the room on the south-east corner of the same, on the second story thereof, be and are hereby appropriated to and for the use and accommodation of the General Assembly and the Auditor of Accounts, whenever they, or either of them, shall require the use or occupation of the same. (a)

Passed February 7, 1795.

C. H. A. P. LXXXV. c.

1795.

An ACT to prevent swine running at large in George Town.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, from and after the first day of May next ensuing the publication of this act, no inhabitant of the said town, or any person or persons whatsoever, shall suffer or permit any of their hogs to run at large within the limits or bounds of the said town, unless the said hogs are or shall be ringed through the nose, or yoked; and if any person or persons shall suffer any of their hogs to run at large, after the first day of May next, within the bounds or limits aforesaid, the owner or owners of all such hogs shall forfeit and pay the sum of Two Dollars for each hog suffered to run at large as aforesaid, to be levied, with costs, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of any one Justice of the said county of Sussex, one half thereof to be paid to the person or persons who will sue for the same, and the other half to the Treasurer of said county for the use of the same.

Swine not to run  
at large within  
the bounds of  
George Town,  
without being  
ringed or yoked.

Penalty.

How to be recovered and applied.

SECT. 2. *And be it enacted*, That it shall and may be lawful for any person or persons to kill all such hogs

(a) See also chap. 220. b. and chap. 238. b.

hogs, permitted or suffered to run at large as aforesaid within the bounds or limits of George Town aforesaid, in Suffex county, unless such hogs shall be ringed or yoked in manner aforesaid; and the person or persons killing any such hogs, shall, within twelve hours thereafter, give notice thereof to the keeper of the public gaol of Suffex county aforesaid, for the time being, for whom it shall and may be lawful to take all such hogs, so killed as aforesaid, that are fit for use, for the use and maintenance of such prisoners as shall or may be in his custody.

C H A P.  
LXXXV.

1795.

Swine running without being ringed or yoked may be killed; and, if fit for use, delivered to the gaoler for the use of the prisoners.

SECT. 3. *And be it enacted,* That if any suit or action shall be commenced, brought, or prosecuted, against any person or persons whatsoever, for any act or thing by him, her, or them done in pursuance of this act, it shall and may be lawful to and for the defendant or defendants in such suits or actions, to plead the general issue, and on trial thereof, to give this present act in evidence, whereof all justices of the several courts of law are hereby strictly required and enjoined to take notice, and govern themselves accordingly.

General issue.

*Passed February 7, 1795.*

## C H A P. LXXXVI. c.

*An ACT for the condemnation of a piece or parcel of low ground to the use of Daniel James's mill, in Murderkill hundred, near Canterbury.*

1795.

*Passed February 7, 1795.—Private act.*

## C H A P. LXXXVII. c.

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

1795.

*Passed February 7, 1795.—Private act.*

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CHAP.

CHAP.  
LXXXVIII.

C H A P. LXXXVIII. c.

1795.

*A Supplement to "An act to enable the owners and possessors of a certain tract of meadow ground, marsh, and cripple, situate at the north end of New-Castle, to repair, support, and maintain the banks, dykes, and sluices belonging to the same."*

*Passed February 7, 1795.—Private act.*

C H A P. LXXXIX. c.

1795.

*An ACT supplementary to an act, intituled, "An act to redress the misemployment of lands, and stocks of money, heretofore given and purchased for the use of the minister of the Swedes Lutheran church, called Trinity Church, in the Borough of Wilmington, and county of New-Castle, and for the incorporating the minister, church wardens, and vestry men of the said church."*

*Passed February 7, 1795.—Private act.*

C H A P. XC. c.

1795.

*An ACT to extend the time of payment of the purchase money of certain lands, granted to the citizens of this state.*

Preamble.

Chap. 45. c.

Chap. 57. c.

**W**HEREAS the time limited for the payment of all monies directed to be paid by the act, intituled, *An act for opening and establishing a Land Office within this state, and for the sale of all vacant and unlocated lands therein, and by the supplement thereto, is found to be too short to effect the good purposes intended thereby.*

**SECTION 1.** *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the time of payment of the purchase*

purchase money for all lands granted to the citizens of this state by virtue of the above recited act, be, and is hereby, extended for and during the term of one year from the time limited therein; (a) and all payments made within the said time, so extended as aforesaid, for such purchasers as aforesaid, shall be as good and effectual in law, as if such payments had been made within the time appointed in the said act, passed the seventh day of February, One Thousand Seven Hundred and Ninety-four; any thing therein contained to the contrary notwithstanding.

CHAP.

XC.

1795.

Term of payment extended one year beyond the former limitation.

SECT. 2. *And whereas*, there are now and hereafter may be warrants laid in the different counties of this state, and caveats have been or hereafter may be entered against the establishment of such warrants before the Commissioners of the Land Office, and the expences of the said Commissioners in hearing and trying said caveats being directed to be paid out of the monies arising from the sale of vacant and unlocated lands. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all expences accruing to the said Commissioners, attending on the trial of any caveats heretofore or hereafter to be made or entered by any person or persons, under the act of Assembly first above mentioned, or under the supplement thereto, shall be paid by the party or parties failing in his claim before the said Commissioners, unless a trial shall be had thereon, and the same shall be determined before the said Commissioners, on or before the first day of November next.

Expences accruing upon caveats, by whom to be paid, unless, &c.

SECT. 3. *And be it enacted*, That the said Commissioners shall be entitled to, and receive from the party or parties so failing in their claim as aforesaid, Two Dollars for each and every caveat or claim so determined by them; and Two Dollars for every day, after the first day they shall be engaged in the hearing

Allowance to the Commissioners for each caveat determined.

and

(a) Which by chap. 57. c. sect. 4, was "within two years after the date of warrant,"—see also chap. 101. c. sect. 5, after, a further extension of one year; rendering the whole time for payment four years.

C H A P.  
XC.  
1795.

and determination of such caveats or claims, to be paid by the party or parties failing in such trial; any thing in the said act, or the supplement thereto, to the contrary notwithstanding. (b)

*Passed February 7, 1795.*

C H A P. XCI. c.

1796.

*An ACT authorising the Trustee of the Loan Office of Kent county, to execute a release of a certain mortgage deed and bond therein mentioned.*

Preamble.

Chap. 201. b.

**W**HEREAS John Vining, esquire, by virtue of an act of the General Assembly, intituled, *An act to authorise John Vining, esquire, one of the heirs of John Vining, esquire, deceased, to mortgage lands for securing the sum of one Thousand Five Hundred and Fifty-three Pounds Eighteen Shillings and Six-pence, with the interest due thereon*, did, on the thirteenth day of January, in the year of our Lord One Thousand Seven Hundred and Ninety, make and execute to Dye Kearney, esquire, then Trustee of the Loan Office of Kent county, a mortgage deed of lands within the said county, and also a bond for securing the payment of the said sum of One Thousand Five Hundred and Fifty-three Pounds Eighteen Shillings and Six-pence, agreeably to the directions, true intent and meaning of the said act of the General Assembly: *And whereas*, upon the memorial of the said John Vining, the mortgagor, and others, the heirs, devisees, and representatives of the aforesaid John Vining, deceased, certain Commissioners were appointed to settle, and fully investigate, the accounts of the said John Vining, esquire, deceased, as Trustee of the General Loan Office of Kent county, who reported to the General Assembly in favour of the said memorialists: *And whereas* other Commissioners were appointed

(b) This sect. 3, repealed and supplied in chap. 101. c. sects. 1, 2.

pointed at a subsequent session of the General Assembly, with similar powers, who were instructed to report a statement of the facts exhibited to them, and the principles upon which their report might be founded; which said last mentioned Commissioners did also make their report greatly in favour of the said memorialists. *And whereas* this General Assembly are satisfied, that the executors of the said John Vining fully paid all demands whatsoever, which the state had against the said John Vining, esquire, as Trustee as aforesaid; and that at the time of the execution of the said mortgage deed and bond, the said John Vining, esquire, deceased, did not stand indebted to the public in the said sum of One Thousand Five Hundred and Fifty-three Pounds Eighteen Shillings and Six-pence, nor in any other sum of money; and that, in equity and good conscience, the said mortgagor ought to be relieved.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the Trustee of the Loan Office of Kent county is hereby authorized and required, under his hand and seal, to release and discharge to the said John Vining, esquire, the mortgagor; all sums of money due upon the said mortgage deed and bond, and to endorse the same on the said deed and bond, and thereupon to deliver the said deed and bond to the said John Vining.

SECT. 2. *And be it enacted,* That all and every payment made by the executors of the said John Vining, esquire, deceased, or any of them, to Cæsar Rodney, esquire, deceased, formerly Trustee of the Loan Office of Kent county, shall be and remain firm and valid in law and equity; and that neither the said executors, nor any of them; nor the executors of any of them, nor the heirs, or representatives, or devisees, of the said John Vining, esquire, deceased, nor their heirs, representatives, devisees, executors, or administrators, nor any of them, shall sue for, claim, ask, or demand any sum or sums of money, nor the refunding payment or repayment of any sum or sums of money, either of the state, or of any or either of the parties aforesaid, by reason of any thing heretofore done or transacted, touching or concerning the ac-

C H A P.  
XCI.

1796.

Mortgage and  
bond executed  
by J. Vining to  
be released.

Payments heretofore made to be valid; and all matters relative to the accounts of J. Vining, as Trustee, finally concluded.

counts

C H A P.  
XCI.  
1796.

counts, settlements, or payments of or concerning the said John Vining, esquire, deceased, formerly Trustee of the Loan Office of Kent county; but that from henceforth there shall be a final end and determination of all matters relating to, or in consequence of, the accounts of the said John Vining, as Trustee as aforesaid, as well with respect to this state, as to the estate of the said John Vining, esquire, deceased.

*Passed January 30, 1796.*

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C H A P. XCII. c.

1796. *An ACT to supply the loss of a deed made by Paul Ralston to Joseph Elliott, for certain land in Brandywine hundred, in the county of New-Castle.*  
*Passed January 30, 1796.—Private act.*

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C H A P. XCIII. c.

1796. *An ACT to enable Charles Thomas to bring into this state seven Negro slaves, belonging to him, and now in the state of Maryland.*  
*Passed January 30, 1796.—Private act.*

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C H A P. XCIV. c.

1796. *An ACT to vacate and stop a certain part of the Kennet road, within the Borough of Wilmington. (a)*

Preamble.

**W**HEREAS the corporation of the Borough of, Wilmington, have represented to this General

(a) For former acts relating to the Borough of Wilmington, see chap. 206. a. Anno 1772.—Chap. 89. b. Anno 1782.—Chap. 123. b. Anno 1785.—Chap. 252. b. Anno 1791.

ral Assembly, that the road commonly called or known by the name of the Kennet road, as heretofore laid out and established, is not at right angles with the streets of the said borough; that at the time it was so-laid out, there were but few improvements contiguous thereto, but within a few years past, a considerable number of buildings have been erected near unto the place where the said road intersects Market-street; and it is judged that the continuance of the said road, between Market-street and Orange street, operates as an impediment to further improvements between Wood-street and Chesnut-street; and have by their petition requested that an act may be passed to vacate and stop the same.

C H A P.  
XCIV.  
1796.

*BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That from and after the passing of this act, such part of the Kennet road as extends from Market-street to Orange-street as aforesaid, be, and the same is hereby declared to be, vacated and stopped to all intents and purposes whatsoever.

Part of the  
Kennet road  
vacated.

*Passed February 8, 1796.*

C H A P. XCV. c.

*A Supplement to an act, intituled, An act for establishing the militia in this state. (a)*

1796.

**W**HEREAS from the increase of inhabitants in this state, there are, in many instances, more able bodied free white men above the age of eighteen years, and under the age of forty-five years, residing within a district laid off in pursuance of former militia laws, than are necessary to compose a company; whereby inconveniences have arisen in the organization of the militia of this state: For remedy whereof, and in order to provide for other defects in the act to which this is a supplement,

Preamble.

SECTION

(a) Chap. 36, c. Anno 1793.

CHAP.  
XCV.  
1796.

Counties to be  
divided into re-  
gimental and  
battalion dis-  
tricts ;

and these into  
company dis-  
tricts.

Returns.

Arrangement of  
the militia.

How the compa-  
nies shall be  
classed.

SECTION 1. *BE it enacted by the Senate and House of Representatives, of the State of Delaware in General Assembly met,* That the Brigadier General in each county shall, forthwith after the passing of this act, convene the Lieutenant Colonels and Majors of his brigade, and with them, or a majority of such of them as may meet for that purpose, divide each county into regimental and battalion districts; and that the Major and Captains of each battalion shall be convened by the Lieutenant Colonel, and they, or a majority of them so met for the purpose, shall divide the same into company districts; and returns thereof, describing the limits of such districts, shall be made into the Secretary's Office. (b)

SECT. 2. *And be it enacted,* That each regiment shall consist of two battalions; each battalion of four district companies; each district company of not less than forty, nor more than seventy privates, or as near as may be; there shall be to each brigade at least one company of artillery, consisting of not less than fifty, nor more than seventy privates, and one or more troops of horse, as the Brigadier may think proper, consisting of not less than thirty, nor more than sixty privates, which shall be formed of volunteers from the respective brigades; and to each regiment there shall be two companies of grenadiers, light-infantry, or riflemen, which shall be formed of volunteers from the respective regiments, and of those who have heretofore enrolled or exercised as light infantry, excepting such as may elect to join a district company in manner hereinafter mentioned; and every person so enrolled, during his continuance in such company or troop, shall be exempted from serving in the district company. (c)

SECT. 3. *And be it enacted,* That the Captain or Commanding Officer of each district company, shall, on or before the first Tuesday of June next, or as soon after as conveniently may be, proceed to form his company into eight classes, in the manner directed by

(b) This sect. hath reference to sect. 1, of chap. 36. c.

(c) This sect. hath reference to sect. 3, of chap. 36. c.

by the seventh section of the act to which this is a supplement; and when the classes are settled, he shall form a roll containing the names and surnames of each class, numbered according to the order of balloting, which he shall keep for his own use, setting up not less than two copies thereof in some public places in his district, and transmitting a copy thereof, with a list of the names of his commissioned and non commissioned officers prefixed, to the Colonel or Commanding Officer of the regiment; which shall be deemed a sufficient notification to each citizen of his enrolment, except with regard to such citizens who shall hereafter arrive at the age of eighteen years, and under the age of forty-five years, and not excepted by the act to which this is a supplement, shall come to reside within the bounds of such company district. (d)

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Rolls thereof shall be formed,

two to be set up in public places, and one transmitted to the Colonel.

What shall be deemed a notification of enrolment.

SECT. 4. *And be it enacted,* That the Captain or Commanding Officer of each company of artillery, grenadiers, light infantry, or riflemen, and of the troops of horse, shall forthwith make a list of the names of the privates who have heretofore enrolled themselves in their companies, or attended and exercised therewith, and give notice, by one or more advertisements, that each private may elect to join the district company on or before the first Tuesday of May next, that then he will be deemed to be a private of his company; which said notification shall be deemed a sufficient enrolment, as to such persons as shall not elect in manner aforesaid to join a district company; and the Captain or Commanding Officer of the companies of grenadiers, light infantry or riflemen, shall return a copy of such list, exclusive of the names of such persons as may elect as aforesaid to join a district company, together with the names of his commissioned and non commissioned officers, to the Commanding Officer of the regiment; and the Captain, or Commanding Officer, of the companies of artillery and troop of light horse, shall make a

Each private of artillery, grenadiers, &c. may elect to join a district company.

What shall be deemed an enrolment, as to persons not electing.

Lists to be transmitted to the Colonel,

and Brigadier General.

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(d) This sect. hath reference to sect. 7, of chap. 36. c.

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When to be exercised in companies,

in battalions,

and in regiments.

Penalty on officers and privates for non attendance on days of exercise, in company or battalion;

and in regiments.

like list, and make return thereof to the Commanding Officer of the brigade. (e)

SECT. 5. *And be it enacted*, That from and after the passing of this act, the militia in this state shall be exercised in companies, once in the months of April, August, and November, in every year, at such time and place within the district, as the Captain or Commanding Officer of each company shall appoint and direct; and in battalions in the month of May in every year, at such time and place, within the bounds of each battalion, as the Major thereof shall order and direct; and, unless the Commander in Chief shall otherwise direct, in regiments, at such place within each regimental district as the Commanding Officer thereof shall order, as follows: The regiment of the lowest number in each of the brigades, on the first Monday in June; the regiment next highest in number, on the Tuesday following; and so on, according to their numerical rank, until the whole number of the regiments shall have mustered and exercised. (f)

SECT. 6. *And be it enacted*, That if any officer non commissioned officer, or private, shall refuse or neglect to appear at the time and place appointed to exercise, either in company or battalion, those who are obliged to find arms and accoutrements, with arms and accoutrements in good order, such officer, non commissioned officer, or private, so neglecting or refusing, not coming within the description of those mentioned in the twentieth section of this act, having no reasonable excuse, to be adjudged of in the manner as by the act to which this is a supplement it is directed, he shall forfeit and pay for every such neglect or refusal, if a Major Four Dollars, if a Captain Two Dollars, if a Subaltern One Dollar and Fifty Cents, and if a non commissioned officer or private Fifty Cents; and if any officer, non commissioned officer, or private, not having a reasonable excuse, to be adjudged as is before mentioned, shall neglect or refuse to attend at the time and place appointed to exercise in regiments, those

(e) This sect. hath reference to sect. 1, of chap. 36. c.

(f) This sect. hath reference to sect. 24, of chap. 36. c.

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those who are obliged to find arms and accoutrements, with arms and accoutrements in good order, he shall forfeit and pay, for every such neglect or refusal, if a Lieutenant, Colonel Commandant Six Dollars, if a Major, Four Dollars, if a Captain Three Dollars, if a Subaltern or Staff, One Dollar and Fifty Cents, and if a non-commissioned officer or private Sixty-seven Cents. (g)

SECT. 7. *And be it enacted,* That a fair and exact account of all fines and forfeitures, signed by the Captain or Commanding Officer of each company or troop, shall be transmitted, by such Commanding Officer, to the Treasurer of the regiment to which he belongs, at least once in three months; and at the same time an exact duplicate thereof, signed as aforesaid, shall be forwarded as aforesaid, to the Commissary of military stores of the county; and that it shall and may be lawful for such Treasurer to apply to any Justice of the Peace, within the district of such regiment, who is hereby impowered and required to grant his warrant, authorising such Treasurer to demand and receive from all delinquents the several fines which they have been adjudged to pay, and in case of refusal or neglect to pay the same, to levy and recover such fines or forfeitures in the same summary mode, and as fully and amply to all intents and purposes, as the Collectors of county rates and levies may or can by the laws of this state, collect such rates and levies; and if any Captain, or Commanding Officer as aforesaid, shall neglect or refuse to transmit the account of fines and forfeitures to the Treasurer of the regiment to which he belongs, and to the Commissary of military stores as is before directed, he shall for every such neglect or refusal forfeit and pay the sum of Twenty Dollars, to be recovered as other fines and forfeitures are. (h)

Accounts for fines to be transmitted to Regimental Treasurer and Military Commissary.

Summary mode of collection.

Penalty for not transmitting account of fines.

SECT. 8. *And be it enacted,* That the Treasurer of each regiment shall account with, and pay over to, the Military Commissary of his county, every four months,

Treasurer to pay to, and account with the Commissary.

(g) This sect. hath reference to sects. 4, 11, 13, of chap. 36. c.

(h) This sect. also hath reference to sects. 14, 16, 17, of chap. 36. c. and to sect. 9, of chap. 102. a. as to the summary mode of collecting fines.

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Compensation  
for collection.Commissary to  
be appointed for  
each county.

His duty.

Public arms to  
be apportioned  
among the com-  
panies.Bond to be gi-  
ven for their  
safe keeping.To whom they  
shall be deliver-  
ed,and how pre-  
served.Appropriation of  
moneys.

months, all such sum and sums of money as may by him be collected in pursuance of this act, and the act to which this is a supplement, deducting twelve and a half *per centum* for the trouble of collection. (i)

SECT. 9. *And be it enacted*, That the Governor shall appoint a proper person, in each of the counties of this state, to be a Commissary of military stores for the county in which he respectively resides, whose business and duty it shall be to collect all the public arms in their respective counties, and to provide some convenient place where they may be safely kept; and shall cause every musket so collected to be branded, on the butt of the stock thereof, with the words *State of Delaware*, and shall equally apportion the muskets so collected, as well as the arms and accoutrements to be by him purchased as herein after mentioned, among the different Captains or Commanding Officers of companies throughout the county; each Captain or Commanding Officer as aforesaid entering into bond to the said Commissary, in a penalty equal to double the value of the said arms and accoutrements, with his Subaltern Officers security thereto, conditioned for the safe keeping of the said arms and accoutrements, but not for the wear and tear thereof; which arms and accoutrements, on field and company days, the said Captain shall deliver to such privates in their respective companies as they shall deem not able to equip themselves; and every such private receiving any of the said arms and accoutrements as aforesaid, shall, immediately after the duty of the day be concluded, deposit the same in such convenient place as the Captains, respectively, shall appoint for the safe keeping of all such arms and accoutrements, (k)

SECT. 10. *And be it enacted*, That all sums of money, which shall come into the hands of any Military Commissary, in pursuance of this act, shall by him be applied in purchasing drums, colours and fifes, muskets, cartridge boxes, to contain twenty-four cartridges, bayonets and belts, and also for paying Adjutants,

(i) This sect. hath reference to sect. 16, of chap. 36. c.

(k) The latter part of this sect. hath reference to the last of sect. 4, in chap. 36. c.

jutants, Drummers and Fifers, in the same manner described by the act to which this is a supplement, to and for the use of the state; and all such muskets or firelocks, as shall be purchased with the monies arising from the aforesaid fines and forfeitures, shall be of bores sufficient for balls of the eighteenth part of a pound, and shall be branded in manner aforesaid: (1)

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Caliber of arms to be purchased.

SECT. 11. *And be it enacted,* That every Military Commissary to be appointed in pursuance of this act, before he enters on the duties enjoined on him by the same, shall give bond, in the name of the state, with one or more sufficient sureties, to be approved of by the Brigadier General of his county, in the sum of One Thousand Dollars; conditioned for the faithful performance of the duties of his office; and the said Commissaries shall, in the month of December in every year at least, render a just and true account of all monies which may come into their hands respectively, in pursuance of this act, and an account of the expenditures thereof, to the Auditor of Accounts, to adjust and settle the same; and shall discharge himself of any balance remaining in his hands in such manner as the Legislature shall direct, retaining the sum of Four Dollars for every Hundred Dollars that may come to his hands, in pursuance of this act, as a compensation for his care and trouble in performing the duties hereby enjoined on him. (m)

Commissaries shall give bond,

and account annually with the Auditor.

Compensation.

SECT. 12. *And be it enacted,* That when any class or classes of the militia shall be called to perform any tour of duty, the Brigade Major shall give notice thereof to the Captains of the several companies in his brigade, who shall, upon the receipt of such notice, immediately give notice to such non-commissioned officers and privates, in their respective companies, as shall be obliged to perform the same; and every non-commissioned officer and private, so notified to perform any tour of duty, shall either perform the same in person, or find a substitute to perform the same in his

How the militia when called into service shall be notified.

Penalty on privates for not performing a tour of duty.

(1) This sect. hath reference to sect. 18, of chap. 36. c.

(m) This sect. hath reference to sects. 16, 25, of chap. 36. c.

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unless excused  
by a Court Mar-  
tial.Penalty on offi-  
cers for not per-  
forming a tour  
of duty.unless excused  
by a Court  
Martial.

his stead, or pay such sum of money as will procure a substitute, not exceeding Twenty Dollars, to be ascertained by the Court Martial herein after mentioned, which shall be applied by the Captain or Commanding Officer of the company to which the person belongs, so refusing or neglecting to perform his tour of duty, towards procuring a substitute as aforesaid; which sum shall be recovered in the same manner as other fines and forfeitures are recovered by this act, unless he shall be excused by a Court Martial, to consist of a Subaltern of the company, to which he belongs, to be appointed by the Captain, and four privates, two of whom to be chosen by the Captain, and two by the non commissioned officer or private neglecting or refusing to perform his tour of duty; and in case the person refusing or neglecting to perform his tour of duty, shall neglect to attend, or attending shall refuse to make such choice, the Captain shall appoint in his stead; which Court Martial the Captain of the company is hereby directed to cause to be held, at the request of any non commissioned officer or private demanding the same: *Provided*, That no officer or private, ordered on the same tour of duty, shall be a member of such court. (n)

SECT. 13. *And be it enacted*, That if any commissioned officer shall refuse or neglect to perform his tour of duty, when called on, as aforesaid, he shall forfeit and pay as follows: If a Major General Two Hundred Dollars, to be recovered by the Treasurer of the first regiment in the county in which he may reside, in the manner that other fines and forfeitures are directed to be recovered by this act; if a Brigadier General, One Hundred and Twenty Dollars, to be recovered by the Treasurer of the first regiment in his brigade, in the manner herein directed for the recovery of other fines and forfeitures; if a Lieutenant Colonel, One Hundred Dollars; if a Major Eighty Dollars; if a Captain Sixty Dollars; if a Lieutenant or Ensign Forty Dollars, to be recovered as other fines and forfeitures are: *Provided* such officer so refusing or neglecting shall not have a good and sufficient excuse

(n) This sect. hath reference to sects. 8, 9, 10, of chap. 36. c.

excuse for such omission, to be adjudged of as follows, viz. if the officer refusing be a Major General or Brigadier General, his excuse shall be adjudged by three fieldofficers, to be appointed for that purpose by the Commander in Chief; if a Colonel or Major, it shall be adjudged by three fieldofficers, to be appointed for that purpose by the Brigadier General. (o)

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SECT. 14. *And be it enacted*, That if the Captain of any company shall refuse or neglect to give notice to the officers and privates of his company, ordered on any tour of duty, for the space of two days after he shall receive orders, from the Major of the brigade to which he belongs, for that purpose, he shall forfeit and pay the sum of Forty Dollars for every such neglect or refusal. (p)

Penalty on Captains neglecting to give notice of a tour of duty.

SECT. 15. *And be it enacted*, That the respective Brigadier Generals in the counties of this state may appoint their Brigade Majors out of the Subaltern, non commissioned officers or privates; any thing in the act to which this is a supplement to the contrary notwithstanding. (q)

Of the appointment of Brigade Majors.

SECT. 16. *And be it enacted*, That the decisions of Courts Martial duly made, upon all cases that may come before them in pursuance of this act, and the act to which this is a supplement, whereby fines may be inflicted, shall be final and conclusive. (r)

Decisions of Courts Martial to be final.

SECT. 17. *And be it further enacted*, That in case of the removal of an officer out of the district, in which he had been first commissioned, his office shall be thereby deemed and taken to be vacant. (s)

Removal of an officer shall render the office vacant.

SECT. 18. *And be it enacted*, That each troop of light horse, in the respective brigades, shall attend and exercise with the battalion and regiment of the district in which the Captain of the said troop may reside, and shall be subject to the orders which may be given by the Lieutenant Colonel Commandant or Commanding

Troops of horse to be exercised with the battalion and regiment of the district.

(o) This sect. hath reference to latter part of sect. 9, in chap. 36. c.  
 (p) This sect. hath reference to sect. 10, of chap. 36. c.  
 (q) This sect. hath reference to sect. 6, of chap. 36. c.  
 (r) This sect. hath reference to sects. 11, 12, 13, 14, 17, of chap. 36. c.  
 (s) This sect. hath reference to sects. 5, 6, of chap. 36. c.

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Penalty for neglect.

Penalty on the  
Brigadier General  
for neglecting  
to review  
the regiments of  
his brigade.

manding Officer of the regiment, if exercising in regiment, provided that no officer, inferior in rank to a Major, shall, in any case whatever, command the troops of horse, and to those which may be given by the Major or Commanding Officer of the battalion, if exercising in battalion; and every officer, non-commissioned officer, and private belonging to any such troop, neglecting or refusing to attend and exercise as aforesaid, not having a reasonable excuse, to be adjudged of as in other cases it is provided, shall forfeit and pay for every such neglect or refusal, if a Captain, the sum of Four Dollars, if a Subaltern, the sum of Three Dollars, and if a non-commissioned officer or private, the sum of One Dollar. (1)

SECT. 19. *And be it enacted*, That it shall be the duty of the Brigadier General to attend the review of every regiment in his brigade, under the penalty of Eight Dollars for every neglect or refusal, to be recovered by the Treasurer of the first regiment of his brigade, in the same manner as is provided for the recovery of other fines and forfeitures; the said Brigadier General not having a reasonable excuse, to be adjudged of by the Commander in Chief. (2)

SECT. 20. *Whereas* there are a number of free able bodied white men in this state; between the ages of eighteen and forty-five years, who neglect and refuse to muster and do militia duty, in the companies in which they have been enrolled, in compliance with the directions of the act to which this is a supplement, and yet meet together with arms in bodies distinguished and known by the name of Volunteer Companies; *And whereas* the assembling of large bodies of armed men, who do not acknowledge, and refuse to submit to, the legal military establishment, is highly improper; in as much as it is dangerous to the liberties of the people, and calculated at the same time to overturn the militia establishment of this state, and impair the harmony and good understanding which ought ever to subsist between citizens of one common

(1) This sect. hath reference to sects. 3, 4, of chap. 36. c.

(2) This sect. hath reference to sect. 13, of chap. 36. c.

common country : Therefore for the prevention thereof, *Be it enacted*, That every such person so enrolled, or to be enrolled in pursuance of the directions of this act, who shall continue to meet together in the said volunteer companies, or in the like manner under any other name or denomination whatever, and refuse to muster and to do duty in the company in which he has been so enrolled, he shall forfeit and pay for every such neglect or refusal, if known to be a Commanding Leader or Subaltern of any such volunteer company, or if known by any other name or denomination, the sum of Ten Dollars; and if known to be an inferior officer or private of such company as aforesaid, the sum of Five Dollars; and if a Commanding Leader of a larger body than a single company of such volunteers, or by any other name or denomination, the sum of Thirty Dollars; which fines shall be recovered in the manner herein before directed for the recovering other fines and forfeitures.

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Penalty on persons enrolled in the militia, who shall meet in volunteer companies, &c.

SECT. 21. *And be it enacted*, That so much of the act, intituled, *An act for establishing the militia in this state*, as is hereby altered and amended, and otherwise provided, is hereby declared to be repealed and made void. (w)

Parts of former act repealed.

SECT. 22. *And be it enacted*, That it shall be the duty of the Major General to attend the review of all the regiments in this state, in the following manner, *to wit*, in the year of our Lord One Thousand Seven Hundred and Ninety-six, he shall review all the regiments of the county of New-Castle; in the year following he shall review all the regiments in the county of Kent; and in the next year, he shall review all the regiments in the county of Suffex, and so on in this order annually; and if the said Major General shall refuse or neglect to attend the said reviews, in the manner aforesaid, not having a reasonable excuse, to be adjudged by the Commander in Chief, he shall forfeit and pay, for every such neglect or refusal, Twelve Dollars, to be recovered by the Treasurer of the first regiment in the county in

The Major General shall review all the regiments in the manner here prescribed.

Penalty for neglect.

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which

(w) For which see said chap. 36. c. and the respective references thereto as set down at the preceding sections of this act.

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which he may reside, in the manner in which other fines and forfeitures are hereby directed to be recovered. (x)

*Passed February 9, 1796.*

C H A P. XCVI. c.

1796.

*An ACT to incorporate a bank in the Borough of Wilmington, in this state.*

Preamble.

**W**HEREAS it is found by experience, that great advantages are derived from the institution of banks in several of the United States, and those advantages are more particularly enjoyed by the citizens of those states where such banks are established; and it is conceived, that the establishment of a bank in this state will be productive of equal benefits with those enjoyed in other states, from the local advantage of such institution. *And whereas* divers persons have subscribed and united for the purpose of founding a bank in the Borough of Wilmington in this state, and have advanced a capital which is now employed and put in operation, and have chosen a President, Directors, and other officers, for the management of the business of the said institution, and have taken upon themselves the name and style of the *President, Directors, and Company of the Bank of Delaware*, and have formed rules and regulations for the conduct of their affairs. *And whereas* the President and Directors of the said bank, on behalf of themselves and the aforesaid subscribers, and divers other persons, have by their petition, prayed the Legislature to pass an act to incorporate the said President, Directors, and Company, in like manner and form as such institutions are usually incorporated.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General*

(x) This sect. hath reference to sect. 13, of chap. 36. c.

*neral Assembly met,* That those who are, at the time of passing this act, and those who shall hereafter be and become subscribers to, and holders of stock in, the said Bank of Delaware, be, now are, and hereafter shall be, one body politic and corporate, in deed and in law, to all intents and purposes, by the name, style, and title of *The President, Directors, and Company of the Bank of Delaware.*

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Subscribers in-  
corporated.Style of the cor-  
poration.

SECT. 2. *And be it further enacted,* That the said corporation are hereby declared and made capable, in law and equity, to have, take, purchase, receive, possess, and enjoy any lands, tenements and hereditaments, goods, chattels, rights, credits and effects, of what nature, kind, or quality soever, to the amount of Five Hundred Thousand Dollars, lawful money of the United States, and no more; and to sell, grant, dispose, alien, or demise the same, in such manner, and form as they shall think proper.

Powers.

Limitation of  
stock.

SECT. 3. *And be it further enacted,* That the said corporation be, and hereafter shall be, able and capable in law to sue and be sued, implead, and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, or any other place whatsoever; and to do and execute all and singular other matters and things, which bodies politic or corporate lawfully may do.

Capacity to sue,  
&c.

SECT. 4. *And be it further enacted,* That the President, Directors, and other officers of the said corporation, who now are chosen and appointed, and who shall hereafter be elected and appointed in pursuance of the powers herein granted, shall be and continue the President, Directors and officers of the said corporation, until others shall be elected and appointed, in virtue of the said powers, in their places; provided that nine Directors, one of whom shall be President of the corporation, be of the number of their officers.

Continuance of  
officers.

SECT. 5. *And be it further enacted,* That the President and Directors of the said corporation shall be capable of exercising such powers, for the well governing and ordering the said corporation, and the affairs and business thereof, and of holding such occasional meetings for that purpose, as have been, or shall

Powers of the  
President and  
Directors.

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Corporation may  
establish bye  
laws,

shall be fixed, described and determined by the rules, laws, regulations, and ordinances of the said corporation.

SECT. 6. *And be it further enacted,* That the rules, already established by the President and Directors of the said bank, shall be, and be taken and considered, as regulations and ordinances of the said corporation; and that the said corporation shall and may hereafter make, ordain, and establish such other laws, regulations, and ordinances as to them shall seem necessary and convenient, for the government of the said corporation: *Provided always nevertheless,* That nothing herein contained shall be construed to authorise the said corporation to exercise any powers repugnant or contrary to the laws or constitution of this state.

and have a com-  
mon seal.

SECT. 7. *And be it further enacted,* That the said corporation shall have full power and authority to have and use a common seal, and to break and alter the same, and establish another or others, with such devices as they shall think proper; and that all acts, certified under that or any other seal of the said corporation, relating to the affairs thereof, shall have full faith and credit in and before all and every the courts and jurisdictions within this state.

Forging &c. any  
bank paper,  
how punished.

SECT. 8. *And be it further enacted,* That the forging or counterfeiting, or uttering, passing, or attempting to utter or pass, any check or order on the Cashier of the said bank, knowing the same to be forged or counterfeited, shall be subject to the same pains and penalties, and be in like manner punished, as the forging, counterfeiting, or altering the common seal, or any bank bill, or note, or other bank paper, security, or evidence, is liable to be punished in and by an act of Assembly of this state, intituled, *An act for preventing and punishing the counterfeiting of the common seal, bank bills, or bank notes of the President, Directors and Company of the Bank of North America, and for other purposes therein mentioned,* passed the eighth day of February, in the year of our Lord One Thousand Seven Hundred and Eighty-three.

This act shall  
not impair the  
terms of subscrip-  
tion;

SECT. 9. *And be it further enacted,* That nothing herein contained shall be taken to defeat, or impair, the terms and conditions upon which the subscrip-

ons to the said bank were made ; but that the same shall be and remain the fundamental rules of the said institution, and shall not be altered, except in the manner therein provided and agreed.

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SECT. 10. *And be it further enacted,* That every matter and thing herein contained shall be construed and taken most favourably and beneficially for the said corporation.

but be construed favourably for the corporation.

SECT. 11. *And be it enacted,* That the President, Directors, and Company of the said Bank of Delaware, shall enlarge the capital stock to at least fifty shares, to be subscribed for by any person or persons who may be authorised by the Legislature of this state for that purpose, on the original terms of subscription, whenever, and at as many different periods of time, as the funds of the state will admit, to and for the use of the state, with the liberty for such person or persons as may be appointed on the part of the state, as stockholders, to give in as many votes as the shares which may be subscribed for would intitle any person or persons to.

The capital stock to be enlarged at least fifty shares, to be subscribed for the use of the state.

SECT. 12. *And be it enacted,* That it is on the condition contained in the clause immediately preceding, that the present act of incorporation is passed ; and in case the same, and every part thereof, should not be complied with, by the President, Directors, and Company of the said Bank of Delaware, according to the true intent and meaning thereof, the authority hereby given to them shall cease and be of no effect ; any thing herein contained to the contrary thereof in anywise notwithstanding.

If not enlarged, the authority hereby given shall cease.

SECT. 13. *And be it enacted,* That this act shall continue in force fifteen years, and from thence until the end of the next sitting of the General Assembly, and no longer.

Limitation of this act.

SECT. 14. *And be it enacted,* That the President, Directors, and Company of the said Bank of Delaware, shall signify their acceptance of this act, through their President, to the Governor of this state, within six months from the passing of this act, to be by him transmitted to the Legislature ; otherwise the same shall be void and of no effect.

If not accepted within six months shall be void.

Passed February 9, 1796.

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XCVII.

1796.

An ACT to prevent the exportation of flour not merchantable.

Preamble.

**W**HEREAS it is the duty and interest of all governments to prevent frauds, and promote the interest of just and useful commerce.

Flour casks how to be secured.

Dimensions.

Millers to provide brands.

Casks to be branded.

Quantity each cask shall contain.

*SECTION 1. BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That from and after the first day of September next, all flour casks shall be made of good seasoned materials; well made, and tightened with ten hoops, sufficiently nailed, with four nails in each chine hoop, and three nails in each upper bilge hoop, and of the following dimensions, viz. the staves of casks, No. 1, 2, and 3, shall be of the length of twenty-seven inches, but different diameters at the heads, according to the numbers; That is to say, cask, No. 1, shall be of the diameter of eighteen inches at each head; cask, No. 2, shall be of the diameter of sixteen inches and an half at each head; cask, No. 3, shall be of the diameter of fifteen inches and an half at each head; and cask, No. 4, commonly called half barrels, shall be of the length of twenty-three inches, and of the diameter of twelve inches and an half at each head; and every miller or boulder of flour for transportation out of this state, shall provide and have a distinguishable brand mark; and the said miller, or boulder of flour, shall, with his said mark, brand each and every cask of flour, before the same shall be removed from the place where it was boulded; and every miller or boulder shall also brand every cask of flour, according to the respective lengths and diameters above specified, with the said numbers 1, 2, 3, or 4, and with the weight respectively, under the penalty of Twenty Cents for every barrel of flour not branded, hooped, and nailed as aforesaid.*

*SECT. 2. And be it enacted, That the said millers or boulders shall put in the cask No. 1, the full quantity or weight of two hundred and twenty-four pounds of flour; in the cask No. 2, the full quantity or weight of*

of one hundred and ninety-six pounds of flour; in the cask No. 3, the full quantity or weight of one hundred and sixty-eight pounds of flour; and in the cask No. 4, the full quantity or weight of ninety-eight pounds of flour; and that if any miller or boulder of flour, shall use, or pack with flour, any other casks than of the four several sizes and dimensions aforesaid, he shall forfeit, to the purchaser thereof, the value or charge of such cask, in his account; and that if any miller or boulder shall pack any casks of the said sizes or dimensions, with a less quantity of flour than is above specified for the same respectively, he shall forfeit, for every pound so wanting in weight, the sum of Ten Cents, to be paid into the hands of the Inspector.

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Penalty for  
packing with a  
less quantity.

SECT. 3. *And be it enacted*, That if any person or persons shall offer any flour for sale or transportation out of this state, which shall be packed in casks made of unseasoned materials, or which shall differ from the dimensions set forth in the first section of this act, shall forfeit and pay, into the hands of the Inspector, for each cask the sum of Forty Cents; and the owner or possessor of such flour shall have his remedy against the miller or cooper, who has furnished the same, for the damages which he has or may sustain.

or in casks of  
improper mate-  
rials or dimen-  
sions.

SECT. 4. *And be it enacted*, That all wheat flour bouted for sale or transportation out of this state, shall be made merchantable and of due fineness, without any mixture of courser or other flour.

Flour its fine-  
ness.

SECT. 5. *And be it enacted*, That the Inspector, or his deputies, respectively, upon suspicion, or upon the request of the buyer, shall and are hereby required to unpack any such cask of flour as aforesaid; and if there shall be a less quantity of flour therein, than is above directed, then the miller or boulder shall pay the charges of unpacking and repacking, over and above the penalties aforesaid, but otherwise the said charges shall be paid by the Inspector, or the purchaser if the trial be made at his request.

In what cases  
the Inspector  
may unpack  
flour.

SECT. 6. *And be it enacted*, That all casks wherein flour shall be packed, shall be weighed and the tare marked thereon; and if any person shall put a false or wrong tare on any cask of flour, to the disadvan-

Tare of casks to  
be marked  
thereon.

tage

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tage of the purchaser, he shall forfeit and pay to the Inspector, for every cask so falsely tared, the sum of One Dollar.

Flour to be in-  
spected before  
laden for ex-  
portation.

SECT. 7. *And be it enacted,* That from and after the passing of this act, all flour exported or intended to be exported from this state, which shall be branded or otherwise marked as superfine, shall, before it shall be laden on board of any ship or vessel for exportation, be inspected and examined by the proper officer appointed for the inspection of flour, or his deputy.

Duty of the In-  
spector in trying  
flour.

SECT. 8. *And be it enacted,* That the said Inspector, or his deputy, shall try and search the same, by boring the head, and piercing it through with a proper instrument, not exceeding three quarters of an inch in diameter, in order to prove whether it be honestly and well packed, as also to judge of the goodness thereof; and if the said Inspector, or his deputy, shall judge the same to be of sufficient fineness, in all respects, to pass and be exported as good superfine flour of the proper merchantable standard, the said Inspector shall plug up the hole with a plug whereon shall be stamped the letters S. D. but if said Inspector, or his deputy, shall adjudge any such flour, having thereon the brand of superfine, to be inferior to the standard quality which shall intitle it to be shipped and exported as superfine, he shall be, and he is hereby authorized and directed to cut out and totally destroy such superfine brand mark, but the same shall be plugged up, as before directed for superfine; and such flour so scraped, or the superfine brand obliterated, shall be deemed and taken as merchantable common flour; and if the said Inspector, or his deputy, shall adjudge any flour made of wheat, whereon is impressed the superfine or other distinguishable brand mark, denoting common flour, not to be of sufficient fineness for the standard of superfine or common flour, he shall, and he is hereby authorized and directed to condemn the same as unfit for exportation, and shall omit plugging the same, as in other cases, but shall draw a circle, with red chalk, on the head thereof, with lines across at right angles, which shall be deemed and taken as the lawful mark of condemnation for all flour tried and inspected within this state; and the said

Superfine how  
branded.

What shall be  
deemed common  
flour.

What condemn-  
ed.

said Inspector shall receive, for each barrel so inspected and passed, or condemned as aforesaid, One Cent per barrel, and no more.

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SECT. 9. *And be it enacted,* That where any dispute shall arise between the said Inspector, or his deputies, with the owners or possessors, concerning the fineness or goodness of such flour, or of the goodness of the materials of which the casks are made, then upon application made; by the owners or possessors of such flour, to one of the justices of the county where the dispute shall arise, the said justice shall issue his summons to three indifferent and judicious persons to be triers thereof, directing the said triers to view and examine the said flour, and make report to him, forthwith, touching the condition thereof; and the said justice shall thereupon give his judgment, agreeable to the report of the said triers; and in case the said justice adjudge the same not to be merchantable, he shall award the owner or possessor thereof to pay each of the said triers Fifty Cents; besides other reasonable costs; but in case the said flour shall be found merchantable, the said Inspector shall be adjudged to pay all the costs which shall have accrued, and Fifty Cents to each of the said triers; and the said officer shall pass such flour as merchantable:

How disputes concerning the goodness of flour, shall be settled.

Costs, by whom paid.

SECT. 10. *And be it enacted,* That all flour of wheat, commonly called midlings, which shall be brought to any port within this state for exportation, shall be packed in casks of good seasoned materials, of the like dimensions, and hooped, nailed, and branded with the brand of the miller or boulder, and with the number of the cask, and the weight of the flour therein, in like manner as casks in which superfine flour is packed, and under the like penalties and forfeitures, as are herein specified, as to flour called merchantable; and moreover, each cask shall be branded with the word *Midlings*, at length, before it shall be moved from the mill or boulting house where the same shall have been first packed: And no merchant, or other person whatsoever, shall lade or ship any such midlings on any ship or vessel, for exportation out of this state, before the same shall be offered to the view and examination of the Inspector of the port or place from

How midlings shall be packed, branded, &c.

Not to be shipped before inspection.

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whence the same shall be intended to be exported, and before the same shall be inspected, approved, and adjudged by the said Inspector, his deputy (or three persons to be appointed by one of the justices in the manner by this act directed, as to merchantable flour) to be of a due degree of fineness to be exported as midlings; and the said Inspector, or his deputy, shall try and search the same, and plug up the holes in the same manner, and shall receive the same reward, as for merchantable flour.

Brand mark of  
midlings to be  
erased, if unfit  
for exportation.

SECT. 11. *And be it enacted*, That if the said Inspector, or his deputies, or the three persons to be appointed by a justice as aforesaid, shall adjudge and determine that any such flour, so branded *Midlings*, shall not be of a due fineness and quality to be exported as and for midlings, he or they shall cause the said word *Midlings*, so branded, to be scratched out and obliterated; and the owners of such midlings, and the person or persons offering or intending the same for sale or exportation, shall pay, for the inspection thereof, the same reward as if the same had been adjudged to be fit for exportation.

Penalty for  
branding flour  
after removal,  
and before ex-  
portation.

SECT. 12. *And be it enacted*, That if any person or persons whatsoever shall impress, or brand, the said mark of superfine, common, or midlings, on any cask or casks of flour, after the same shall have been sent or carried away from the mill or boulting house, where the same shall have been packed or bouted, and before it shall have been inspected and allowed as superfine, common, or midlings, by the proper officer as aforesaid, and shall be thereof legally convicted, such person or persons shall forfeit and pay Twenty Cents: And if any person shall wilfully impress, or cause to be impressed, the brand mark of superfine, common, or midlings, or the similitude thereof, on any cask of flour, after it shall have been inspected as aforesaid, or shall wilfully and fraudulently ship or attempt to ship, or put on board any ship or vessel for exportation, any flour, the cask whereof shall bear the said mark or brand of superfine, common, or midlings, knowing the same to be of inferior quality, or with design to evade the regulation hereby intended, every such person being legally convicted

Fraudulently  
branding or  
shipping it, the  
penalty,

victed of any such offence or offences, shall forfeit and pay the sum of One Hundred Dollars for every such offence; and every cask of flour, so fraudulently branded, or so fraudulently shipped, or intended to be shipped as aforesaid, shall moreover be seized and forfeited, one half for the use of the state, and the other half to the Inspector or other person who shall prosecute such offender to conviction.

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and flour forfeited.

SECT. 13. *And be it enacted,* That the said Inspector, or his deputy, shall not directly, nor indirectly vend, barter, sell, exchange, or trade in flour, under the penalty of One Thousand Dollars; and shall be disabled from acting thereafter in their respective offices.

Inspector or deputies not to trade in flour.

SECT. 14. *And be it enacted,* That all and singular the fines, forfeitures, and charges mentioned in this act, and not herein before provided for the recovery thereof, shall, where the same doth not exceed Thirty-two Dollars, be recovered as debts under Thirty-two Dollars are recoverable; and when the sum shall exceed Thirty-two Dollars, may be sued for and recovered in any court of law within this state; and the sum so recovered shall be paid, one half to the person or persons suing for the same, and the other half to the State Treasurer for the use of the state.

How fines, &c. shall be recovered.

SECT. 15. *Provided always nevertheless, and be it enacted,* That nothing in this act shall extend, or be construed to extend, to effect the transportation or exportation of flour from this state to any other state in the United States; nor shall any Inspector have power and authority to inspect any flour in any part of this state, except in the county of New-Castle, unless particularly requested to do the same by the owner or purchaser of such flour; any thing in this act to the contrary notwithstanding.

In what cases flour shall not be inspected,

SECT. 16. *And be it enacted,* That the Governor shall appoint some suitable person as trier of flour, who shall reside in the borough of Wilmington, who shall from time to time, and at all times when occasion shall so require, appoint one or more deputies; and in case of the death, resignation, or removal out of the borough of Wilmington, of any flour trier, the Governor shall appoint some other fit person as flour trier

The Governor to appoint a flour trier.

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His oath.

Justices to receive and pay over forfeitures, and make returns.

Penalty.

Sheriffs to do the like duty.

Penalty.

In what cases Inspector shall go on board vessels and inspect flour.

His continuance in office.

trier in his stead; but before any Inspector, or Deputy Inspector of flour, shall act in his said office, he shall take an oath or affirmation, before some Judge or Justice of the Peace within this state, *faithfully and impartially to perform the trust reposed in him, as flour trier or deputy flour trier, as the case may be, agreeable to the directions of this act, to the best of his skill and knowledge.*

SECT. 17. *And be it enacted,* That all Justices of the Peace, before whom any of the forfeitures in this act mentioned shall or may be recovered, are hereby required to receive, to and for the use of the state, all sums of money forfeited to the state, and pay over the same to the State Treasurer, and transmit annually an account thereof to the Auditor of Accounts, or Secretary, to be by him laid before the General Assembly, under the penalty of Thirty-two Dollars for every neglect or refusal, to be recovered and applied as is herein before directed; and the Sheriff of each county is hereby authorized to receive, to and for the use of the state, all sums of money recovered by any person or persons under this act, in either of the courts of this state, and pay the same to the State Treasurer, and transmit an account thereof as is herein before directed, and One Hundred Dollars shall be forfeited for every neglect or refusal, to be recovered and applied as aforesaid.

SECT. 18. *And be it enacted,* That the Inspector shall appoint two suitable persons, at least, Deputy Inspectors; and every Inspector, or Deputy Inspector, shall, when required by any person, who shall bring on board any vessel, within ten miles of the ports of Wilmington, New-Castle, and Port-Penn, respectively, above fifty casks, go on board the said vessel and inspect the flour on board; and Thirty Dollars shall be forfeited for every neglect or refusal, to be recovered and applied as is herein before directed.

SECT. 19. *And be it enacted,* That each Inspector shall continue in office for and during three years, but may be removeable by the Governor at any time, and in case of removal his deputies are *ipso facto* removed likewise.

Passed February 9, 1796.

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An ACT for the valuation of real and personal property within this state.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That all real and personal property in this state, not belonging to this state, or to the United States, or to any church, county, religious society or parish, or to any college, or to any county school, or to any corporation for charitable uses, shall be valued agreeably to the directions of this act, and shall be chargeable according to such valuation with the public assessment: *Provided always*, That provisions necessary for the use and consumption of the person, to whom the same shall belong, and his or her family, for the year (not including live stock) plantation utensils, the working tools of mechanics or manufacturers actually and constantly employed in their respective occupations, the implements of a person's trade or profession, stock on hand of a manufacturer or tradesman, household furniture, (other than plate,) grain and other produce of land, wearing apparel, ready money, bonds and other securities for money, goods, wares and merchandizes imported, such carriages of pleasure or travel as are already taxed by law, shall be, and are hereby excepted from any rate or assessment: *And provided always*, That it shall and may be lawful for the Assessors of the several hundreds respectively, to estimate and value the stock on hand of a manufacturer or tradesman, and the goods, wares and merchandize imported of a merchant or shopkeeper, according to the real profits arising to the owner or possessor thereof, regarding the debts due from the person or persons respectively, from the best information that he can obtain.

Real and personal property to be valued.

Articles excluded from valuation.

How the stock of a manufacturer or merchant may be valued.

SECT. 2. *And be it enacted*, That six suitable, discreet, and experienced persons shall be appointed by the Governor, in each county of this state, who shall be called Commissioners of the Tax; and they, or a majority

Commissioners of tax to be appointed.

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To be classed.

Rotation.

Shall be exempt-  
ed from military  
duty, &c.Penalty for not  
serving.Vacancies how  
supplied.Commissioners  
to ascertain the  
quantity of land  
and personal  
property in  
each county.Assessors to  
make returns  
thereof,

majority of them, shall be Commissioners for each county: Immediately after they shall assemble, they shall in each county be divided into three classes; the seats of the first class shall be vacated at the expiration of the first year; the seats of the second class, at the expiration of the second year; and the seats of the third class, at the expiration of the third year; so that one third may be appointed every year; but no person shall be capable to serve more than once in any term of three years.

SECT. 3. *And be it enacted*, That every Commissioner, who shall take upon himself the execution of this act, shall, during the time he shall serve as Commissioner, be exempt from all military duty, and from serving on any jury; and if any person appointed Commissioner shall refuse to serve, or after qualifying as Commissioner, shall neglect to act, not having a reasonable excuse in the judgment of the Commissioners of the Levy Court and Court of Appeals of his county, he shall, for such refusal or neglect, forfeit the sum of Thirty Dollars, to be recovered by action of debt, one moiety thereof, to him, her, or them who will sue for the same, and the other moiety to and for the use of the state: And if any one or more of the said Commissioners shall die, refuse, neglect, or be rendered incapable to act, the Governor shall appoint others in their stead, who shall serve during the term of the person or persons respectively whose place he shall fill, and no longer; and this rotation, of two Commissioners being displaced at the end of every year, in each county, and their places supplied by a new appointment, shall be continued afterwards in due order annually.

SECT. 4. *And be it enacted*, That the said Commissioners of the several counties are authorized and required to ascertain the quantity of land, and personal property, in their respective counties; and for that purpose, the Assessors in the several hundreds in each county respectively, shall take an accurate account of the land in their respective hundreds, and return the same, in writing, to the Commissioners, specifying therein the quantity of acres belonging to every person or persons, what part thereof is improved, and what

what part is unimproved, with the buildings and improvements thereon: And the said Assessors shall estimate each tract or parcel of land at its actual worth in ready money, from the best information they can obtain, regarding all circumstances and advantages of the same from situation or convenience to market; and the said Assessors are authorised and required to call upon the owner or owners of the land in the several hundreds respectively, in the county in which the land lies, to discover and ascertain the quantity thereof, and also on the Recorder of Deeds and Surveyor of their respective counties, who is hereby required to give any information to the said Assessors, or any of them, which his records may afford. (a)

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and to value the land.

May call on the owners, &c. to discover the quantity.

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

How they shall ascertain and assess the value of houses and lots in towns.

SECT. 6. *And be it enacted,* That as a rule to ascertain the value of ground rent, in the said cities, boroughs, towns, and villages, the person or persons intitled to ground rent to the amount of Eight Pounds, shall be assessed as for One Hundred Pounds capital, and in the same proportion for any greater or less sum of ground rent: And the lessees, or persons holding the ground, shall be assessed on the actual worth of the improvements made since the lease or conveyance, and the present value of the land, after deducting therefrom the value thereof at the time of the lease

Ground rents how valued and assessed.

Lessees to be assessed on improvements;

How valued.

OR

(a) This sect. hath reference to sect. 4, of chap. 102, 2. 16 Geo. II. and to sect. 9, of chap. 187. 2. Anno, 1766.

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May deduct the sum rated to their lessors out of the rent.

But where not found, the person intitled to the rent shall pay the tax.

Value of houses and lots how assessed.

How lessees shall be assessed where the value of the premises exceeds the value of the rent reserved, &c.

Houses and lots how valued.

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

ed the ground; and left it to the lessor or grantor, and the lessor or grantor cannot obtain the rent agreed to be paid, in such case the ground shall be estimated at its real value, and not upon a calculation from the rent reserved.

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

Assessors to value all personal property in their hundreds.

What statement of the same they shall form and return.

SECT. 8. *And be it enacted,* That the following species of personal property shall be valued as follows, *to wit,* every male and female slave, from eight to fourteen years of age, in any sum over Ten Pounds, and not exceeding Forty Pounds; and every male slave, from fourteen to forty-five years of age, in any sum over Twenty Pounds, and not exceeding Seventy Pounds; and every female slave over fourteen, and not exceeding thirty-six years of age, in any sum over Fifteen Pounds, and not exceeding Thirty-five Pounds; male and female slaves under eight years of age, and male slaves above the age of forty-five years, and female slaves above the age of thirty-six years,

How slaves shall be valued.

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to

(b) This sect. hath reference to sect. 5, of chap. 102. a. and to sect. 10, of chap. 187. a.

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Plate.

Other articles.

Provido.

Owners of slaves,  
when required  
shall render an  
exact account of  
them.

Penalty for re-  
fusal or omission.

Persons refusing  
to render a full  
account of, or  
shew, their pro-  
perty, the pe-  
nalty.

to a true proportioned value to male and female slaves above or under those ages, who shall be particularly noted; and if any slave should not be perfect in his limbs or sight, or from the want of health or any visible infirmity, shall be rendered incapable to perform his usual labour, the Assessor shall make a reasonable abatement for such cause, and shall note the same in his return: And silver plate shall be valued at Eight Shillings and Four-pence *per* ounce; and other articles of personal property shall be left to the discretion and judgment of the several Assessors, who shall estimate the same at its actual worth in ready money: *Provided*, That the said Assessors shall be at liberty to estimate male slaves, who are tradesmen, at such value as they may judge them to be worth, regarding their respective trades and their proficiency therein.

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

SECT. 10. *And be it enacted*, That every person, when required by the Assessor of the hundred in which his or her real and personal property, or the real and personal property under his or her care and management, lies, shall give into such Assessor, in writing, dated and signed as aforesaid, if capable of writing, and if not, the same shall be shewn to the Assessor,  
and

and by him inventoried, and the said inventory shall have the usual mark placed, at the foot of the same by such person or persons, a full and particular account of all other his or her real and personal property in the same, and of all real and personal property in his or her possession, or under his or her care and management, liable to assessment, and to whom the same belongs; and if any person shall refuse, or after ten days notice by the said Assessor, in writing, shall neglect, to render such account, or shew his property as aforesaid, he shall forfeit the sum of Three Pounds, to be recovered by action of debt, one moiety to him who will sue for the same, and the other moiety to and for the use of the state: And the Assessor shall, on his own knowledge, or the best information he can obtain, value the real and personal property of such person to the utmost sum, he believes, in his conscience, the same may be worth in ready money, and shall certify to the Commissioners the sum so valued, and also the refusal or neglect; and the said Commissioners shall double the assessment of such person, and the same shall be collected as the public assessment: And if any person shall give in a partial account of his or her real and personal property, under his or her care and management, or of the property in his or her possession, with intent that the payment of the assessment or rate on any property omitted, may be avoided, such person shall forfeit the value of the property so omitted, if personal, and if real, Forty Dollars, to be recovered and applied as is herein before directed. (c)

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How it shall then be valued,

and the tax doubled.

Penalty for giving a partial account.

SECT. 11. *And be it enacted*, That the Commissioners shall meet, at the place where the courts of justice are usually held in their respective counties, on the last Tuesday of September next, and on the last Tuesday of September in every succeeding year, and as often after as shall be necessary; and the Assessors of the several hundreds for each county respectively, shall, at the time and place aforesaid, appear before

Meeting of the Assessors.

(c) This and the five preceding sections have reference to sect. 5, of ch. p. 102. a.—and to sects. 10, 11, of chap. 187. a.

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Commissioners shall advise them in the performance of their duty.

When their valuations shall be brought in.

Assessors refusing to serve, &c. the penalty.

Vacancies how supplied.

before the Commissioners; and at their appearance, the said Commissioners shall openly read, or cause to be read, such parts of this act as relate to their duty, and shall advise them in what manner to make their assessments, and in what form to return the certificates thereof, and how to perform the several duties required of them by this act, according to the true meaning thereof; and the said Assessors shall appear again before the said Commissioners on the first Tuesday of December next, (d) and on the first Tuesday in December in every succeeding year, (e) and bring, in writing, their several valuations of real and personal property in their respective hundreds.

SECT. 12. *And be it enacted*, That if any Assessor shall make default, and not appear at the time and place aforesaid, or on his appearance shall refuse to serve; not having in the judgment of the said Commissioners a reasonable excuse, he shall forfeit and pay Twenty Dollars; and if any Assessor shall neglect to return to the said Commissioners, certificates of the valuation of the real and personal property in his hundred, agreeably to the directions of this act, he shall, for every such default, neglect, or refusal, forfeit Sixty Dollars, to be recovered and applied as is herein before directed; and if any Assessor shall not appear at the time appointed, or shall appear and refuse to serve, the said Commissioners, or a majority of them, shall appoint, by warrant under their hands and seals, some other person, qualified as an Assessor, in the place of the person so making default, or refusing to serve; and if such person also makes default, or refuses to act, he shall be liable to the like forfeiture, and they may proceed to a new appointment in like manner, and as often as necessary, until the vacancy be supplied; and if any Assessor shall die,

or

(d) This time extended in chap. 119. e. sect. 1, passed Nov. 11, 1796, to the first Tuesday in January then next— and after in chap. 125. c. sect. 4, passed Jan. 19, 1797, further extended to the first Tuesday in February, with a power to the Commissioners to adjourn from time to time, if necessary, until the last Tuesday in February then next.

(e) By chap. 125. c. sect. 3, the future annual meetings after the present year, to be had by the Commissioners of the tax for this purpose are to be on the first Tuesday in January.

or be rendered incapable to act, before he shall have fully completed his valuation, the said Commissioners shall, in like manner, appoint some person, qualified as an Assessor, in the place of the person so dead, or rendered incapable of serving; and such warrant shall be immediately thereafter sent to the said person, who shall be obliged to serve, under the like forfeiture. (f)

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

Persons removing property to escape taxation, how proceeded against.

SECT. 14. *And be it enacted,* That as soon as the said Assessors shall have returned to the Commissioners the valuation of the land and personal property aforesaid, the said Commissioners shall advertise, in two places at least in each hundred, of the time and place of their meeting for the purpose of shewing their valuations to all persons concerned, at least ten days before the time of meeting; and when the owner of any real or personal property does not reside in the county, in which the said property may be, the Commissioners shall cause a certificate, under the hand of their

Commissioners to meet and disclose their valuations.

(f) This sect. hath reference to sect. 2. of chap. 102. a. and to sect. 6. of chap. 187. a.

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Power to hear  
and determine  
complaints.

Proviso.

Shall lay the re-  
turns of the Af-  
fessors before the  
Court of Ap-  
peals.Assessors and  
Commissioners,  
how their pro-  
perty shall be va-  
lued.Enjoined to at-  
tend the Levy  
Court.

their Clerk, of the said valuation, to be made, and the same shall direct, under cover, to the owner of such property, in the same manner as letters are usually directed and forwarded; and the said Commissioners shall hear and determine the complaints of any person or persons that may be aggrieved, and shall generally arrange the said valuations, so that no person or persons may be unequally or over rated: *Provided always*, That no person or persons shall be prevented from appealing to the Levy Court and Court of Appeals of his or their respective county, as heretofore. (g)

SECT. 15. *And be it enacted*, That the said Commissioners of the respective counties shall return to the Levy Court and Court of Appeals of their county respectively, at their places and times of meeting in each county, respectively, for the purpose of hearing appeals, the returns of the valuation of the Assessors, and the list of the names of the persons so assessed, and the sum which he or she may be valued at respectively. (b)

SECT. 16. *And be it enacted*, That the property of each Assessor and Commissioner shall be valued by the Levy Court and Court of Appeals of his county respectively; and in order to enable them to value the same, each Assessor shall make a separate list of the real and personal property, liable to assessment by virtue of this act, belonging to a Commissioner or Commissioners in his hundred, and return the same to the Levy Court and Court of Appeals of his county respectively; and each Assessor shall return a separate list of his real and personal property as aforesaid, on oath, to the said Levy Court and Court of Appeals. (i)

SECT. 17. *And be it enacted*, That the Commissioners and Assessors shall, at the time appointed for hearing

(g) This sect. hath reference to sect. 7, of chap. 102. 2.—and by sect. 3, of chap. 125. c. after such arrangement of valuations, and on or before the first day of February annually, the Clerk of the Peace in each county is to set up and publish in the respective hundreds thereof lists of the persons and of their property so valued, with a notice of the day for holding the Court of Appeal.

(b) See after at note (s) for the time of holding the Court of Appeal.

(i) This sect. hath reference to sect. 5, of chap. 102. 3.

ing appeals, and each and every of them, give their daily attendance at the Levy Court and Court of Appeals of his or their county respectively, under the penalty of Twenty Dollars for every neglect or refusal, to be recovered and applied as is herein before directed. (k)

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SECT. 18. *And be it enacted,* That the Clerks of the Peace in each county shall attend the said Commissioners of the tax in his county, respectively, as often as they shall meet, who shall file in their offices, respectively, the returns of the valuations of the Assessors, with their corrections by the said Commissioners, in a separate place to be provided for that purpose; and shall generally do and perform the duties of a clerk to the said Commissioners of his county respectively. (l)

Clerk of the Peace, duty enjoined him.

SECT. 19. *And be it enacted,* That if any Clerk of the Peace shall neglect or refuse to do the duties enjoined on him by this act, he shall forfeit and pay, for every such neglect or refusal, Twenty Dollars, to be recovered and applied as is herein before directed. (m)

Penalty for neglect.

SECT. 20. *And be it enacted,* That the Commissioners of the tax are authorized to call before them, all persons who may be omitted by the Assessors, or either of them, in their counties respectively, and to demand of them a statement of all their real and personal property liable to assessment, and the real and personal property of any other person or persons in their possession, to be delivered to the Assessor of the hundred in which such person may reside, for the purpose of valuation, who is hereby required to assess the same in manner aforesaid, and deliver the same to the said Commissioners as is herein before directed; and in case of neglect or refusal, the person or persons

How persons omitted by the Assessors, may be rated, &c.

(k) See chap. 125. c. sect. 2, a similar provision as to attendance at Levy Court and Court of Appeal, and the like penalty for neglect thereof; but made recoverable by indictment in the sessions, and to be applied to the use of the State.

(l) See the preceding note (g) for the special duty assigned to the Clerk of the Peace in chap. 125. c. sect. 3, and see also sect. 5, there.

(m) By chap. 125. c. sect. 3, the penalty there prescribed for neglect of duty payable to the Treasurer for the use of the State to be recovered by indictment in the sessions.

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sons so neglecting or refusing, shall be liable to the like forfeitures as herein particularly set forth; and the said Assessor shall proceed as herein before directed. (n)

Two Constables to be appointed annually to attend the Commissioners, and the Levy Court.

Penalty for non attendance, or disobedience.

SECT. 21. *And be it enacted*, That the Court of Common Pleas, at the first term to be holden after the month of February next, in the respective counties, shall appoint two Constables in each county in the state, for the purpose of attending on the said Commissioners, and the Commissioners of the Levy Court and Court of Appeals of their county respectively, when sitting for the transaction of business; and if any Constable or Constables, so to be appointed, shall neglect or refuse to appear, or when before the said Commissioners, or the Levy Court and Court of Appeals, shall neglect or refuse to obey the orders of the said Commissioners, or the said Levy Court and Court of Appeals, he shall, for every such neglect or refusal, be fined in any sum not exceeding Twenty Dollars; which fine the Sheriff of the county shall, within thirty days, levy and pay to the Treasurer of the county, to and for the use of the county: And the said Court of Common Pleas are hereby impowered and required, in every succeeding year, and at the first term which may be holden after the month of February, to appoint two Constables, in each of the counties, for the purposes aforesaid. (o)

Power to summon witnesses.

SECT. 22. *And be it enacted*, That the said Commissioners of the tax, and of the Levy Court and Court of Appeals, shall have full power and authority to summon and compel the attendance of witnesses, who may by them, or either of them, be thought necessary to give information relative to their duty respectively.

Compensation to the Assessors, Commissioners, &c.

SECT. 23. *And be it enacted*, That the said Assessors, Commissioners of the tax, the Clerk of the Peace, and the Constables attendant thereon, shall be allowed for their trouble and expense, in discharging the duties of their respective offices, a reasonable but adequate

(n) This sect. hath reference to sect. 8, of chap. 102. a.

(o) See also chap. 125. c. sect. 5, a further injunction for attendance.

quate compensation, to be adjudged to them by the Commissioners of the Levy Court and Court of Appeals, as is usual in other cases; and the witnesses, which may be summoned, shall be allowed the same fees, for each day's attendance, that witnesses attending, upon summons, in the Court of Common Pleas are allowed, to be paid by the county if summoned at the instance of the Commissioners of the tax, or of the Levy Court and Court of Appeals, or otherwise by him, her, or them who require their attendance. (p)

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Allowance to witnesses.

SECT. 24. *And be it enacted*, That the Clerk of the Peace of each county, shall make out a fair and correct account of the valuation of each person's real property, and of each person's personal property, in his county respectively, as finally established by the Commissioners of the Levy Court and Court of Appeals, and transmit the same to the Speaker of the House of Representatives, within fifteen days after the same shall be established, who shall lay the same before the House of Representatives for the inspection of the Members.

Valuation of property in each county, to be transmitted to the House of Representatives.

SECT. 25. *And whereas*, some owners of land may not reside in the same county where such land lies, or may be under the age of twenty-one years: *Be it enacted*, That the tenant, or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlord, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the tax; and in case the said tenant, or other person having the care thereof, shall pay, or their goods be distrained for the same, it shall and may be lawful to and for the said tenant, to deduct the tax so paid out of the rent agreed for, or for the tenant, or person having the care of the said lands, to recover the same from the owner thereof, by action or suit, in any court where the same may be cognizable, together with the costs of suit; and all parents, guardians, or trustees, making payment as aforesaid, shall be allowed the sums so paid upon his, her, or

Provision for securing the payment of the tax, where the owner is an absentee or infant.

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their

(p) This sect. hath reference to sect. 14, of chap. 102. a—and to sect. 13, of chap. 187. a—as also to chap. 27. c. sect. 28, for the fees.

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In what cases  
timber, &c. may  
be sold for the  
taxes.

their accounts: *Provided*, That nothing in this act shall alter any contract made, or to be made, between landlord and tenant. (q)

SECT. 26. *And be it enacted*, That, in all cases, where the Collector of the tax can find no effects upon the lands, belonging to the party chargeable with the assessment, or of his tenant, or person having the care thereof, sufficient to pay the same, if distrained, and the rate cannot be otherwise recovered, by reason of non residence, infancy, or otherwise, it shall and may be lawful for the Collector, with the approbation of the Court of Common Pleas, after thirty days public notice, by at least five advertisements in different parts of the county, one of which shall be in the hundred where the land lies, to sell as much of the timber or grass growing thereon, or in case there be not timber or grass sufficient to pay the said rate, as much of the said land, as will pay the said rate or assessment, at the discretion of the said court; and any sale so made, shall convey to the purchaser a good and sufficient title, subject nevertheless to such incumbrances as the said property was bound by before the sale thereof. (q)

County Treasurers to give bond.

SECT. 27. *And be it enacted*, That the respective County Treasurers for the time being, or any others to be chosen, before they enter upon their respective offices, shall give bond, with one or more sufficient sureties, to be taken in the name of the State of Delaware, and approved of by the Commissioners of the Levy Court and Court of Appeals, in the sum of Six Thousand Dollars, conditioned for the due and faithful execution of their respective offices, under the laws and customs of the state. (r)

When the Levy Court shall meet to hear appeals.

SECT. 28. *And be it enacted*, That the Commissioners of the Levy Court and Court of Appeals shall meet on the first Tuesday in January next, and on the first Tuesday in January in every succeeding year, in each county respectively, for the purpose of receiving

(q) The provisions in these two sects. 25, 26, are extended in chap. 125. s. sect. 7, to all county, poor, road, and state taxes.

(r) This sect. hath reference to sect. 32, of chap. 102. a. and to chap. 137. a.

ing the returns of the valuations of the Assessors, and assessments made by the said Assessors and Commissioners of the tax, to be by them returned, agreeably to the directions of this act; and for the purpose of remedying the complaints of all and every person or persons who may be unequally or over rated, according to the directions of the act of Assembly of this state, intituled, *An act for raising county rates and levies.* (s)

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SECT. 29. *And be it enacted,* That every Assessor or Commissioner to be appointed by virtue of this act, shall, before he acts as such, take the following oath or affirmation, *to wit,*

*I A. B. do swear, or solemnly, sincerely, and truly declare and affirm, that as (Commissioner of the tax or Assessor, as the case may be, for county, or hundred, as the case may be) I will to the best of my skill and judgment, execute the duties of the said office diligently and faithfully, according to the directions of the act for the valuation of real and personal property within this state; and that I will spare no person for favour, affection, or partiality, or grieve any one for hatred or ill will; and that I will do equal right and justice, according to the best of my knowledge, in every case in which I shall act as Commissioner or Assessor: So help me God.*

Oath of Assessor and Commissioners.

Which qualification shall be administered by some Judge or Justice of the Peace of this state, to each of the said Commissioners of the tax; but the qualification of an Assessor shall be administered by one of the Commissioners of the tax for his county respectively. (t)

By whom administered.

SECT. 30. *And be it enacted,* That if any suit shall be brought against any person or persons for any thing done in pursuance of this act, the suit shall be commenced within six months after the fact committed; and the defendant or defendants in any suit may plead the general issue, and give this act and the special matter

Persons sued may plead the general issue,

(s) This sect. hath reference to sect. 8, of chap. 102. a. but see chap. 125. c. sect. 2, that the meeting of this Court of Appeals is to be annually on the first Tuesday in March, except as to the present year 1797, specially provided for in latter part of sect. 4, there.

(t) This sect. hath reference to sect. 2, of chap. 102. a. and sect. 6. of chap. 187. a.

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and if, &c. shall  
recover treble  
costs.

Parts of former  
acts repealed.

Of a personal  
tax.

Levy Court may  
strike any per-  
son's name off  
the levy list.

matter in evidence, and that the same was done in pursuance, and by the authority of this act; and if it shall appear so to be done, or if any suit shall be brought after the time limited, then the jury shall find for the defendant or defendants; and if the plaintiff shall become non suited, or suffer a discontinuance, or if a verdict shall pass, or upon demurrer judgment shall be given, against him, the defendant or defendants shall recover treble costs, and have a judgment and execution for the same.

<sup>1</sup> SECT. 31. *And be it enacted*, That so much of an act of Assembly of this state, intituled, *An act for raising county rates and levies*, and of one other act of Assembly of this state, intituled, *An act directing the choice of Inspectors and Assessors in this government*, and for the amendment of an act, intituled, *An act for raising county rates and levies*, as are hereby altered or supplied, or may be inconsistent with the tenor, true intent, and meaning of this act, be, and the same are hereby declared to be, repealed. (u)

SECT. 32. *And be it enacted*, That every freeman above the age of twenty-one years, shall be rated, in addition to his assessment, a personal tax for a capital not exceeding Two Hundred Pounds, nor less than Fifty Pounds, at the discretion of the Assessors; and the Commissioners of the Levy Court and Court of Appeals may, at their discretion, order any person's name to be struck off the levy list, that shall request it. (w)

*Passed February 9, 1796.*

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(u) For which see said chaps. 102. a. and 187. a.—and the respective references thereto, as set down at the preceding sects. of this act.

(w) This sect. hath reference to sect. 5, of chap. 102. a. and to sect. 11, of chap. 187. a.—But see chap. 125. c. sect. 8, an extension of the above sum of Two Hundred Pounds to the sum of One Thousand Pounds.

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1796.

An ACT for the better regulation of the roads in the county of Kent. (a)

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the following roads in the said county of Kent, shall be laid out and straightened, *to wit*, the road running from the line dividing New-Castle county from Kent, through Duck-creek Cross Roads, Dover, and Frederica; to Milford; the road from Passy, one mile below Dover, to begin above or below Puncheon Run as may be thought best by the Commissioners, running through Campden and Canterbury, and by Richard Dalliner's, to the line dividing Suffex and Kent; the road leading from the line dividing this state from Maryland, by Blackston's Chappel, through Duck-creek Cross Roads, to Holliday's Landing; the road leading from the last mentioned line, by James Scotton's, through Lewis's Cross Roads, to Duck-creek Cross Roads; the road running from the last mentioned line, near the Cypress Branch, through Lewis's Cross Roads, and by Peter Miller's mill, to Dover; the road leading from the Horsehead, over Carbine's bridge, to the Fast Landing; the road running from the Fast Landing, by John Ham's, to Dover; the road leading from Little-creek Landing to Dover; (b) the road leading from the said line of Maryland, near Samuel Milbourne's, by the Horsehead, to Dover; the road leading from the last mentioned line, near the River Bridges, by Thomas's Chappel, through the White Oak Swamp, to Dover; the road running from the said line, by Thomas's Chappel, through Campden, to the Forrest Landing; the road running from the said line, near Furtad's mill, to Campden; the road running from the said line,

What roads shall  
be laid out and  
straightened.

(a) See chap. 126. c. a supplement hereto passed January 20, 1797.

(b) See chap. 126. c. sect. 4, a special provision as to laying out this road.

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line, near Samuel Willoughby's, to Campden; the road running from the said line, at or near Whiteleysburgh, through Berry Town, to Frederica; the road running from Berry Town to intersect the upper state road, at or near Bedwell Maxwell's, (c) the road running from the said line, over Vincent's Causeway, by Stephen Lewis's, to Milford; the road running from the said line, through land late of Jonathan Emerson deceased, by Waitman Booth's to Milford; the road running from the said line, across Gum Island, by Major Anderson's, to Milford; the road running from the said line, by Marshy Hope bridge, to Milford; the road from Marshy Hope bridge, near Punch Hall, to Whiteleysburgh; the road from Marshy Hope bridge, to intersect the upper state road, near Jacob Biddle's.

Their breadth.

SECT. 2. *And be it enacted*, That the said roads shall be of the breadth of forty feet, thirty feet whereof shall be grubbed and cleared; and after the said roads shall be laid out as aforesaid, the persons hereinafter appointed, or a majority of them, in the several hundreds respectively, shall make a return thereof into the office of the Clerk of the Peace for the said county of Kent, with a fair map or plot of the same, and the several courses and distances of the said roads; which shall be entered on record in the said office; and from thenceforth the said roads shall be deemed and taken to be the state roads. (d)

Returns to be recorded.

To be deemed state roads.

How damages shall be assessed.

SECT. 3. *And be it enacted*, That the Commissioners herein after named, or a majority of them, in the several hundreds respectively, shall ascertain and assess the damage sustained by the owner or owners through whose lands any of the said roads may run, and return the same with their map or plot as aforesaid; and if any person or persons shall not be satisfied with the damages assessed by the said Commissioners, it shall and may be lawful for them to apply to the Prothonotary of the said county of Kent, for a writ of *venire facias*, to be directed to the Sheriff of the

(c) By sect. 16, of chap. 126. c. this road to be extended from this place to Joseph Barker's Landing.

(d) But see the first five sections of chap. 126. c.

the said county of Kent, for the purpose of summoning seven freeholders of the county to ascertain and assess the said damage, who shall either increase or lower the damage returned by the said Commissioners, as to them shall seem right, whose decision shall be final; and the said Sheriff shall return the said writ to the next term after issuing the same, with the return of the said freeholders summoned as aforesaid, or a majority of them, under the hands and seals of the said Sheriff and freeholders respectively; and the Sheriff and freeholders summoned as aforesaid, shall be allowed the like fees as in other cases, to be paid by the person or persons suing out the writ.

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Allowance to  
Sheriff and free-  
holders.

SECT. 4. *And be it enacted*, That Timothy Cummins, George Wilson, and Presle Spruance, for Duck-creek hundred; and John Marim, Gilbert Semans, and Joseph David, for Little-creek and Dover hundred; (e) and John Lockwood, Warner Mifflin, and William Berry, for Murderkill hundred; and Abner Dill, Joshua Laws, and Major Anderson, for Mill-pillion hundred, (f) be, and they are appointed, Commissioners of the roads in the said hundreds respectively; who are authorized, empowered and required to review the aforesaid roads, and lay out the same through the said hundreds respectively, touching at the several places herein before mentioned, in such manner as they shall judge advantageous to the public, with as little injury to the owners of the adjoining lands as the convenience of the people will admit, without favour or respect to any person or persons whatsoever, and to employ such Surveyor or Surveyors, labourers, and workmen, as they shall think necessary.

Names of the  
Commissioners  
to lay out the  
roads.

(e) See sect. 1, of said chap. 126. c. other Commissioners of roads appointed for these two hundreds.

(f) See sect. 2, of said chap. 126. a. in which another set of Commissioners are named to review the roads in this hundred, as laid out by the above named Commissioners thereof, and to return a map or plot of the same roads to the Judges of the Court of Common Pleas at their next spring session at Dover—and sect. 3, there directing that the Clerk of the Peace also then and there deliver to the said judges the map or plot that may be made by the said first set of Commissioners for Mill-pillion hundred, with a power to the said judges to ratify and confirm either, or such parts of both returns as will make complete roads through the said hundred, and when so done to be recorded in the office of the said Clerk—and by sect. 5, thereafter to be deemed state roads.

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Vacancies how  
supplied.

Penalty for re-  
fusing to serve.

Repealed (g)  
What roads shall  
be supported by  
the county.

Other public  
roads by the  
hundreds thro'  
which they run.

cessary in plotting and laying out the same; and if any person or persons herein appointed shall refuse to serve, die, or be rendered incapable of acting, then and in every such case, the Levy Court and Court of Appeals of Kent county shall nominate and appoint, in writing, some other; which said person so appointed is hereby impowered and required to act in the premises, as fully as any person or persons herein mentioned may or can do; and if any person so to be appointed shall refuse or neglect to serve, he shall forfeit and pay Twenty Dollars, to be recovered as in the eighth section of this act is directed.

SECT. 5. *And be it enacted*, That all damages, together with the expense and charges of laying out, returning, and recording the said road running from the line dividing New-Castle county from Kent, through Duck-creek Cross Roads, Dover, and Frederica, to Milford; and of the road from Passy, one mile below Dover, running through Campden and Canterbury, until it comes to the road running from Berry Town, to intersect it at or near Bedwell Maxwell's; and of the said road to intersect the upper state's road near Bedwell Maxwell's aforesaid, from the place of intersection, through Berry Town, to Whiteleysburgh; and the upper state's road, running by Bedwell Maxwell's and Richard Dalliner's, to the line of Suffex; and also all expences and charges in maintaining and keeping up at all times hereafter, the last mentioned roads, with the bridges and causeways on the same, shall be paid by the said county of Kent: And all damages, costs and charges in laying out, returning, and recording the other roads herein before mentioned, and supporting and keeping the said roads, and all other public roads, common highways, bridges, and causeways, now laid out, or hereafter to be laid out, in the said county of Kent, shall be paid by the hundred respectively in which the said road, bridge, and causeway, or any of them, may be. (g)

SECT. 6. *And be it enacted*, That each of the said Commissioners

(g) This sect. supplied in sect. 9, &c. and repealed in sect. 15, of said chap. 126. c.

Commissioners hereby appointed, or to be appointed as aforesaid, for laying out and returning the aforesaid roads, or any part thereof, and the services herein required of him, shall receive, for his trouble and services in attending to the said business, One Dollar and Fifty Cents *per day*, each Surveyor Two Dollars *per day*, and the chain carriers and markmen, each, Sixty-seven Cents *per day*; which shall be allowed and settled by the Levy Court and Court of Appeals, as is usual in other cases.

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Allowance to  
the Commission-  
ers, Surveyors,  
&c;

SECT. 7. *And be it further enacted*, That the Court of General Sessions of the Peace shall not by virtue of any act of Assembly of this state, have any power or authority, in any manner whatsoever, to change or alter any of the aforesaid roads herein before directed to be laid out as aforesaid, or any part of them, or either of them; but that all acts of Assembly, so far as the said acts, or any of them, give, or might be construed to give, the said court power in any manner to alter or change roads or highways, are hereby declared to be null and void, and to have no effect with respect to the roads herein intended to be laid out as aforesaid; any thing therein contained to the contrary in any wise notwithstanding. (b)

The said roads  
not to be alter-  
ed.

SECT. 8. *And be it enacted*, That the Levy Court and Court of Appeals of Kent county, at their session to be holden on the first Tuesday in the month of January in every year, are hereby impowered and required to nominate and appoint, in each of the hundreds, one or more Overseers of the roads, causeways and bridges, in the several hundreds, by warrant under the hand of the Clerk of the Peace and seal of his office; and if any person so to be appointed an Overseer, shall refuse to perform the said duty, he shall forfeit and pay for the use of the county Twenty Dollars, to be recovered by indictment in the Court of General Sessions of the Peace, and applied towards the support of the roads to be kept up by the county; and the Commissioners of the roads, in the hundred in which such Overseer may be, shall ap-

Levy Court shall  
appoint Over-  
seers of the  
roads;

Penalty for re-  
fusing to serve.

Vacancies how  
supplied,

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point

(b) See the first five sects. of chap. 126. c.

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Vacancies how  
supplied.

Penalty for re-  
fusing to serve.

Repealed (g)  
What roads shall  
be supported by  
the county.

Other public  
roads by the  
hundreds thro'  
which they run.

cessary in plotting and laying out the same; and if any person or persons herein appointed shall refuse to serve, die, or be rendered incapable of acting, then and in every such case, the Levy Court and Court of Appeals of Kent county shall nominate and appoint, in writing, some other; which said person so appointed is hereby impowered and required to act in the premises, as fully as any person or persons herein mentioned may or can do; and if any person so to be appointed shall refuse or neglect to serve, he shall forfeit and pay Twenty Dollars, to be recovered as in the eighth section of this act is directed.

SECT. 5. *And be it enacted*, That all damages, together with the expense and charges of laying out, returning, and recording the said road running from the line dividing New-Castle county from Kent, through Duck-creek Cross Roads, Dover, and Frederica, to Milford; and of the road from Passley, one mile below Dover, running through Campden and Canterbury, until it comes to the road running from Berry Town, to intersect it at or near Bedwell Maxwell's; and of the said road to intersect the upper state's road near Bedwell Maxwell's aforesaid, from the place of intersection, through Berry Town, to Whiteleysburgh; and the upper state's road, running by Bedwell Maxwell's and Richard Dalliner's, to the line of Suffex; and also all expences and charges in maintaining and keeping up at all times hereafter, the last mentioned roads, with the bridges and causeways on the same, shall be paid by the said county of Kent: And all damages, costs and charges in laying out, returning, and recording the other roads herein before mentioned, and supporting and keeping the said roads, and all other public roads, common highways, bridges, and causeways, now laid out, or hereafter to be laid out, in the said county of Kent, shall be paid by the hundred respectively in which the said road, bridge, and causeway, or any of them, may be. (g)

SECT. 6. *And be it enacted*, That each of the said Commissioners

(g) This sect. supplied in sect. 9, &c. and repealed in sect. 15, of said chap. 126. c.

Commissioners hereby appointed, or to be appointed as aforesaid, for laying out and returning the aforesaid roads, or any part thereof, and the services herein required of him, shall receive, for his trouble and services in attending to the said business, One Dollar and Fifty Cents *per day*, each Surveyor Two Dollars *per day*, and the chain carriers and markmen, each, Sixty-seven Cents *per day*; which shall be allowed and settled by the Levy Court and Court of Appeals, as is usual in other cases.

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Allowance to  
the Commission-  
ers, Surveyors,  
&c;

SECT. 7. *And be it further enacted*, That the Court of General Sessions of the Peace shall not by virtue of any act of Assembly of this state, have any power or authority, in any manner whatsoever, to change or alter any of the aforesaid roads herein before directed to be laid out as aforesaid, or any part of them, or either of them; but that all acts of Assembly, so far as the said acts, or any of them, give, or might be construed to give, the said court power in any manner to alter or change roads or highways, are hereby declared to be null and void, and to have no effect with respect to the roads herein intended to be laid out as aforesaid; any thing therein contained to the contrary in any wise notwithstanding. (b)

The said roads  
not to be alter-  
ed.

SECT. 8. *And be it enacted*, That the Levy Court and Court of Appeals of Kent county, at their session to be holden on the first Tuesday in the month of January in every year, are hereby empowered and required to nominate and appoint, in each of the hundreds, one or more Overseers of the roads, causeways and bridges, in the several hundreds, by warrant under the hand of the Clerk of the Peace and seal of his office; and if any person so to be appointed an Overseer, shall refuse to perform the said duty, he shall forfeit and pay for the use of the county Twenty Dollars, to be recovered by indictment in the Court of General Sessions of the Peace, and applied towards the support of the roads to be kept up by the county; and the Commissioners of the roads, in the hundred in which such Overseer may be, shall ap-

Levy Court shall  
appoint Overse-  
ers of the  
roads;

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fusing to serve.

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point

(b) See the first five sects. of chap. 126. c.

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Repealed, (k)  
Duty of Overseers.

Width of common highways,

of causeways and bridges.

Penalty on Overseers for neglect of duty.

How common highways shall be supported.

Of private roads.

point another in his stead, who shall serve under the like penalty. (i)

SECT. 9. *And be it enacted*, That the Overseers of the roads to be appointed shall, as soon as conveniently may be, grub, clear, and open the roads to be laid out by this act, and all other public roads and common highways, of the several widths in this act directed, within the said county of Kent, according to the several apportionments of the same amongst them respectively; and all other public roads or common highways in the said county of Kent shall be of the width of thirty feet; twenty feet whereof shall be grubbed and cleared as aforesaid; and every causeway, in any public road or common highway, shall be of the width of fifteen feet, and every bridge situate as aforesaid of the width of twelve feet, and railed on each side at least four feet high; and if any Overseer of the roads, bridges, or causeways respectively, shall neglect the performance of his duty in grubbing, clearing and opening the road or roads assigned to him, or in making or repairing the bridges and causeways assigned to him, in the manner directed by this act, within a reasonable time, he shall for every such neglect, forfeit and pay Twenty Dollars, to be recovered as is herein before directed, and applied to the use of the county. (k)

SECT. 10. *And be it enacted*, That all other common highways, or public roads, bridges, and causeways now laid out, or hereafter to be laid out, shall be laid out and supported by the inhabitants of the hundred in which the said highway or road, bridge, or causeway may be; and the damages, costs and charges shall be adjusted and allowed by the Levy Court and Court of Appeals, and paid by the County Treasurer as is herein before directed; (l) and all private roads, leading from the plantation or dwelling place of any person or persons to, or from, the common

(i) This sect. altered and supplied in sects. 6, 7, 11, of chap. 126. c.—and see also sect. 15.

(k) This sect. supplied in sects. 10, 13, of chap. 126. c. and in sect. 15, repealed.

(l) This part of the sect. altered and supplied in sects. 9, 10, of chap. 126. c.

mon highways or public roads within the said county of Kent, shall be laid out and kept up at the expense of the petitioners for the same; and the freeholders appointed to view and examine, whether roads petitioned for are necessary and convenient, shall, together with the return thereof, certify whether such road so laid out is a private road or a common highway. (m)

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SECT. 11. *And be it enacted,* That the Commissioners of the several hundreds respectively, shall, on or before the first Tuesday of April next, and on or before the first Tuesday of April in every year thereafter, view and examine the public roads and common highways, bridges and causeways within the same, and shall immediately deliver instructions, in writing, under their hands, to the several Overseers, describing therein what roads, bridges, and causeways, shall be made, repaired, or amended, and in what manner the same shall be done; and upon receiving such instructions, the said Overseers respectively shall immediately proceed to execute the same, and to employ labourers and workmen for that purpose; and each Overseer shall procure a book, in which shall be entered a particular account of his transactions relative to the said business, the number of days in which he and the workmen and labourers may be employed; and lay the same before the Commissioners of his hundred respectively. (n)

Repealed (n)  
Commissioners  
to view the public  
roads, and  
direct their re-  
parations.

which the Over-  
seers shall ex-  
cute.

SECT. 12. *And be it enacted,* That the said hundred Commissioners respectively, or any two of them, are hereby impowered and required to draw an order or orders on the Collector of the road tax, for the payment of the said Overseer, his labourers and workmen; and the Collectors respectively, are hereby authorized and required to pay the same, which shall be sufficient vouchers for them on the settlement of their accounts; and the said Commissioners, respectively, are hereby required to procure a book, in which shall be entered an account of all orders by them

Repealed (n)  
Orders to be  
drawn on Col-  
lectors for pay-  
ment of the ex-  
pense.

(m) This part of the sect. hath reference to sect. 13, of chap. 131, a.

(n) These two sects. 11, 12, supplied in sects. 6, 7, 8, 10, and repealed in sect. 15, of chap. 126. c.

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them drawn, the time when, and in whose favour, and transmit an account of the same to the Levy Court and Court of Appeals at their annual meeting, to be by them filed, under the penalty of Sixty Dollars, one half to him; her or them who will sue for the same, and the other half to and for Kent county, (n)

Allowance to  
the Overseers.

How a road, &c.  
on a boundary  
between two  
hundreds, shall  
be supported,

Water wheels of  
mills near the  
roads shall be  
concealed by  
sheds, &c.

Penalty for ne-  
glect.

Overseers may  
erect such sheds,  
&c.

and recover the  
expense.

Proviso, as to  
tenants.

SECT. 13. *And be it enacted*, That the Overseers of the roads, bridges, and causeways, shall receive for their services respectively, each, One Dollar *per* day; and where any road, bridge, or causeway, shall be on a boundary between two hundreds, the same shall be laid out, built, supported, maintained and kept up by the inhabitants of the respective hundreds. (o)

SECT. 14. *And be it enacted*, That each and every owner or possessor of any mill or mills already built, or which hereafter may be built, near to any of the roads, within the county of Kent, the water wheels of which are, or may be, exposed to the view of horses passing and repassing on the said road, shall and is hereby required and directed, within six months from the passing of this act, or immediately upon the erection of any mill, to make, set up, and erect, between such water wheel and road, a shed, cover, or blind to hide and conceal the view of the said water wheel, under the penalty of Ten Dollars for every such neglect or refusal, to be sued for and recovered by any person or persons, one half to the person or persons suing, and the other half to and for the county of Kent; and the Overseer of the road near which the said mill may be, if the owner or possessor of the same neglects or refuses to make, set up, and erect, or after to repair, such shed, cover, or blind in manner aforesaid, for and during the space of ten days after notice by the said Overseer, shall make, set up, and erect, or repair, such shed, cover, or blind, and defray the expense out of the monies of the said hundred, and shall recover the same, together with double costs, of the respective owner or possessor: *Provided always*, That if the same erection or reparation shall

(o) Altered and supplied in sect. 10, &c. of chap. 126. c.—See also sect. 10, of chap. 131. a.

shall be made by a tenant, the value of the same shall be retained out of the rent, or reimbursed by the landlord.

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SECT. 15. *And be it enacted,* That it shall and may be lawful for any Overseer of the roads in the said county of Kent, or any person or persons by his order, to enter upon any lands adjoining to, or lying near, the public roads, to cut or open such drains or ditches through the same, as he shall judge necessary completely to carry off and drain the water from such roads, provided the same be done with as little injury as may be to the owners of such lands; which drains and ditches so cut and opened, shall be kept open by the said Overseer or Overseers, if necessary for amending the said road, and shall not be stopped or filled up by the owner or owners thereof, or by any other person or persons whatsoever, under the penalty of Ten Dollars for every such offence, to be recovered and applied as is herein before directed.

Drains may be cut through adjacent lands to improve the roads.

SECT. 16. *And be it enacted,* That the said Overseers respectively, shall have full power and authority, in any lands adjoining the said public roads or common highways within their respective hundred, to dig or cause to be dug, any dirt, gravel, sand, or stones, or to gather any loose stones lying on the said lands, as may be thought necessary for the purposes aforesaid, provided the same be done with as little damage as may be to the owner or owners of such land; and the same dirt, gravel; sand, or stones so dug and gathered, to carry off without the hindrance of the owner, but the said Overseer shall pay, to the owner or owners, the value of the said materials that may be agreed upon; but where they cannot agree, so much money shall be paid as any two freeholders of the county shall estimate the materials to be worth, so wanted for repairing the said roads, bridges, or causeways, in their respective hundreds aforesaid.

Gravel, sand, &c. may be taken from adjacent lands.

SECT. 17. *And be it enacted,* That the Clerk of the Peace shall transmit to the County Treasurer, and to the Levy Court and Court of Appeals, a statement of all fines and forfeitures incurred by virtue of this act; and the said County Treasurer is hereby required to open an account against each of the hundreds

Value thereof how settled.

Statement of fines, &c. to be transmitted to Levy Court, &c.

Treasurer to open distinct accounts,

in

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How causeways,  
&c. heretofore  
supported by  
private persons,  
shall be main-  
tained.

Levy Court to  
assess the tax for  
the reparation  
of the roads.

Warrants to be  
issued to the  
Collectors.

Summary mode  
of collection.

in the said county, for the purpose of keeping the monies arising from the said road tax of the respective hundreds, separate and distinct.

SECT. 18. *And be it enacted*, That where any road to be laid out by virtue of this act, shall pass along any causeway, or go over any creek, water, run or swamp, or over any bridge, which ought to be kept up or supported by any private person or persons by any law or usage of this state, the same shall be kept up and supported as in and by this act directed, and at the expense of the said person or persons as if this act had not been made, under the penalty of Fifty Dollars, to be recovered, and applied as is herein before directed. (p)

SECT. 19. *And be it enacted*, That the Levy Court and Court of Appeals of the said county of Kent shall, and they are hereby required, at a court to be holden on the first Tuesday of March next, to ascertain and estimate such sum and sums of money as shall be sufficient to lay out, amend, and maintain the public roads, bridges, and causeways in the said county of Kent for the present year; and thereupon, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound upon the whole rate of each hundred according to the last assessment, clear of all charges of collection, sufficient to lay out, repair, and amend the public roads and common highways, bridges, and causeways, which are to be supported by the said hundreds respectively; and the Commissioners of the Levy Court shall issue their warrant to the Collector of each hundred, or other person authorized to collect county rates and levies, annexed to a duplicate of the said assessment, certified under the hand and seal of the Clerk of the Peace, authorizing and requiring him forthwith to demand and receive, from the persons rated in his assessment list, the sum *per* Pound which the said Commissioners of the Levy Court shall ascertain to be necessary for the purposes aforesaid; and the said Collectors, or other person authorized to collect the county rates and levies, shall proceed without delay to collect, and in case of neglect

(p) See also sect. 14, of chap. 126. c.

neglect or refusal of the said persons to pay, to levy and recover the same in the manner directed by an act of Assembly, intituled, *An act for raising county rates and levies*; and the said Collectors respectively, or other person authorized to collect county rates and levies, shall respectively settle and account with the County Treasurer for a moiety of the sum to be collected, on or before the first Tuesday of June in this and every succeeding year, and for the residue on or before the last Tuesday of December thereafter; and the Clerk of the Peace shall certify to the said County Treasurer, the names of the several persons authorized to collect the said road taxes, and the sums they have to collect respectively, within twenty days after they shall be appointed, and the said rate shall be ascertained; and the said County Treasurer shall open an account against each of them for the several sums of money they have to collect, and credit them with the several sums of money by them paid, and in case of neglect to pay within the respective times appointed, the said County Treasurer is hereby authorized and required to sue their bonds respectively; and the said County Treasurer is to lay an account of his transactions relative to the said taxes, before the Levy Court and Court of Appeals on the first Tuesday of January in every year; and in case any of the said bonds shall be put in suit, and judgment shall be obtained, execution shall issue for the sum due on the hundred tax, and the said judgment shall nevertheless remain in full force, for the purpose of issuing execution or executions for any other sum or sums of money which the said person was authorized to collect and pay; and the bonds of the persons authorized to collect the county rates and levies for the present year, in the said county of Kent, are hereby declared to be good and available for any money which may come into their hands respectively, by virtue of this act; and the bonds of persons authorized hereafter to collect the road taxes shall contain a condition for the true observance of this act. (9)

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Treasurer to be furnished with an account of the taxes, &c. and shall open an account against each Collector, &c.

Judgments on Collectors bonds to remain cautionary.

SECT.

(9) This sect. altered and supplied in sect. 9, of chap. 226. c.

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How causeways,  
&c. heretofore  
supported by  
private persons,  
shall be main-  
tained.

in the said county, for the purpose of keeping the monies arising from the said road tax of the respective hundreds, separate and distinct.

SECT. 18. *And be it enacted*, That where any road to be laid out by virtue of this act, shall pass along any causeway, or go over any creek, water, run or swamp, or over any bridge, which ought to be kept up or supported by any private person or persons by any law or usage of this state, the same shall be kept up and supported as in and by this act directed, and at the expense of the said person or persons as if this act had not been made, under the penalty of Fifty Dollars, to be recovered, and applied as is herein before directed. (p)

Levy Court to  
assess the tax for  
the reparation  
of the roads.

SECT. 19. *And be it enacted*, That the Levy Court and Court of Appeals of the said county of Kent shall, and they are hereby required, at a court to be holden on the first Tuesday of March next, to ascertain and estimate such sum and sums of money as shall be sufficient to lay out, amend, and maintain the public roads, bridges, and causeways in the said county of Kent for the present year; and thereupon, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound upon the whole rate of each hundred according to the last assessment, clear of all charges of collection, sufficient to lay out, repair, and amend the public roads and common highways, bridges, and causeways, which are to be supported by the said hundreds respectively; and the Commissioners of the Levy Court shall issue their warrant to the Collector of each hundred, or other person authorized to collect county rates and levies, annexed to a duplicate of the said assessment, certified under the hand and seal of the Clerk of the Peace, authorising and requiring him forthwith to demand and receive, from the persons rated in his assessment list, the sum *per* Pound which the said Commissioners of the Levy Court shall ascertain to be necessary for the purposes aforesaid; and the said Collectors, or other person authorized to collect the county rates and levies, shall proceed without delay to collect, and in case of neglect

Warrants to be  
issued to the  
Collectors.

Summary mode  
of collection.

(p) See also sect. 14, of chap. 126. c.

neglect or refusal of the said persons to pay, to levy and recover the same in the manner directed by an act of Assembly, intituled, *An act for raising county rates and levies*; and the said Collectors respectively, or other person authorized to collect county rates and levies, shall respectively settle and account with the County Treasurer for a moiety of the sum to be collected, on or before the first Tuesday of June in this and every succeeding year, and for the residue on or before the last Tuesday of December thereafter; and the Clerk of the Peace shall certify to the said County Treasurer, the names of the several persons authorized to collect the said road taxes, and the sums they have to collect respectively, within twenty days after they shall be appointed, and the said rate shall be ascertained; and the said County Treasurer shall open an account against each of them for the several sums of money they have to collect, and credit them with the several sums of money by them paid, and in case of neglect to pay within the respective times appointed, the said County Treasurer is hereby authorized and required to sue their bonds respectively; and the said County Treasurer is to lay an account of his transactions relative to the said taxes, before the Levy Court and Court of Appeals on the first Tuesday of January in every year; and in case any of the said bonds shall be put in suit, and judgment shall be obtained, execution shall issue for the sum due on the hundred tax, and the said judgment shall nevertheless remain in full force, for the purpose of issuing execution or executions for any other sum or sums of money which the said person was authorized to collect and pay; and the bonds of the persons authorized to collect the county rates and levies for the present year, in the said county of Kent, are hereby declared to be good and available for any money which may come into their hands respectively, by virtue of this act; and the bonds of persons authorized hereafter to collect the road taxes shall contain a condition for the true observance of this act. (9)

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Treasurer to be furnished with an account of the taxes, &c. and shall open an account against each Collector, &c.

Judgments on Collectors bonds to remain cautionary.

SECT.

(9) This sect. altered and supplied in sect. 9, of chap. 126. c.

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Repealed. (r)  
Taxes for the  
support of the  
roads to be as-  
sessed annually.

SECT. 20. *And be it enacted*, That the Commissioners of the Levy Court and Court of Appeals of the said county of Kent, are hereby required, at their annual meeting on the first Tuesday of January, in every year hereafter, to ascertain and estimate such sum or sums of money as shall be sufficient to support and keep up the roads, bridges, and causeways that are to be supported by the said hundreds respectively, according to the rate of the hundred assessments for the current year. (r)

Oath of Com-  
missioners of the  
roads.

SECT. 21. *And be it enacted*, That each of the Commissioners of the roads for the said county of Kent shall, before he enters upon his duty, take the following oath or affirmation, *to wit*, I, A. B. *do swear, or solemnly, sincerely, and truly declare and affirm, that as Commissioner of the roads for* hundred, *I will, to the best of my skill and judgment, execute the duties of the said office, according to the direction and meaning of the act for the better regulation of the roads in the county of Kent, without favour, affection, or partiality; and that I will do equal right and justice, according to the best of my knowledge, in every case in which I shall act as Commissioner; which oath or affirmation shall be administered by any Judge or Justice of the Peace; and every person summoned by the Sheriff to ascertain damages, as is herein before directed, shall take the like oath or affirmation, as a juror, to be administered by the Sheriff.*

Of jurors.

Persons sued  
may plead the  
general issue;

and if, &c. shall  
recover treble  
costs.

SECT. 22. *And be it enacted*, That if any suit shall be brought against any person or persons for any thing done in pursuance of this act, the suit shall be commenced within six months after the fact committed, and the defendant may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by authority of this act; and if it shall appear so to be done, or if any suit shall be brought after the time limited, then the jury shall find for the defendant; and if the plaintiff shall become non suit, or suffer a discontinuance, or if a verdict shall pass, or upon demurrer judgment

(r) This sect. supplied in sect. 9, of chap. 126. c. and repealed in sect. 15.

judgment shall be given, against him, the defendant shall recover treble costs, and have judgment and execution for the same.

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SECT. 23. *And be it enacted*, That if any person or persons shall obstruct any of the state roads now laid out, or hereafter to be laid out, in the said county of Kent, or shall commit any nuisance therein by falling of trees, making fences, or any other way, and do not remove the same forthwith, such person or persons shall forfeit and pay Twenty Dollars for every such offence, to be recovered by indictment in the Court of General Sessions of the Peace, and applied to the use of the county; and if any person or persons shall obstruct, or commit any nuisance as aforesaid in, any other public road or common highway in said county, he, she or they shall forfeit and pay Fifteen Dollars for every such offence, to be recovered and applied as is herein before directed. (s)

Penalty for obstructing, &c. the state roads and common highways.

SECT. 24. *And be it enacted*, That if any of the said roads, bridges, or causeways, after the same shall be made, erected, amended, and repaired by the said Overseers respectively, according to the written instructions of the Commissioners of his hundred respectively in any year, shall by the falling of trees, by strong currents of water, or any other circumstance, become impassible, or so out of repair as to be inconvenient for travellers and others passing the same; the said Overseers respectively are hereby required forthwith to remove such obstructions, and to amend and repair the bridges and causeways, or either of them, under the penalty of Ten Dollars for every neglect or refusal if a state road, and Six Dollars if a county road, to be recovered by indictment in the Court of General Sessions of the Peace, and applied to the use of the county. (t)

Repealed. (f) Overseers shall keep the roads in repair.

Penalty for neglect.

SECT. 25. *And be it enacted*, That the Commissioners of the roads herein appointed, or those who may be hereafter appointed, shall continue in the said duty

Repealed. (u) Continuance of Commissioners in office.

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(s) This sect. hath reference to sect. 14, of chap. 131. a.

(t) This sect. supplied in sect. 13, of chap. 126. c. and repealed in sect. 15.

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They shall enquire into, and make return of all roads, to the Court of General Sessions of the Peace.

for and during the term of three years from the time of their appointments respectively. (u)

SECT. 26. *And be it enacted*, That the Commissioners of the roads in the several hundreds respectively, shall examine and inquire into all roads within their hundreds respectively, and make return to the Court of General Sessions of the Peace, describing particularly, under their hands, or the hands of a majority of them, all such roads as ought to be kept up and supported by any private person or persons; and the said court shall have full power and authority to confirm or reject the said return, if it shall appear to them that the said road so laid out is of common use and benefit to the inhabitants of the hundred, and if the said return shall be confirmed, the said road shall not be supported by the hundred. (w)

Damages may be assessed, whether a road runs through clear land or woodland.

SECT. 27. *And be it enacted*, That all public roads hereafter to be laid out by freeholders, under the authority of the Court of General Sessions of the Peace, that shall run through the lands of any person or persons, the owner or owners thereof shall be intitled to such damage as may be thought right by the said freeholders, whether the said road runs through clear land or woodland. (x)

Parts of former Acts repealed.

Chap. 131. a.

Chap. 176. a.

SECT. 28. *And be it enacted*, That as much of an act of Assembly of this state, intituled, *An act for erecting public bridges, causeways, and laying out and maintaining highways*, and of one other act of Assembly of this state, intituled, *An act for the better regulation of the King's roads within the counties of Kent and Sussex*, as are hereby altered or supplied, be, and the same are hereby declared to be, repealed.

*Passed February 9, 1796.*

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(u) Supplied in sect. 8, and in sect. 15, of chap. 126. c. repealed.

(w) See sect. 8, of chap. 126. c. as having reference to this sect.

(x) This sect. hath reference to sect. 13, of chap. 131. a.

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An ACT for the better regulation of the roads in the county of Suffex. (a)

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met, That the following roads in the said county of Suffex, shall be laid out and straightened, *to wit*, a road to begin at Milford Bridge, and to run thence through George Town and Dagsborough; until it intersects the west line that divides the said county of Suffex from the state of Maryland; a road to begin at Lewis Town; and to run thence through George Town, until it intersects the north line that divides the county aforesaid from Maryland; and a road to begin at George Town, and to run thence to the west line that divides the hundred of Little-creek, in the said county, from Maryland.

What roads shall be laid out and straightened.

SECT. 2. *And be it enacted*, That the said roads shall be of the breadth of forty feet, thirty feet thereof shall be grubbed and cleared; and after the said roads shall be laid out as aforesaid, the persons herein after appointed, or a majority of them, shall make a return thereof into the office of the Clerk of the Peace for the said county of Suffex, with a fair map or platt of the same, and the several courses and distances of the said roads, which shall be entered on record in the said office; and from thenceforth the said roads shall be deemed and taken to be the state roads.

Their breadths

Returns to be recorded.

Shall be deemed state roads.

SECT. 3. *And be it enacted*, That the Commissioners herein after named, or a majority of them, shall ascertain and assess the damage sustained by the owner or owners through whose lands any of the said roads may run, and return the same, with their map or platt as aforesaid; and if any person or persons shall not be satisfied with the damages assessed by the said Commissioners, it shall and may be lawful for them to apply, to the Prothonotary of the said county of Suffex,

How damages shall be assessed

(a) For former acts on this subject see chap. 131. 2—and 176. 2.

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sex, for a writ of *venire facias*, to be directed to the Sheriff of the said county, for the purpose of summoning seven freeholders of the county, to ascertain and assess the said damages; who shall either increase or lower the damage returned by the said Commissioners, as to them shall seem right, whose decisions shall be final; and the said Sheriff shall return the said writ to the next term after issuing the same, with the return of the said freeholders summoned as aforesaid, or a majority of them, under the hands and seals of the said Sheriff and freeholders respectively; and the Sheriff and freeholders summoned as aforesaid shall be allowed the like fees as in other cases, (b) to be paid by the person or persons suing out the writ.

Allowance to  
Sheriff and free-  
holders.

Commissioners  
appointed to lay  
out the state  
roads.

SECT. 4. *And be it enacted*, That Richard Hayes, Nathaniel Mitchell, Woolsey Burton, Rhoads Shankland, Isaac Cooper, Thomas Laws, and Abraham Harris, junior, be, and they are hereby appointed, Commissioners of the roads in and for the said county of Suffex, who are authorised, impowered and required to lay out the aforesaid roads through the said county, in the several places herein before mentioned, in such manner as they shall adjudge advantageous to the public, with as little injury to the owners of the adjoining lands as the convenience of the people will admit, without favour or respect to any person or persons whatsoever; and to employ such Surveyor or Surveyors, labourers and workmen, as they shall think necessary in platting and laying out the same; and if any person or persons herein appointed, shall refuse to serve, die, or be rendered incapable of acting, then and in every such case, the Commissioners of the Levy Court shall nominate and appoint, in writing, some other person; which said person so appointed, is hereby impowered and required to act in the premises as fully as any person or persons herein mentioned may or can do.

Vacancies how  
supplied.

How the public  
roads shall be  
supported.

SECT. 5. *And be it enacted*, That all damages, together with the expense and charge of laying out, returning and recording the said roads running as is herein before mentioned, and all expences and charges  
in

(b) for which see chap. 27. c. sects 9, 23.

in maintaining and keeping up at all times hereafter the said roads, with the bridges, except as is herein after excepted, and causeways on the same, and also all damages, costs and charges in supporting and keeping up all other public roads, common highways, bridges, except as is herein after excepted, and causeways, now laid out, or hereafter to be laid out, in the said county of Suffex; shall be paid by the hundreds respectively, in which or through which, the said roads, bridges, or causeways, or any of them, may be, or run: (c)

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SECT. 6. *And be it enacted,* That each of the said Commissioners, hereby appointed as aforesaid for laying out and returning the said first mentioned roads, shall receive for his trouble and services in attending to the said business, One Dollar and Fifty Cents *per* day, each Surveyor Two Dollars *per* day, and the chain carriers and marks men, each, Sixty-seven Cents *per* day; which shall be allowed and settled by the Levy Court and Court of Appeals, as is usual in other cases, and paid by the County Treasurer; and the proportion which each hundred shall defray of the expense and charge of laying out, returning, and recording the roads mentioned in the first section of this act, by the Commissioners appointed for that purpose in the fourth section of this act, shall be ascertained by the said Levy Court and Court of Appeals.

Allowance to  
Commissioners,  
Surveyors, &c.

SECT. 7. *And be it further enacted,* That the Court of General Sessions of the Peace shall not, by virtue of any act of Assembly of this state, have any power or authority, in any manner whatsoever, to change or alter either of the roads directed to be laid out in the first section of this act, or any part of them: But that all acts of Assembly of this state, as far as they, or any of them, give, or might be construed to give, the said court power in any manner to alter or change roads and highways, are hereby declared to be null and void, and to have no effect with respect to the roads herein intended to be laid out as aforesaid; any thing

The state roads  
not to be altered.

(c) This sect. hath reference to sect. 15. of chap. 131. a. by altering and supplying the same—and to sects. 5, 6, 9, thereof—and also to sect. 5, of chap. 176. a.

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Levy Court shall  
appoint Overseers  
of the  
roads.

Penalty for re-  
fusing to serve.

Duty of Over-  
seers.

Width of Com-  
mon highways,  
causeways, and  
bridges.

Penalty on O-  
verseers for ne-  
glect of duty.

See also sect. 26.

thing therein contained to the contrary notwithstanding. (d)

SECT. 8. *And be it enacted,* That the Levy Court and Court of Appeals of Suffex county, at a session to be holden on the first Tuesday in January in every year, are hereby empowered to nominate and appoint in each of the hundreds of the said county, one or more Overseers of the roads, causeways, and bridges in the several hundreds, by a warrant under the hand of the Clerk of the Peace and seal of his office; and if any person so to be appointed an Overseer, shall refuse to perform the said duty, he shall forfeit and pay Twenty Dollars, to be recovered by indictment in the Court of General Sessions of the Peace, and applied towards the support of the roads to be kept up by the hundred, in which the person so refusing shall reside. (e)

SECT. 9. *And be it enacted,* That the Overseers of the roads to be appointed, shall, as soon as conveniently may be, grub, clear, and open the roads to be laid out by this act, and all other public roads and common highways, of the several widths in this act directed, within the said county of Suffex, according to the several apportionments of the same amongst them respectively: And all other public roads or common highways in the said county of Suffex, shall be of the width of thirty feet, twenty feet whereof shall be grubbed and cleared as aforesaid; and every causeway on any public road or common highway, shall be of the width of fifteen feet, and every bridge situate as aforesaid of the width of twelve feet, and railed on each side at the least three feet high; and if any Overseer of the roads, bridges, or causeways respectively, shall neglect the performance of his duty in grubbing, clearing, and opening the road or roads assigned to him, or in making or repairing the bridges and causeways assigned to him, in the manner directed by this act,

(d) This sect. hath reference to sect. 13, of chap. 131. 2.—and to sect. 7, of chap. 176. a.

(e) This sect. hath reference to sect. 3, of chap. 131. 2, altering the power of appointing Overseers of the roads from the Court of Quarter Sessions, as to Suffex county.

act, within a reasonable time, he shall for every such neglect, forfeit and pay Twenty Dollars, to be recovered as herein before directed, and applied towards the support of the roads to be kept up by the hundred in which the Overseer so neglecting may reside. (f)

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SECT. 10. *And be it enacted,* That all private roads leading from the plantation or dwelling place of any person or persons to, or from, the common highways or public roads within the said county of Suffex, shall be laid out and kept up at the expense of the petitioners for the same; and the freeholders appointed to review and examine, whether roads petitioned for are necessary and convenient, shall, together with the return thereof, certify whether such roads so laid out is a private road, or a common highway. (g)

How private roads shall be laid out and supported.

SECT. 11. *And be it enacted,* That the Commissioners of the several hundreds respectively, herein after directed to be appointed, shall, on or before the first Tuesday of April next, and on or before the first Tuesday of April in every year thereafter, view and examine the public roads and common highways, bridges, and causeways within the same, and shall immediately deliver instructions, in writing, under their hands, to the several Overseers, describing therein what roads, bridges, and causeways, shall be made, repaired, or amended, and in what manner the same shall be done; and upon receiving such instruction, the said Overseers respectively, shall immediately proceed to execute the same, and to employ labourers and workmen for that purpose; and each Overseer shall procure a book, in which shall be entered a particular account of the transactions relative to the said business, the number of days in which he and the workmen and labourers may be employed, and lay the same before the Commissioners of his hundred respectively.

Commissioners to view the roads and direct their reparation,

which the Overseers shall execute.

SECT. 12. *And be it enacted,* That the Levy Court and Court of Appeals shall, forthwith after the passing of this law, appoint three persons in each of the hundreds

Levy Court to appoint Commissioners of the roads.

(f) This sect. hath reference to sects. 4, 5, 9, 16, of chap. 131 a—and to the first five sects. of chap. 176. a.

(g) This sect hath reference to sect. 13, of chap. 131. a.

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Vacancies how  
supplied.Proviso, as to  
the number.They shall draw  
orders on the  
Collectors for  
payment of the  
Overseers, &c.Road tax may  
be commuted for  
labour.

dreds of the said county of Suffex; to be the Commissioners of the roads for the said hundred, who shall continue in office for two years from the time of their appointment; and if any person so appointed shall refuse to serve, die, or be rendered incapable of acting, then and in every such case, the said court shall nominate and appoint, in writing, some other person; which person so appointed is hereby impowered and required to act in the premises as fully as the person before appointed; and as often as the term for which any such Commissioners were appointed to serve shall expire, the said court shall proceed to nominate and appoint as aforesaid three persons in each of the hundreds respectively, to be Commissioners for the said hundreds respectively: *Provided always*, That if the said court should be of an opinion that a less number, than three road Commissioners for each hundred, would be sufficient, they are hereby authorised to appoint a less number.

SECT. 13. *And be it enacted*, That the said hundred Commissioners respectively, or any two of them, are hereby impowered and required to draw an order or orders, on the Collector of the road tax, for the payment of the said Overseer, his labourers and workmen; and the Collectors respectively are hereby authorised and required to pay the same, which shall be sufficient vouchers for them on the settlement of their accounts; and the said Commissioners respectively are hereby required to procure a book, in which shall be entered an account of all orders by them drawn, the time when, and in whose favour, and transmit an account of the same to the Levy Court and Court of Appeals at their annual meeting, to be there filed, under the penalty of One Hundred Dollars, one half to him, her, or them who will sue for the same, and the other half to and for the support of the roads within the hundred where the Commissioners so defaulting shall reside.

SECT. 14. *And be it enacted*, That every person who shall apply to, and inform, the Overseer of the roads within the hundred in which such person so applying resides, that he is desirous of discharging his proportion of the road tax by labour, shall be employed, as soon as convenient to the said Overseer, by such Overseer,

feer, in working on the said roads until the price of the labour, so yielded by such applicant, amounts to a sum equal to the road tax which he otherwise would have to pay in money, and the said labour shall be estimated and settled for at the rate of Sixty-seven Cents for every day's good and sufficient work, to be adjudged of by the said Overseer; and as soon as such person so applying as aforesaid, hath worked out the amount of his road tax, the said Overseer is hereby authorized, impowered and required to give unto him a certificate in writing, under his hand, setting forth that such person has by labour satisfied the amount of his road tax; and the Collector of the said road tax for the hundred where this may happen, is hereby authorized, impowered and required, to give a receipt to such person for the amount of his tax for the year, upon his producing and delivering up to the said Collector, the certificate of the Overseer before mentioned; which certificate shall be a sufficient voucher for him, in the settling of his account, to the amount of such person's road tax.

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Rate Per day.

Overseers shall certify the same.

and the Collector give a discharge.

SECT. 15. *And be it enacted,* That the Overseers of the roads, bridges, and causeways, shall receive for their services respectively, each, One Dollar per day; and each of the hundred Commissioners shall be allowed annually, by the Levy Court and Court of Appeals, such moderate compensation for their trouble as the said court shall deem adequate to the services, rendered by such Commissioners to the public, which shall be paid by the County Treasurer, out of the money paid into his hands by the Collector of the road tax of the hundred, in which such Commissioner shall reside.

Allowance to Overseers and Commissioners.

SECT. 16. *And be it enacted,* That where any road, bridge, or causeway, shall be on a boundary between two hundreds, the same shall be laid out, built, supported, maintained, and kept up, by the inhabitants of the respective hundreds.

How a road, &c. on a boundary between two hundreds shall be supported.

SECT. 17. *And be it enacted,* That each and every owner or possessor of any mill or mills already built, or which hereafter may be built, near to any of the roads within the county of Sussex, the water wheels of which are or may be exposed to the view of horses

Water wheels of mills near any road shall be concealed by sheds, &c.

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Penalty for neglect.

Overseers may erect such, and recover the expense, with double costs.

Provide, as to tenants.

Drains may be cut through adjacent lands to improve the roads.

passing and repassing on the said road, shall, and is hereby required and directed, within six months after the passing of this act, or immediately upon the erection of any mill, to make, set up, and erect, between such water wheel and road, a shed, cover, or blind, to conceal the said water wheel, under the penalty of Ten Dollars for every such neglect or refusal, to be sued for and recovered by any person or persons, one half to the person or persons suing, and the other half to and for the use of supporting the roads, bridges, and causeways, within the hundred in which such person so neglecting or refusing may reside; and the Overseer of the road near which the said mill may be, if the owner or possessor of the same neglects or refuses to make, set up, and erect, or after to repair, such shed, cover or blind in manner aforesaid, for and during the space of ten days after notice given by the said Overseer, shall make, set up, and erect, or repair such shed, cover or blind, and defray the expense out of the monies of the said hundred, and shall recover the same, together with double costs, of the respective owner or possessor: *Provided always*, That if the same erection or reparation shall be made by a tenant, the value of the same shall be retained out of the rent, or reimbursed by the landlord.

SECT. 18. *And be it enacted*, That it shall and may be lawful for any Overseer of the roads in the said county of Sussex, or any person or persons by his order, to enter upon any lands adjoining to, or lying near, the public roads, to cut or open such drains, or ditches, as he shall judge necessary completely to carry off and drain the water from such roads, provided the same be done with as little injury as may be to the owner of such lands; which drains and ditches so cut and opened, shall be kept open by the said Overseer or Overseers, if necessary for amending the said road; and shall not be stopped or filled up by the owner or owners thereof, or by any other person or persons whatsoever, under the penalty of Ten Dollars for every such offence, to be recovered and applied as other penalties are herein before directed to be applied.

SECT. 19. *And be it enacted*, That the Clerk of the Peace

Peace shall transmit to the County Treasurer, and to the Levy Court and Court of Appeals, a statement of all fines and forfeitures incurred by virtue of this act; and the said County Treasurer is hereby required to open an account against each of the hundreds in the said county, for the purpose of keeping the monies arising from the road tax and fines and forfeitures of the respective hundreds, separate and distinct:

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Statement of fines to be transmitted to Levy Court, &c. Treasurer to open distinct accounts.

SECT. 20. *And be it enacted,* That when any road to be laid out by virtue of this act, or already laid out, shall pass along any causeway, or go over any creek, water, run, or swamp, or over any bridge which ought to be kept up or supported by any private person or persons, by any law of this state, the same shall be kept up and supported as in and by this act is directed, and at the expense of the said person or persons as if this act had not been made. (b)

How causeways, &c. heretofore supported by private persons shall be maintained.

SECT. 21. *And be it enacted,* That the Levy Court and Court of Appeals of the said county of Sussex, shall and they are hereby required, at a court to be holden on the first Tuesday of March next, to ascertain and estimate such sum and sums of money as shall be sufficient to lay out, amend, and maintain the public roads, bridges, and causeways in the county of Sussex, for the present year, and thereupon, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound, upon the whole rate of each hundred, according to the last assessment, clear of all charges of collection, sufficient to lay out, repair, and amend the public roads and common highways, bridges, and causeways, which are to be supported by the said hundreds respectively; and the Commissioners of the Levy Court shall issue their warrant to the Collector of each hundred, or other person authorized to collect county rates and levies, annexed to a duplicate of the said assessment, certified under the hand and seal of the Clerk of the Peace, authorizing and requiring him forthwith to demand and receive, from the persons rated in his assessment list, the sum per Pound which the said Commissioners of the Levy Court

The Levy Court to assess the tax for the reparation of the roads, &c.

Warrants to be issued to the Collectors.

(b) This sect. hath reference to sect. 3. of chap. 131. a.

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Summary mode  
of collection.When the Col-  
lectors shall ac-  
count.Treasurer to be  
furnished with  
an account of  
the taxes, &c.Judgment on  
Collectors bonds  
shall remain  
cautionary.

Court shall ascertain to be necessary for the purpose aforesaid; and the said Collector, or other person authorised to collect the county rates and levies, shall proceed without delay to collect, and in case of neglect or refusal of the said persons to pay, to levy and recover the same in the manner directed by an act of Assembly, intituled, *An act for raising county rates and levies*; and the said Collectors respectively, or other persons authorised to collect the county rates and levies, shall respectively settle and account with the County Treasurer, for a moiety of the sum to be collected, on or before the first Tuesday of June in this, and every succeeding year, and for the residue on or before the first Tuesday of October thereafter; and the Clerk of the Peace shall certify to the said County Treasurer, the names of the several persons authorised to collect the said road taxes, and the sums they have to collect respectively, within twenty days after they shall be appointed and the said rate shall be ascertained; and the said County Treasurer shall open an account against each of them for the several sums of money they have to collect, and credit them with the several sums of money by them paid; and in case of neglect to pay within the respective times appointed, the said County Treasurer is hereby authorised and required to sue their bonds respectively; and the said County Treasurer is to lay an account of his transactions, relative to the said taxes, before the Levy Court and Court of Appeals annually; and in case any of the said bonds shall be put in suit, and judgment shall be obtained, execution shall issue for the sum due on the hundred tax, and the said judgment shall nevertheless remain in full force for the purpose of issuing execution or executions for any other sum or sums of money, which the said person was authorised to collect and pay; and the bonds of the persons authorised to collect the county rates and levies for the present year in the county of Suffex, are hereby declared to be good and available for any money which may come into their hands respectively, by virtue of this act; and the bonds of persons authorised hereafter to collect the road taxes, shall contain

tain

tain, a condition for the true observance of this act. (1)

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SECT. 22. *And be it enacted*, That the Commissioners of the Levy Court and Court of Appeals of the said county of Sussex, are hereby required, at their annual meetings hereafter, to ascertain and estimate such sum or sums of money as shall be sufficient to support and keep up the roads, bridges, and causeways, that are to be supported by the said hundreds respectively, according to the rate of the hundred assessments for the current year.

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Levy Court to assess the tax annually for the support of the roads, &c.

SECT. 23. *And be it enacted*, That each of the Commissioners of the roads herein appointed, and directed to be appointed, shall, before he enters upon his duty, take the following oath or affirmation, to wit,

*I, A. B. do swear, or solemnly, sincerely, and truly declare and affirm, that, as a Commissioner of the roads for the county of Sussex, or for the hundred of*

Oath of Commissioner of the roads.

*(as the case may be) I will to the best of my skill and judgment, execute the duties of the said office, according to the directions and meaning of the act for the better regulation of the roads in the county of Sussex, without favour, affection, or partiality; and that I will do equal right and justice, according to the best of my skill and knowledge, in every case in which I shall act as Commissioner;*

Which oath or affirmation shall be administered by any Judge or Justice of the Peace; and every person summoned by the Sheriff to ascertain damages, as is herein before directed, shall take the like oath or affirmation, as a juror, to be administered by the Sheriff.

Of a juror.

SECT. 24. *And be it enacted*, That if any suit shall be brought against any person or persons, for any thing done in pursuance of this act, the suit shall be commenced within six months after the fact is committed, and the defendant may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by authority of this act; and if it shall appear so to

Persons sued may plead the general issue, &c.

and if, &c.

be

(1) This sect. alters and supplies sect. 15, of chap. 131. a.—and sect. 5, of chap. 176. a.

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shall recover  
treble costs.Penalty for ob-  
structing, &c.  
the roads.How recovered  
and applied.Overseers to  
keep the roads,  
&c. in repair.Penalty for ne-  
glect.Public bridges to  
be supported by  
the county, as  
heretofore.

be done, or if any suit shall be brought after the time limited, then the jury shall find for the defendant, and if the plaintiff shall become non suit, or suffer a discontinuance, or if a verdict shall pass, or upon demurrer judgment shall be given, against him, the defendant shall recover treble costs, and have judgment and execution for the same.

SECT. 25. *And be it enacted*, That if any person or persons shall obstruct any of the state or hundred roads now laid out, or hereafter to be laid out, in the said county of Suffex, or shall commit any nuisance therein, by falling of trees, making of fences, or any other ways, and do not remove the same forthwith, such person or persons shall forfeit and pay Fifteen Dollars for every such offence, to be recovered by indictment in the Court of General Sessions of the Peace, and applied to the use of supporting the public roads, highways, bridges, and causeways, in the hundred where the person committing this offence shall reside. (k)

SECT. 26. *And be it enacted*, That if any of the said roads, bridges, or causeways, after the same shall be made, erected, amended, and repaired, by the said Overseers respectively, according to the written instructions of the Commissioners of his hundred respectively, in any year, shall by the falling of trees, by strong currents of water, or any other circumstance, become impassable, or so out of repair as to be inconvenient for travellers and others passing the same, the said Overseers respectively are hereby required forthwith to remove such obstructions, and to renew and repair the bridges and causeways, or either of them, under the penalty of Twenty Dollars for every neglect or refusal, to be recovered by indictment in the Court of General Sessions of the Peace, and applied to the use of supporting the public roads, bridges, and causeways, in the hundred where the said Overseers shall reside. (l)

SECT. 27. *And be it enacted*, That all public bridges  
in

(k) This sect. hath reference to sect. 14, of chap. 131. 2.

(l) See also sect. 9, before.

in the said county of Suffex, which have heretofore been erected, maintained, supported, and kept up at the expence of the county, shall still continue to be maintained, supported, and kept up as formerly; any thing in this act to the contrary notwithstanding. (m)

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SECT. 28. *And be it enacted,* That as much of an act of Assembly of this state, intituled, *An act for erecting public bridges, causeways, and laying out and maintaining highways,* and of one other act, intituled, *An act for the better regulation of the King's roads within the counties of Kent and Suffex,* as are hereby altered or supplied, be, and the same are hereby declared to be, void.

Parts of former acts repealed.

Chap. 131. a.

Chap. 176. a.

Passed February 9, 1796.

C H A P. C I. c.

An ACT to repeal part of an act, intituled, An act to extend the time of payment of the purchase money of certain lands, granted to the citizens of this state, and for other purposes.

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**W**HEREAS difficulties have occurred in the construction and execution of that part of the said act, which is contained in the third section thereof, and which directs the allowance to the Commissioners of the Land Office in the respective counties of this state, upon the determination of caveats or claims by them, subsequent to the first day of November last.

Preamble.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the third section of the act, intituled, *An act to extend the time of payment of the purchase money of certain lands, granted to the citizens of this state,* be, and the same is hereby repealed and made void.

Repeal of sect. 3, chap. 99. c.

SECT. 2. *And be it enacted,* That all expences arising

(m) For which see sects. 5, to 10, inclusive in chap. 131. a.—and sect. 4. of chap. 176. a.

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Expences on  
hearing caveats,  
by whom to be  
paid.

Allowance to  
the Commis-  
sioners.

What warrants,  
surveys, &c. in  
possession of Sur-  
veyors, &c. shall  
be returned to  
the Recorder of  
Deeds.

Penalty for  
neglect.

ing and accruing on the hearing and trial, since the first day of November last, and hereafter, of any caveats, heretofore or hereafter to be made or entered, before the said Commissioners, by any person or persons, under the laws of this state, including the daily allowance to the said Commissioners already established by law, shall be paid and discharged by the party or parties failing in his claim; and in case there be more than one decision or determination upon the same day, the said daily allowance shall be equally divided among the several parties failing in their claims as aforesaid; and for every determination each of the said Commissioners shall receive the additional sum of Two Dollars, to be paid by the party failing as aforesaid; any law of this state to the contrary in any wise notwithstanding.

SECT. 3. *And whereas*, there are many warrants, surveys, certificates of surveys, resurveys, and locations, which have been executed altogether, or in part, on lands within the respective counties of this state, and which have never been returned to the proper office, and now remain in the possession of the former Deputy Surveyors or their representatives; whereby parties interested may be injuriously deprived of the use and benefit to be derived from such papers, *Be it therefore enacted*, That all warrants, surveys, certificates of surveys, and resurveys and locations, heretofore made or executed, partially or completely, on any lands within this state, and which have not been returned to the proper office, shall be returned, within six months from the passing of this act, to the Recorder of Deeds of the county in which such lands lie, to be preserved by him among the records of the Land Office, and to be consulted and used by, and for the use of, all persons interested; and upon application made by the owner or claimant of such land to any former Deputy Surveyor, or person who acted by appointment under such Deputy Surveyor, or the legal representative of him in case he be dead, in such case, if the said Deputy Surveyor, or his agent, or the representative of him or them, shall refuse or neglect to make, or cause to be made, returns as aforesaid, of their papers and proceedings in his or their possession,

possession, he shall forfeit and pay the sum of One Hundred Dollars, the one half to the informer, and the other half to the use of the state, to be recovered in any Court of Record in this state, by action of debt, bill, plaint, or information.

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SECT. 4. *And be it enacted,* That the Recorder of Deeds in the counties of New-Castle and Kent respectively, for every day that he shall attend the Board of Property in his county respectively, shall be allowed One Dollar, to be paid out of the monies arising from the Land Office.

Allowance to Recorder for attending the board.

SECT. 5. *And be it enacted,* That the time of payment of the purchase money for all lands granted to the citizens of this state, by virtue of any law of the same, be, and is hereby extended for and during the term of one year from the time limited in the above recited act, passed at Dover, February seventh, One Thousand Seven Hundred and Ninety-five; (a) and all payments made within the said time hereby extended, shall be as good and effectual in law as if such payments had been made within the limitation heretofore appointed.

Term of payment extended one year beyond the former limitation.

Chap. 90. c.

SECT. 6. *And be it enacted,* That the Board of Commissioners shall hold four terms each and every year, in the counties of this state respectively, until the business before them pending shall be finished and concluded; which terms shall continue two weeks, unless the business and trials set down for the particular terms, should be sooner completed.

Board to hold four terms annually.

SECT. 7. *And be it enacted,* That the Commissioners in each of the counties of this state respectively, shall meet on or before the first Tuesday in April next, and when met, shall determine and appoint the time for the commencement of each of the terms in the several counties aforesaid, and, as soon after as may

When to meet and appoint the terms.

(a) To wit, four years from date of warrant, but see in next chap. 102. c. an exception hereto.

C H A P. may be, advertise the same in all the hundreds of the  
 Cl. counties of this state. (b)

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Passed February 9, 1796.

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*An additional Supplement to the act, intitled, An act for opening and establishing a Land Office within this state, and for the sale of all vacant and unlocated lands therein. (c)*

Preamble.

**W**HEREAS the former Proprietaries of the late province, now state of Maryland, have heretofore granted qualified or conditional estates in fee in lands then within the jurisdiction of the government of Maryland, but now within the limits of this state; which said estates have been determined by their own limitations: *And whereas* the said lands have descended, or been aliened, and held for a great space of time, without any interruption to the possessors, and have been always considered as the absolute property of the holders thereof, and as such have been taxed, and otherwise subjected to their proportions of the public charges.

In what cases the original grantees, or their heirs, &c. shall be intitled to the preference of patents or warrants.

SECTION I. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the heirs, devisees, grantees, bargainees, or other legal representatives, of such original grantees, shall respectively be entitled to the preference of patents upon any warrant or warrants already issued, or of warrants and patents to be issued and had, for the whole quantities of land respectively

(b) See chap. 132. c. sect. 1, for revival of the proceedings before Commissioners of the Land Office in Kent County—and sect. 2, authorising any two of the said Commissioners in the respective counties to hear, try, and determine every matter, &c. and any one of them, in case of non attendance of his associates, to open and adjourn the said boards—and sect. 3, limiting the time for entering on record, in the High Court of Errors and Appeals, all appeals taken from the decisions of the said boards respectively.

(c) Chap. 45. c.—and see chap. 57. c. for the first supplement thereto.

ly held by such original grantees, or by their heirs, devisees, grantees, bargainees, or other legal representatives, and contained in their grants; (d) and that every such person having already obtained, or who shall hereafter obtain such warrant, shall pay to the State Treasurer the sum of Fourteen Dollars for every hundred acres contained in such warrant, and in the certificate thereupon returned, and according to that rate for any less quantity; and that such proceedings shall and may be had in securing the said lands, and obtaining a title thereto, as are prescribed and allowed in the act to which this is a supplement, and in the act, intitled, *A supplement to an act for opening and establishing a Land Office within this state, and for the sale of all vacant and unlocated lands therein*; and if any person or persons, who by this act is or are intitled to the preference of warrants and patents for such lands, shall not take the benefit of this act within one year from the date hereof, and pay the money for such land or lands within one year from the date hereof, such lands shall be still deemed vacant and unappropriated, and liable to the warrants and proceedings of other persons, in manner and form, and upon the terms prescribed, for taking up and securing other vacant and unappropriated lands.

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Proceedings  
thereon.

Within what  
time they shall  
take the benefit  
of this act, or  
the lands be  
deemed vacant.

*Passed February 9, 1796.*

C H A P. CIII. c.

*An additional Supplement to an act, intitled, An act directing the manner and form of securities to be given by Sheriffs for the due execution of their trusts, and prescribing a time for their returns on writs of fieri facias. (e)*

1796.

**W**HEREAS lands and tenements have been frequently seized by virtue of writs of *feri facias*,

Preamble;

(d) As to warrants referred to in sect. 5, chap. 57. c. they are not to extend so as to include more than two hundred acres for every person named therein.

(e) Chap. 173. b, Ante—and for first supplement see chap. 189. b.

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*facias*, and the Sheriff, or other officer executing such writs, have omitted to return with the same an inquisition, testifying whether the yearly rents and profits, beyond all reprises, of the lands and tenements, so taken in execution, would be sufficient within seven years to satisfy the debt and damages in such executions, agreeably to the directions of the existing laws of the state; *And whereas* delays, in consequence of such omissions, have arisen in the finishing of such executions.

In what cases  
the Sheriff, &c.  
may take in-  
quisition.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That in all cases where any lands and tenements have been taken in execution by virtue of any writ or writs of *feri facias*, it shall and may be lawful for the Sheriff in office, or for the person who had seized and taken in execution such lands and tenements, at the election of the plaintiff or plaintiffs in such suits, to inquire whether the yearly rents and profits, beyond all reprises, of the lands and tenements so taken in execution, be sufficient within seven years to satisfy the debt and damages in such executions, agreeably to the directions of the existing laws of the state, and such inquisition to return to the proper officer of the court from whence such writs issued, who shall annex the same to the said writ or writs; whereupon it shall be lawful for the plaintiff or plaintiffs, in such suits, to proceed for the legal recovery of his debt and damages therein mentioned: *Provided nevertheless*, That nothing in this act shall extend to writs of *feri facias*, issued out of the Supreme Court, or out of the Court of Common Pleas, since the last term of the said courts in their respective counties, nor to the discharging of any Sheriff, or other officer, from the debt, damages, and costs, in any writ of *feri facias* mentioned, for which he hath become answerable by the act to which this is an additional supplement. (f)

Provido, not to extend to writs of *Fieri Facias* issued since the fall terms of One Thousand Seven Hundred and Ninety-five, nor to discharge the Sheriff who has become responsible for the debt.

How rules to hold inquisitions shall be obtained.

SECT. 2. *And be it enacted*, That it shall and may be lawful for every plaintiff, his agent or attorney, upon motion to the court, or in vacation upon application

tion

(f) To wit, in sect. 4, of said chap. 178. b.

tion to the Clerk or Prothonotary, to obtain a rule to be laid on the Sheriff in office, or on the person who had seized and taken in execution any lands and tenements as aforesaid, by virtue of any writ or writs of *feri facias*, to hold an inquisition as aforesaid upon such lands and tenements, and to return the same within thirty days next after the date of the said rule; and if the said rule shall be laid upon any Sheriff, who did not take such lands and tenements in execution, it shall contain the names of the parties, both plaintiff and defendant, the term to which the said writ or writs of *feri facias* were made returnable, the amount of the debt, damages, and costs expressed therein, and the description of the lands and tenements returned on the writ, by the person who made the levy or seizure of the said lands, together with the real debt and interest, if any be indorsed on the said writ or writs; and the said rule shall be served on the Sheriff in office, or on the person who had made such levy or seizure, in writing, at least ten days before the expiration thereof; and if the Sheriff in office, or person who had made such levy and seizure, shall neglect or refuse to hold such inquisition, and make return thereof as aforesaid, he shall be, and is hereby declared to be, guilty of a contempt to the court in which the said rule shall be laid, and shall and may be proceeded against as in other cases of contempt.

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What they shall contain.

How they shall be served.

Sheriff neglecting shall be guilty of contempt.

*Passed February 9, 1796.*

C H A P. CIV. c.

An ACT to increase the daily allowance to Grand and Petit Jurors, and for other purposes. 1796.

(a) SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That, in addition to the Additional allowance to jurors and witnesses.

(\*) These sects, have reference to sect. 28, of chap. 27. c.

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the fees already allowed to Grand and Petit Jurors, and to witnesses, they shall, each, have Three Cents *per* mile from the places of their abodes, respectively, to the Court House of their county respectively, for each and every day of their attendance.

Supreme Court  
to appoint Bailiffs  
to attend the same.

(a) SECT. 2. *And be it enacted*, That the Judges of the Supreme Court of this state be authorized and empowered, on the first or any other day of every term of the said court hereafter, to appoint two Bailiffs, or Constables, to attend the said court; and the said Bailiffs, or Constables, so appointed, are hereby required to attend the said court during the sitting thereof, under pain of attachment; and every Bailiff, or Constable, required to attend either the Supreme Court or Court of Common Pleas, shall, for every day of his attendance, be allowed One Dollar, to be paid by the country.

Allowance.

*Passed February 9, 1796.*

C H A P. CV. c.

1796. *An ACT to create a fund sufficient to establish schools in this state.*

Fund for the establishment of schools.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the money paid into the state treasury on account of marriage and tavern licences, (a) between the passing of this act and the first day of January, in the year of our Lord One Thousand Eight Hundred and Six, shall be, and is hereby appropriated, as part of a fund hereafter to be applied, under the direction of the Legislature, for establishing schools in this state. (b)

SECT.

(a) For which see chap. 27. c. sect. 1—and chap. 5. c. sect. 5.

(b) See chap. 28. c. sect. 4, a prior general appropriation of the fees on marriage and tavern licences to the discharge of the salaries of the Chancellor and Judges—and see chap. 133. c. sect. 3, affirming that appropriation, and that any residue thereof be applied as above.

SECT. 2. *And be it enacted,* That the money so as aforesaid appropriated, and all other money and estate hereafter given or appropriated for the said purpose, shall be distinguished and known by the name of *The fund for establishing schools in the state of Delaware.*

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Its denomination.

SECT. 3. *And be it enacted,* That the State Treasurer for the time being, who in all matters relative to the said fund, shall be stiled, *The Trustee of the fund for establishing schools in the state of Delaware,* shall be and is hereby impowered, authorised and required, to take care of the said fund, to receive, apply for, and recover, by suit or action, in his name as Trustee of the said fund, any gift, donation, or bequest, which any person or persons, disposed to promote the establishment of seminaries of learning, may think proper to make; and for the application of every such gift, donation, or bequest, to the purpose of establishing schools as aforesaid, the public faith of this state is hereby most solemnly pledged; and the said Trustee is hereby further impowered to execute a lease, for a term not exceeding three years, to any responsible person, of any real estate which by virtue of any gift, donation, or bequest, may hereafter form part of the said fund; to sue, prosecute, and recover for any breach of contract or covenant, to distrain for rent in arrear, and to do every other act and deed, in his name as aforesaid, for the benefit of the said estate and fund, which the former owner of the said estate might have legally done, excepting the sale thereof.

The State Treasurer for the time being constituted Trustee of the fund.

Public faith pledged for its application.

Powers of the Trustee.

SECT. 4. *And be it enacted,* That whenever the money in the treasury, arising from marriage and tavern licences, gifts, and bequests, shall amount to a sum equal to the purchase of a share in either the Bank of Delaware, the United States, of Pennsylvania, or of North America, the said Trustee shall be, and is hereby authorised, impowered, and required, to purchase, on the best terms to be procured, in the name of the Trustee of the fund for establishing schools in the state of Delaware, a share in one of the said banks, to demand and receive the dividend on every such share, as often as it becomes due, and to apply the same, with the other money in the treasury belonging

He shall apply the money coming to his hands to the purchase of bank stock.

to

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Shall produce  
his accounts an-  
nually to the Ge-  
neral Assembly,

and publish the  
names of the do-  
nors to the fund.

Further condi-  
tion to be added  
to the Treasur-  
er's bond.

To what schools  
the fund shall be  
applied.

to this fund, to the purchasing another share in one of the said banks, as often as the same may be adequate thereto. (c)

SECT. 5. *And be it enacted*, That the State Treasurer for the time being is hereby required to produce to, and make a settlement with, the General Assembly of this state, at their first session every year, of his account as Trustee of the fund for establishing schools in the state of Delaware, and once in every year, either during or immediately after the first session of the Legislature, to procure to be published, in one of the news papers of this state, a particular account of the said fund, mentioning therein the names of the persons who have made any gift, donation or bequest, towards the said fund, specifying the time when the same was received, and the amount or value thereof.

SECT. 6. *And be it enacted*, That there shall be included in the bond prescribed by the act, intituled, *An act requiring the State Treasurer to give security*, passed the fourteenth of June, in the year of our Lord One Thousand Seven Hundred and Ninety-three, the further condition of *true and faithful performance of his duty, as Trustee of the fund for establishing schools in the state of Delaware*.

SECT. 7. *And be it enacted*, That the said fund shall be applied to the establishment of schools in the several hundreds, or districts, of the respective counties of this state, for the purpose of instructing the children of the inhabitants thereof in the English language, arithmetic, and such other branches of knowledge as are most useful and necessary, in completing a good English education; and that the same shall not be applied to the erecting or supporting any academy, college, or university in this state.

Passed February 9, 1796.

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(c) See chap. 133. c. sects. 1, 2, the Treasurer directed to sell the three shares of stock of the Bank of Delaware theretofore purchased by him, and subscribe the proceeds, with the balance, &c. then on hand, for bank shares reserved for the state, as in sect. 11, of chap. 96. c.—with a power to vote as a stockholder, receive dividends, &c. and apply the same according to this act. (Chap. 95. c.)

C H A P. CVI. c.

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An ACT making provision for the support of government for the year of our Lord One Thousand Seven Hundred and Ninety-six.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met, That the sum of Seven Thousand Dollars shall be raised and paid into the treasury of this state within the time hereinafter directed, and shall be assessed and levied in the several counties of this state in the following proportions, *That is to say*, For the county of New-Castle, the sum of Two Thousand Six Hundred and Sixty-six Dollars and Sixty-seven Cents; for the county of Kent, the sum of Two Thousand Three Hundred and Thirty-three Dollars and Thirty-three Cents; and for the county of Suffex, the sum of Two Thousand Dollars.

Seven Thousand Dollars to be raised and paid into the treasury.

Each county's proportion.

SECT. 2. *And be it enacted*, That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Levy Court of each county is hereby authorized and required to hold a Special Court, on the first Tuesday of March next, at the place in the same counties where Levy Courts are usually held, and then and there, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound upon the whole rate of the counties respectively, according to the last assessment, necessary to raise, clear of all charges of collection, the aforesaid several sums herein before directed to be assessed, raised, and levied in the counties aforesaid respectively; and the Clerk of the Peace for each county shall thereupon make out a warrant, to be signed by any two Justices of the Peace of the same, directed to the Collector of each hundred that may be appointed agreeably to the directions of this act, annexed to a duplicate of the said assessment, certified by the Clerk of the Peace, authorising and requiring such Collector forthwith to demand and receive, from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain

Levy Courts to ascertain the sum on the Pound rate.

Warrants to be issued to the Collectors.

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Auditor to be furnished with account of the sum chargeable to each Collector.

certain as necessary to raise the several sums as aforesaid; and the said Collectors respectively shall proceed without delay to collect, and in case of neglect or refusal to pay, to levy and recover the same in the manner directed by the act of Assembly, intituled, *An act for raising county rates and levies*; (a) and the said Clerk of the Peace shall, within thirty days after the day of holding the Special Levy Courts aforesaid, transmit to the Auditor's Office a true account of the sum total, which every Collector shall be charged with pursuant to this act.

Provision for securing the payment of the tax.

SECT. 3. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover or collect the tax assessed on said lands, *Be it therefore enacted*, That the tenant, or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the said tenant, or person having the care thereof, shall pay, or their goods be distrained for the same, that it shall and may be lawful to and for the said tenant to deduct the tax so paid out of the rent agreed for; or for the tenant or persons having the care of the said lands, to recover the same from the owner thereof, by action or suit in any court where the same may be cognizable, together with the costs of suit; and all parents, guardians, or trustees, making payment as aforesaid, shall be allowed the sum so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

In what cases Collectors may sell land, &c.

SECT. 4. *And be it enacted*, That in all cases where the Collectors can find no effects upon the lands, belonging to the party chargeable with the assessment, or of his tenant, or person having the care thereof, sufficient to pay the same if distrained, and the rate cannot be otherwise recovered by reason of non residence or otherwise, it shall and may be lawful for the Collector

(a) Chap. 102 s. sect. 9.

Collector of the hundred where the lands lie, with the approbation of the Court of General Quarter Sessions of the Peace, held for the same county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at public auction, as the said court may judge to be necessary for the payment of the assessment.

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SECT. 5. *And be it enacted,* That the said Collectors respectively shall, on or before the first Monday in November next, pay to the State Treasurer the sum or sums of money they may or ought to have levied by virtue of this act, deducting Seven and an Half Dollars for every Hundred Dollars he shall so collect and pay over to the State Treasurer.

Time limited for Collectors to pay into the treasury.

Their commissions.

SECT. 6. *And be it enacted,* That the State Treasurer shall appoint Collectors for the several hundreds, who shall, each of them, give bond in double the sum he is to collect, with such sureties as the State Treasurer shall approve of, conditioned for the faithful performance and discharge of their duty respectively in the execution of this act; and the State Treasurer shall be answerable to the state for any loss which may arise to the state, from the insufficiency of the Collectors, or their sureties, to pay the monies by them to be collected respectively, by virtue of this act.

Treasurer to appoint the Collectors, who shall give bond, and for whom he shall be answerable.

SECT. 7. *And be it enacted,* That the Collectors appointed as aforesaid, shall pay to the State Treasurer all the monies to be collected in their respective districts, in pursuance of this act, on or before the first Monday of November next, taking duplicate receipts for the same, one of which he shall lodge in the Auditor's Office within one month from the time the same shall be given.

Collectors shall take duplicate receipts, one of which shall be lodged in the Auditor's Office.

SECT. 8. *And be it enacted,* That the State Treasurer, shall, once in every three months, transmit into the Auditor's Office an exact statement, as well of all the monies by him received, with the names of the persons by whom paid, as of the monies by him paid, what amount, and the time when; and shall, in the month of December annually, appear in the Auditor's Office with his accounts and vouchers, and proceed to adjust and settle the said accounts with the Auditor; and the State Treasurer shall discharge him-

The State Treasurer shall account with the Auditor.

self

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Treasurer's  
commissions.

In what cases  
the Collectors  
may be allowed  
deductions.

Proviso.

Treasurer's  
bonds to be  
lodged in the  
Auditor's Of-  
fice.

Collectors fees  
upon distress or  
execution.

Appropriation:

self of all monies which shall come to his hands in pursuance of his office, and shall be allowed commissions for all monies which shall come into his hands, and for his services performed in pursuance of this act, and duly accounted for, at the rate of Three Dollars for every Hundred Dollars, and no more.

SECT. 9. *And be it enacted*, That no Collector shall be allowed any deduction of any part of the sums mentioned in said duplicate of assessment, except when it shall be made appear, by a certificate under the hands of any two Justices of the Peace of the neighbourhood where any delinquencies may happen, and approved by the Levy Court of the county in which such delinquencies may happen, that the Collector has used all lawful means for the levying and collecting the same: *Provided always*, That no such certificate shall be sufficient, unless signed within two months after the expiration of the time limited as aforesaid for the collection of the tax to be raised by this act, and approved of by the Levy Court at their next meeting after the time aforesaid.

SECT. 10. *And be it enacted*, That all bonds given by the State Treasurer in pursuance of this act, and the act requiring the State Treasurer to give security, if approved by the Governor, shall be by him transmitted to the Auditor's Office for safe keeping.

SECT. 11. *And be it enacted*, That if any Collectors shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is intitled to by law for the like services, in the recovery of debts under Five Pounds; (b) and any person, whose property shall be liable to payment of the said assessment, or any part thereof, may discharge the same at any time before the day of sale of the property distrained, and in such case the Collector shall receive for his trouble one half of the fees he would be intitled to on a sale, and no more.

SECT. 12. *And be it enacted*, That the aforesaid sum of Seven Thousand Dollars, together with all monies which

(b) For which see chap. 27. c. sect. 33—and chap. 58. c. sect. 5.

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which now are or may hereafter come into the treasury of this state, except such monies as may be derived from the Land or Loan Offices of this state, or from marriage or tavern licences, shall be appropriated and applied to and in the following manner, *That is to say*, So much thereof as may be necessary shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Supreme Court and of the Court of Common Pleas, Secretary, and Auditor of Accounts, up to the first of January, which will be in the year One Thousand Seven Hundred and Ninety-seven; and so much thereof as may be necessary shall be applied to the payment of the daily allowance to the Members of the General Assembly, their Clerks, and other expences, and for printing the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof; and the residue thereof, if any there be, shall be applied to the payment of any sums of money due to the citizens of this state or of any of the United States, which are or shall be allowed by the Auditor of Accounts, and approved of by the General Assembly, and to the payment of interest due on depreciation certificates issued to and now in the hands of citizens of this state, or so much of the said residue as shall be necessary for the payment of the sums of money last mentioned.

For the payment of salaries;

For the expences of the General Assembly, &c.

For the payment of debts to citizens, and interest on depreciation certificates.

SECT. 13. *And be it enacted*, That Thomas Sipple shall be, and he is hereby appointed State Treasurer; which said Treasurer shall make returns and settle his accounts as often, and in the same manner, as the State Treasurer is directed to make returns and settle his accounts by an act of Assembly, intituled, *An act for expediting the collection of arrearage taxes, and other purposes*, passed the fourth day of February, in the year One Thousand Seven Hundred and Ninety-two.

Thomas Sipple appointed State Treasurer.

How often he shall settle and make returns.

Chap. 247. b.

Passed February 9, 1796.

## C H A P.

## CVII.

1796.

## C H A P. CVII. c.

*An act to repeal an act, intituled, An act to explain the twelfth section of the second article of the constitution of this state.*

Chap. 64. c.  
repealed.

**B**E it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met, That the act of Assembly, intituled, *An act to explain the twelfth section of the second article of the constitution of this state*, be, and the same is hereby declared to be, repealed.

Passed February 9, 1796.

## C H A P. CVIII. c.

1796.

*A Supplement to an act, intituled, An act against adultery and fornication. (a)*

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That from and after the passing of this act, it shall and may be lawful for any Justice of the Peace within this state, as often as he shall be informed of any female person having an illegitimate child, to issue his warrant to any Constable, who is hereby required to carry such person before some Justice of the Peace of the county, who shall call on her for security to indemnify the county from any charge that may accrue by means of such child, and upon neglect or refusal, to commit her to the custody of the Sheriff of the county, to be by him safely kept until she shall give such security; but in case she shall, on oath or affirmation, discover the father, then the said Justice is hereby required to discharge her from such warrant, and directed to call such father, if a resident of the county, before him, and

How the mother of an illegitimate child shall be proceeded against.

Proceedings against the father, if discovered.

(a) Chap. 44. 2.

and shall cause him to give such security, in the sum of One Hundred and Sixty Dollars, lawful money to indemnify the county from all charges that may arise for the maintenance of such child, and shall make an order for the lying-in expences of the mother of said child, of not less than Four, nor more than Six Dollars, also an order for the monthly support of said child from the day of the birth thereof, until it shall arrive to the age of seven years; if so long chargeable, of not more than Two Dollars nor less than One Dollar *per* month; which order said justice shall enter on his docket, and transmit a copy thereof to the Clerk of the Peace, to be by him filed; which sums shall be paid by the said reputed father, monthly and every month, to the mother of said child, or other person or persons having the care thereof, and on neglect or refusal shall be recovered as other debts under Forty Shillings are recoverable; (b) but in case the father be a resident of any other county within this state, then the justice shall transmit, under his hand and seal, to some Justice of the Peace of the county where the reputed father shall be resident, a copy of all the proceedings in such case had; and the justice to whom the said proceedings shall be sent, shall forthwith proceed against the father in such manner and form as is before directed.

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Order for maintenance.

Payable monthly.

How recovered.

How the father if a non resident, shall be proceeded against.

SECT. 2. *Provided always, and be it further enacted,* That in case any person, charged with being the father of a bastard child, should think himself aggrieved by the judgment aforesaid, it shall and may be lawful for the said justice, and he is hereby required, to cause such person to enter into a recognizance, with one or more sufficient securities, in the sum of One Hundred and Sixty Dollars, for the appearance of the said person at the next Court of General Sessions of the Peace, and shall also oblige the mother to enter into a recognizance to appear as aforesaid; and the judges of the said court are hereby directed to take cognizance thereof, and such proceedings shall be had thereon as in other criminal cases; and if the person so charged be found guilty by the verdict

Persons aggrieved may apply for redress to the General Sessions of the Peace.

Judges of that court to take cognizance thereof.

(b) For which see chap. 73. 2.

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Persons swear-  
ing falsely, how  
punished.

On what infor-  
mation a justice  
may proceed  
under this act.

How the expense  
of maintenance  
may be reco-  
vered, where the  
reputed father  
absconds.

Recognizances  
to be returned to  
the sessions,

and process to  
issue thereon.

dict of a jury, the court shall immediately order such person to give security to indemnify the county from any charges that may accrue for the maintenance of such child, and if he shall neglect or refuse to give such security, he shall be committed to the custody of the Sheriff until he comply; and any person swearing falsely in the premises, shall suffer the same pains and penalties as persons in other cases guilty of wilful and corrupt perjury. (c)

SECT. 3. *And be it enacted*, That every Grand Juror, Constable, or other officer of the state, shall, as often as he may have knowledge of any free unmarried woman having an illegitimate child, to make information thereof to the next or some Justice of the Peace for his county, who upon such information, or the matter coming to his own knowledge, is hereby required to proceed as aforesaid.

SECT. 4. *And be it enacted*, That if the reputed father of any such illegitimate child shall avoid being taken, by escaping from this state or otherwise, by which any county shall be put to the expense of maintaining any such child or children, it shall and may be lawful to and for the Treasurer of such county for the time being, and he is hereby required, to sue for and recover of such reputed father, at any time when he shall return into this state, the said sums of money, by action on the case for money laid out and expended; and such person shall also be then proceeded against as is herein before directed, and compelled to give security to indemnify the county as aforesaid from any further maintenance of such child or children.

SECT. 5. *And be it enacted*, That every Justice of the Peace by whom any such recognizance as aforesaid may be taken, shall return the same, under his hand and seal, to the next Court of General Sessions of the Peace for his county; and the Clerk of the Peace shall, within a reasonable time after such return, make a docket entry of the said recognizance, and file the original among the papers of his office; and the said court shall, when necessary, issue process

(c) For which see chap. 22. a. sect. 26.

cess thereon as may be requisite to indemnify such county from any charge for the maintenance of such child or children.

C. H. A. P.  
CVIII.  
1796.

SECT. 6. *And be it enacted*, That whosoever shall commit adultery, and be thereof legally convicted, such person shall forfeit and pay One Hundred Dollars, to be recovered by action of debt, one half to him, her, or them, who will sue for the same, and the other half to and for the use of the state.

Penalty for committing adultery.

SECT. 7. *And be it enacted*, That from and after the passing of this act, no fine, forfeiture, or corporal punishment, shall be inflicted on any person or persons within this state for bastardy or fornication; any law to the contrary notwithstanding.

No fine, &c. to be inflicted for fornication.

SECT. 8. *And be it enacted*, That as much of the act of Assembly, intituled, *An act against adultery and fornication*, as is hereby altered or supplied, be, and the same is hereby declared to be, repealed.

Part of former act repealed. Chap. 44. a.

Passed February 9, 1796.

C H A P. CIX. c.

*A Supplement to an act, intituled, An act for the appointing a corder or measurer of fire wood in each of the towns and villages within this government. (a)*

1796.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That there shall be paid by the buyer of all fire wood which shall be brought for sale into any of the towns or villages within the several counties of this state, unto the corder thereof, or his deputy, for each cord of wood by him corded and measured, the sum of Ten Cents, and so in proportion for any greater or less quantity, one half whereof shall, by the person selling the same, be repaid to

Allowance to the corder.

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A T

the

(a) Chap. 98, a.

C H A P.  
CIX.

1796.

By whom paid,  
and how recovered.

Part of former  
act repealed.  
Chap. 98. a.

Penalty for ne-  
glect of duty.

the buyer, or deducted out of the price thereof, and upon non payment thereof, the same may be recovered by the said corder, or his deputy, and the buyer respectively, in like manner as other debts under Twelve Pounds. (b)

SECT. 2. *And be it enacted*, That so much of the said act to which this is a supplement, as is hereby altered or amended, shall be, and the same is, hereby repealed and made void.

SECT. 3. *And be it enacted*, That the wood corder in each of the towns and villages within this state respectively, shall, upon the application of any person, attend, in person or by deputy, forthwith for the purpose of measuring wood, or forfeit and pay, for every neglect or refusal, Sixty-seven Cents, to be recovered as other debts are, one half to the person or persons suing, and the other to and for the use of the poor of his county respectively.

*Passed February 9, 1796.*

C H A P. CX. c.

1796.

*An additional Supplementary Act to an act, intitled, An act for erecting a bridge and causeway over Lewes-creek, from the town of Lewes to the cape side of the said creek, in the county of Suffex. (c)*

Preamble.

**W**HEREAS the bridge and causeway lately erected on Lewes-creek are likely to become useless by defect of provision for their support.

How the pontage  
shall be applied.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That from and after the passing this act, the pontage and toll arising from the said bridge and causeway shall be applied to the keeping the said bridge and causeway in good repair; and that all monies

(b) For which see chaps. 73. a. and 250. b.

(c) For this see chap. 220. a. and for the supplementary acts thereto see chap. 267. a.—chap. 225. b.—chap. 32. c.—and this chap. 110. c.

nies arising as aforesaid, more than shall be sufficient for such repairs and paying the Collector thereof, shall be applied to and for the sole use and benefit of the subscribers and Commissioners for paying off and discharging all arrears, due and unpaid to workmen and others on account of the causeway erected previous to the late war, and for reimbursing such persons as may advance, or have advanced, money to the erecting, finishing, or repairing the said bridge or causeway on additional subscriptions.

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1796.

SECT. 2. *And be it further enacted,* That the person appointed, or to be appointed, to collect the pontage or toll for passing the said bridge and causeway, may and shall take and receive the same rates of toll and pontage for every loaded or empty cart or waggon, and horse or team, that shall go upon, or pass over, the draw or platform of said bridge, as ought to be received in case the said cart, or waggon and team, had passed over the bridge and causeway aforesaid.

Cases in which  
pontage shall be  
paid.

SECT. 3. *And be it further enacted,* That the master, or owner or owners, of every vessel which shall or may break, or in any manner, or by any means, injure the said bridge or causeway, or any part of them, or either of them, and the owner of any cart, waggon, or carriage, which, otherwise than by passing in a direct manner over them, shall injure the said bridge or causeway, or any of their appurtenances, shall forfeit and pay the sum of One Dollar and Fifty Cents for such injury, together with the expense of repairing the said part, to be recovered with costs; in the name of any one of the Commissioners of the said bridge, before any Justice of the Peace of the said county, and applied to the use of the said bridge and causeway.

Penalty for in-  
juring the bridge  
or causeway.

How recovered  
and applied.

SECT. 4. *And be it enacted,* That the Commissioners heretofore appointed to finish, complete, and repair the said bridge and causeway, or a majority of them, shall, yearly and every year, render and make report of their accounts, proceedings and transactions in the premises, to the Levy Court of the county of Sussex, who shall nominate and appoint, from among the members of the said court, three suitable persons to settle the accounts of the said Commissioners; which three persons so appointed as aforesaid, or any two of them,

Commissioners  
shall annually  
render their ac-  
counts to the Le-  
vy Court;

and in case of  
neglect, shall  
forfeit their of-  
fice.

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them, shall proceed to adjust and settle all the accounts relating to the said bridge and causeway, and shall make their report thereupon to the next Court of Appeal for the said county after their appointment as aforesaid; which accounts and settlement, when so made and adjusted, shall be signed by the said Commissioners and the Committee settling the same, and then shall be received and filed among the records of the said court; and if the said Commissioners, or a majority of them, shall neglect or refuse to make such annual settlement as aforesaid, such neglect or refusal shall be deemed and taken to be a forfeiture of their office or appointment, and others shall be appointed thereto, as is at present by law directed in case of vacancies.

Parts of former  
acts repealed.

SECT. 5. *And be it further enacted*, That such part or parts of the act to which this is supplementally additional, and of the several supplements thereto, as by this act are altered, amended, or supplied, are hereby repealed and made void. (d)

*Passed February 9, 1796.*

C H A P. CXI. c.

1796.

*An ACT to prevent swine running at large in the village of Frederica.*

Limits within  
which hogs shall  
not run at large.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met, That, from and after the first day of May next ensuing the publication of this act, no inhabitant of the said village, or any person or persons whatsoever, shall suffer or permit any of their hogs to run at large within the following bounds or limits: beginning at the fork of two creeks at Frederica landing, and running up a small creek, called Jone-cake-creek, to the mouth of a small branch, which

(d) For which see the several notes to the original act and it's respective supplements enumerated in note (a) before.

which is the division line between the heirs of Jonathan Emerson, deceased, and Peter Lowber; thence up the said branch, on the several water courses thereof, until it intersects a division line of lands of said Peter Lowber and William Berry; thence southerly, with the said division line, until it intersects a division line of the lands of Doctor William M'Kee and William Berry; thence running with the said division line, until it intersects a division line between the heirs of John Dill, deceased, and William Berry, down to Murderkilm-creek, to the corner between the heirs of John Dill and William Berry; thence down the main Murderkilm-creek, with the several water courses thereof, to the first mentioned fork and place of beginning.

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1796.

SECT. 2. *And be it enacted,* That it shall and may be lawful for any person or persons to kill every such hog or hogs permitted or suffered to run at large as aforesaid, within the bounds or limits aforesaid; and the person or persons killing any such hog or hogs, shall, within two hours thereafter, give notice thereof to the owner or owners, or leave notice at his or her dwelling, provided the owner or owners be known and reside within the said village, or within two miles thereof, under the penalty of Four Dollars for every such neglect or refusal.

If running at large, may be killed, and notice thereof given to the owner.

SECT. 3. *And be it enacted,* That if any suit or action shall be commenced, brought, or prosecuted, against any person or persons whatsoever, for any act or thing by him, her, or them done in pursuance of this act, it shall and may be lawful to and for the defendant or defendants in such suit or action, to plead the general issue, and on trial thereof to give the present act in evidence, whereof all justices of the several courts of law are hereby strictly required and enjoined to take notice, and govern themselves accordingly.

Persons sued may plead the general issue, &c.

Passed February 9, 1796.

CHAP.

CHAP.  
CXII.

1796.

*An ACT to revive an act, intitled, "An act for the settlement of the accounts of the Wilmington lottery."*  
Passed February 9, 1796.—Private act.

CHAP. CXIII. c.

1796.

*An ACT to authorise and impower William Woods, administrator of Samuel M<sup>r</sup> Bride, to convey and make over unto Daniel M<sup>r</sup> Bride a certain tract of land, situate in Brandywine hundred, in the county of New-Castle.*  
Passed February 9, 1796.—Private act.

CHAP. CXIV. c.

1796.

*An ACT to authorise James Robinson to erect and maintain a gate on a public road in Duck-creek neck, in Kent county.*  
Passed February 9, 1796.—Private act.

CHAP. CXV. c.

1796.

*An ACT to enable Reuben Anderson to bring certain Negroes into this state.*  
Passed February 9, 1796.—Private act.

CHAP.

C H A P. CXVI. c.

C H A P.  
CXVI.

1796.

An ACT to authorize John Farson, the surviving executor of the last will and testament of Henry Farson, late of Kent county, deceased, to convey and assure unto Abraham Redgrave, the executor of the last will and testament of William Whiteal, late of the county of Newcastle, deceased, a certain tract of land.

Passed February 9, 1796.—Private act.

C H A P. CXVII. c.

An ACT for marking and bounding lands. (a)

1796.

**W**HEREAS many differences, disputes, and law suits have arisen, and may arise, concerning the location of lands, the bounds whereof have or are in danger of decaying, or becoming obsolete and unknown, or held under courses and distances only, contained in the title papers thereof; the direction of the courses varying in most instances, in a length of time, from the former running, from whence the bounds and descriptions of such lands were made in the certificates, grants, and deeds thereof; and the marking and bounding lands, in such manner that their location would remain permanent, fixed, and certain, would prevent disputes, differences, and law suits, quiet possessions, and of course render lands more valuable.

SECTION I. BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That any person seized of an estate in fee simple, fee tail, executory or conditional, or for life, or for term of fifteen years at least, or having an interest in remainder or reversion, in any lands, the bounds whereof have or are in danger of decaying or becoming

What persons may apply for a commission to mark and bound lands.

(a) See "An act prescribing an easy and summary method to perpetuate the testimony of witnesses, relating to the bounds of lands within this government." Chap. 144. s. 26 Geo. II.

C H A P.  
CXVII.  
1796.

What notice  
shall be given.

Proof of notice.

Parties may agree on Commissioners,

otherwise to be appointed by the court.

No Surveyor to be a Commissioner.

becoming obsolete and unknown, or held under courses and distances only as to any of the lines thereof, whether courses and distances only are mentioned in the certificate, grant, or deed, under which such land is held, or by the loss of boundaries called for, the person seized is confined to course and distance, having given three months notice, by advertisements set up at the Court House door of the county, and at five of the most public places in the hundred in which the land lies, of his or her intention to apply to the Court of Common Pleas for a commission to mark, bound, and establish his or her land named or otherwise described in such advertisements, and also giving notice in writing to the persons holding the adjoining lands if residing thereon, or if absent leaving such notice at the house of such person or persons, thirty days before the meeting of the said court of the county where such land lies, and if no person lives on the adjoining lands, giving notice four weeks in one of the Wilmington-news papers, and also giving written notice to the owner or owners of the adjoining lands, or to his or her agent or attorney, if known and in the state, thirty days before the meeting of the court as aforesaid, may apply by petition in writing to such court for a commission to mark and bound such land, agreeably to the directions of this act; and upon proof being made by one or more credible witnesses to the court, that such advertisements were duly set up, and notice given as aforesaid, or upon the other persons interested appearing, the court may issue a commission to any five or three persons, agreed on by all parties, empowering them, or a majority of them, to mark and bound the land mentioned in such commission, according to the directions of this act; but if the persons interested, or any of them, shall not agree on the persons for Commissioners, then the court shall appoint three or five discreet persons, skilled in land affairs, not interested in the lands, or related to either of the parties, to whom a commission shall issue in manner aforesaid: *Provided always*, That no commission shall issue to any person who is a Surveyor of lands.

SECT. 2. *And be it enacted*, That the said Commissioners,

tioners, or a majority of them, shall cause advertisements to be set up at the door of the Court House of their county, and such other public places as they may judge most effectual, notifying the time of their meeting, twenty days at the least before their meeting, and shall meet on the land and proceed in the execution of their commission, agreeably to the notice given them as aforesaid; but before any Commissioner shall proceed in the execution of any such commission, otherwise than by giving notice as aforesaid, and issuing summonses for witnesses, he shall take an oath or affirmation, before some Judge or Justice of the Peace, *That he will settle and adjust the location of the land mentioned in such commission, most agreeably to the true original location thereof, according to the evidence and circumstances which shall be offered or appear to him, without favour, affection, or partiality, according to the best of his experience, abilities and judgment, and will make a true return thereof.*

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1796.

Commissioners to notify the time of their meeting on the land.

Their oath.

SECT. 3. *And be it enacted, That summonses for witnesses may issue out of the court, or by the said Commissioners, or a majority of them; and witnesses summoned shall attend, and be subject to punishment by the court for not attending, in the same manner as on summonses issued by and returnable to the courts; and the Commissioners may cause the land mentioned in such commission, as well as any other lands they may think proper, to be surveyed, by such skilful Surveyor as they may think fit to appoint, or by any two Surveyors chosen by the parties respectively, and may administer an oath or affirmation to the Surveyor, and also to the chain carriers, to execute their respective duty as Surveyor, or chain carriers, as the case may be, faithfully and impartially, according to the best of their skill; and shall also administer an oath or affirmation to every witness, That the evidence which such witness shall give to the Commissioners, in the matter depending before them, shall be the truth, the whole truth, and nothing but the truth; and the said Commissioners, or any two or more of them, may adjourn from time to time as they may think necessary; and they, or the majority of them met and concurring in opinion, may and shall cause the land mentioned in such com-*

Of summoning witnesses.

The land to be surveyed.

Oath of Surveyor or and chain carriers.

Oath of witnesses.

How the Commissioners shall proceed.

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1796.

Their return to  
be recorded.In what cases  
the adjudication  
of the Commis-  
sioners shall be  
conclusive evi-  
dence of the ori-  
ginal location.Provido, in fa-  
vour of infants,  
&c.Where the par-  
ties fix the  
bounds, no  
commission shall  
issue;

mission to be marked in the lines where convenient, and shall mark or set up boundaries where they have or are in danger of decaying, or becoming obsolete and unknown, and at the termination of the lines when course and distance only are given, according to their adjudication and adjustment of the location thereof; and shall return a certificate of such marked bounds, lines, and boundaries, to the court, under their hands; which return shall be received and recorded by the Recorder of such county, in a book by him to be provided for such purposes, unless the court shall otherwise order and direct, on account of any misconduct in the Commissioners.

SECT. 4. *And be it enacted*, That in case no suit or action shall be brought, within seven years next after the recording such return, to call in question the adjudication of the Commissioners the marking and bounding such land as aforesaid; the record thereof shall be conclusive evidence of the original location thereof, both as to the bounds, directions, and termination of the lines; or if the adjudication of the Commissioners shall be confirmed by the verdict of a jury, in any suit as aforesaid; the adjudication of the Commissioners in the point confirmed by the jury, and between the same parties and those claiming under them, or either of them, shall conclude to every intent and purpose: *Provided*, That every infant, married woman, insane person, or person in prison, or beyond sea, and those claiming under them, or either of them, shall have five years after the disability removed, to commence such suit or action as aforesaid; *And provided also*, That the said term of seven years shall not be deemed or taken to run, or commence its operation, against any person or persons while he or they continue in possession of the land in controversy.

SECT. 5. *And be it enacted*, That if the parties interested have fairly agreed, or shall hereafter agree, to settle the bounds, line or lines, of any land, and have fixed, or shall fix, the bounds thereof, or boundaries at the termination of such line or lines, to mark and ascertain as well the direction as extent of the line or lines, no commission shall have power or authority

authority between the same parties, or those claiming under them, or either of them, to vary from the line or lines so settled, agreed, or ascertained; and if any person or persons shall hereafter agree to settle and ascertain the location of their lands, and fix boundaries for the same, such settlement and agreement, and a plot of the land so settled, may, by the consent of the parties interested, be recorded as aforesaid, under the direction of the said court, and when recorded, shall have the same effect and consequences as if the location of such land had been settled by Commissioners as aforesaid.

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1796.

but such agreement, with a plot of the land, may be recorded, and shall be valid.

SECT. 6. *And be it enacted,* That each Commissioner shall be intitled to One Dollar for every day he shall attend, in the execution of such commission; that any person acting as a Surveyor, shall receive such *per diem* allowance as shall be adjudged by the Commissioners, not exceeding Two Dollars for every day he shall necessarily be employed; that each chain carrier shall be intitled to Eighty Cents, and that each witness shall be intitled to Fifty Cents, for each day they shall respectively attend, to be paid by the person at whose request the service shall be performed; and if necessary, an attachment of contempt shall be issued by the court to compel such payment.

Allowance to the Commissioners,

Surveyors,

chain carriers and witnesses.

SECT. 7. *And whereas* it may often happen that divers persons hold parts of one and the same tract of land, in the adjustment and fixing the bounds and outlines of which they are severally interested; and persons holding younger surveys are frequently interested in the location of elder, interfering, or neighbouring surveys. *Be it enacted,* That where divers persons hold separate parts of one and the same tract, that they, or any of them, may have a commission as aforesaid, as well to fix, mark, and bound the whole, as the particular parts thereof; and where any person or persons hold a younger survey, and are thereby interested in the location of interfering or neighbouring elder surveys, they shall be intitled to a commission as aforesaid, to fix, mark, and bound any such elder survey; *Provided,* That the person, or some one of the persons applying for such commission, give notice,

Persons holding separate parts, or a younger survey, may obtain a commission to fix the location of the whole, or of the elder survey.

Provido, as to notice, &c.

in

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in writing, to the person seized of such elder tract, of his or their intention of applying for such commission, three months before they petition therefor, and the person seized of such elder tract shall have neglected to apply for and obtain a commission as aforesaid; and every such commission shall be obtained and proceeded on in like manner, and the execution thereof shall have the same effect, as if the commission had been obtained by a person seized of the land therein mentioned.

Passed February 10, 1796.

C H A P. CXVIII. c.

1796.

An ACT authorizing the division of the real estate of Daniel Polk, esquire, late of Kent county, deceased.  
Passed November 11, 1796.—Private act.

C H A P. CXIX. c.

1796.

A Supplement to the act, intitled, An act for the valuation of real and personal property within this state. (a)

Preamble.

**W**HEREAS the time limited in the act, intitled, *An act for the valuation of real and personal property within this state*, for the returns to be made to the Commissioners of the tax, by the Assessors, of the several valuations of real and personal property in the respective hundreds in this state, will be too short for the due execution of the duties required by the said act,

Time enlarged  
for making re-  
turns by the As-  
sessor.

SECTION I. BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That it shall and may be lawful for the said Assessors, and they are hereby required,

10

(a) Chap. 98. c.

to appear before, and make their said returns to, the Commissioners of the tax in the respective counties, on the first Tuesday of January next, and that the said Commissioners shall meet on the said first Tuesday of January, and then perform the duties required by the said act, instead of the first Tuesday of December next.

C. H. A. P. CXVII.  
1796.

Meeting of the Commissioners

SECT. 2. And be it enacted by the authority aforesaid, That the Commissioners of the Levy Court and Court of Appeals of the several counties, shall meet on the first Tuesday of February next, instead of the first Tuesday of January next, and then perform the duties required of them by the act aforesaid.

and of the Levy Court.

SECT. 3. And be it enacted by the authority aforesaid, That all and every officer and officers, and other persons, required by the said act to appear before, and attend on, the Commissioners of the tax in the several counties and the Commissioners of the Levy Court and Court of Appeals, shall appear before, and attend on, the said Commissioners of the tax and the Commissioners of the Levy Court and Court of Appeals, respectively, at the times above limited; and then and there do and perform all and every act and thing required of him or them, in the same manner, and under the like penalties, as are prescribed in the act to which this is a supplement. (b)

Officers, &c. enjoined to attend at the times above appointed.

Passed November 11, 1796.

C. H. A. P. CXX. c.

An ACT to appoint a Trustee of the Loan Office for the county of Sussex.

1797.

WHEREAS the place of the Trustee of the Loan Office for the county of Sussex, hath become

Preamble.

(b) See after chap. 125. c. wherein all the preceding provisions are altered and supplied.

C H A P.  
CXX.

1797.

George Hazzard  
appointed Trustee.

become vacant by the death of Doctor Joseph Hall; (a) *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That George Hazzard, of the said county of Sussex, be and he is hereby appointed Trustee of the Loan Office for the said county of Sussex; and that the said George Hazzard, upon giving bond and taking the oath or affirmation, required by the laws of this state to be given and taken respectively by a Trustee of the said office, shall have all the power and authority, be intitled to the same rewards, and be liable to the same penalties, as a Trustee of the Loan Office in any of the counties of this state can have, or be liable to, by the laws thereof.*

*Passed January 13, 1797.*

C H A P. CXXI. c.

1797.

*An ACT to enable Woodman Stockley to erect a mill dam across Roads's creek, in Sussex county, and for other purposes.*

*Passed January 17, 1797.—Private act.*

C H A P. CXXII. c.

1797.

*An ACT to vest certain lands in New-Castle county in William Aull, notwithstanding his being an alien at the time of their purchase.*

*Passed January 17, 1797.—Private act.*

CHAP.

(a) For his appointment see chap. 113. b.

... C H A P. CXXIII. c.

C H A P. CXXIII.

1797.

An ACT to enable the owners and possessors of a certain tract of meadow, marsh, and cripple, known by the name of the Fern Hook Marsh, in the hundred and county of New-Castle, situate on the south side of Christiana creek, to repair, support, and maintain the banks, trunks, and sluices belonging to the same.

Passed January 17, 1797.—Private act.

C H A P. CXXIV. c.

An ACT concerning Negro and Mulatto slaves.

1797.

**W**HEREAS it is necessary for the security of Negro and Mulatto slaves, whose masters or mistresses may intend to manumit them, and also for the safety of persons holding such property, that the mode of manumitting such slaves should be rendered certain, and not depend upon verbal contracts or manumissions, which are often misunderstood and forgotten;

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That from and after the passing of this act, no Negro or Mulatto slave shall be set free and at liberty; nor discharged from the service of his or her master or mistress, or masters or mistresses, by the adjudication or decree of any court whatsoever, in virtue or in consequence of any verbal contract or agreement hereafter made by such master or mistress, or masters or mistresses; but that every such contract and agreement shall be null and void, and shall not be binding or obligatory upon such master or mistress, or masters or mistresses.

Slaves shall not be set free by verbal contracts.

SECT. 2. *And be it enacted by the authority aforesaid,* That all and every manumission of any Negro or Mulatto slave shall be in writing, and signed and sealed by the master or mistress, or masters or mistresses, manumitting such slave, and shall be attested and subscribed

How manumissions shall be executed;

CHAP.  
CXXIV.

1797.

shall be proved  
and recorded.

subscribed in the presence of such master or mistress, or masters or mistresses, by one or more competent and credible witnesses, or else such manumission shall be utterly void and of none effect. (a)

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

(a) For existing laws of the state relating to the manumission of Negro or Mulatto slaves, see chap. 188. a. sects. 2, 4,—chap. 145. b. sects. 3, to 8, inclusive—chap. 22. c. sect. 4—also this chap. 124. c.

hand and seal of his office, the day he recorded the same, and the name of the book and page wherein it is recorded.

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SECT. 4. *And be it enacted by the authority aforesaid,* That no action shall be brought whereby to charge any person or persons upon any agreement or contract for the liberation or manumission of any Negro or Mulatto slave, unless such agreement or contract shall be in writing, and signed and sealed by the party making the same, and shall be attested and subscribed by one or more competent and credible witnesses. (b)

Actions shall not be brought, unless, &c.

SECT. 5. *Provided nevertheless, and be it enacted by the authority aforesaid,* That any Negro or Mulatto slave, who hath been or shall be brought into this state contrary to the intent and meaning of an act of the General Assembly, intituled, *An act to prevent the exportation of slaves, and for other purposes;* and any Negro or Mulatto slave who hath been or shall be exported, or sold with an intention for exportation, or carried out for sale from this state, contrary to the intent and meaning of an act, intituled, *An act to punish the practice of kidnapping free Negroes and free Mulattoes, and for other purposes;* shall be, and are hereby declared free; any thing in this act to the contrary notwithstanding: And that nothing in this act shall prevent any master or mistress from manumitting any Negro or Mulatto slave by his or her last will.

In what cases slaves shall be free.

Chap. 145. b.

Chap. 22. c.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the security required by the laws of this state to be given by any master or mistress on liberating or manumitting his or her slave, shall be given according to the true intent and meaning of such laws; any thing herein contained to the contrary notwithstanding. (c)

Security to be given by persons manumitting.

SECT. 7. *And be it further enacted by the authority aforesaid,* That if any person or persons shall conceive him, her, or themselves aggrieved by any discharge, adjudication, decree or sentence, made, ordered, gi-

Of appeals from the Common Pleas.

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ven,

(b) This sect. hath reference to sect. 4, of chap. 170. a.

(c) For those laws see chap. 188. a. sects. 2, 4—and chap. 145. b. sect. 6.

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Slaves attempt-  
ing to commit  
rapes on white  
women, how  
tried and pun-  
ished.How tried and  
punished for af-  
fault and batte-  
ry.

Proviso:

ven, or rendered by the Judges of the Court of Common Pleas, on the hearing of any petition for freedom, preferred to them by any person held or detained as a servant or slave, it shall and may be lawful for such person or persons to appeal from the discharge, adjudication, decree, or sentence of the said court, to the High Court of Errors and Appeals: (d)

SECT. 8. *And be it enacted*, That if any Negro or Mulatto slave, within this state, shall attempt to commit a rape on a white woman or maid, he shall be tried before two Justices of the Peace, for the county where such offence shall be committed, and six substantial freeholders to be summoned for that purpose by warrant under the hand and seal of the said justices, directed to some Constable of the said county; which said freeholders shall be sworn or affirmed for that purpose by the said justices; and if duly convicted thereof, he shall be adjudged by the said justices to be publicly whipped, on his bare back, with thirty-nine lashes well laid on, and shall stand in the pillory for the space of one hour with both of his ears nailed thereto, and, at the expiration of the hour, he shall have the soft part of both of his ears cut off: (e)

SECT. 9. *And be it further enacted by the authority aforesaid*, That if any Negro or Mulatto slave shall assault and beat any other Negro or Mulatto slave, or any free Negro or free Mulatto, he, she, or they so offending, shall be tried before two Justices of the Peace for the county where such offence shall be committed; and if duly convicted thereof, he, she, or they shall be adjudged by the said justices to be publicly whipped, on his, her, or their back, with any number of lashes not exceeding thirty-nine, well laid on: *Provided nevertheless*, That it shall and may be lawful for the said justices to adjudge and order a fine of any sum not less than One Dollar, nor exceeding Twenty Dollars, to be received by the officer ordered to execute the sentence of the said justices, from the master or mistress, or masters or mistresses of such slave;

(d) This sect. hath reference to chaps. 77. a—139. a—170. a.

(e) This sect. hath reference to sect. 5, of chap. 13. a.

slave; and in case of the payment of such sum of money so adjudged and ordered, the said Negro or Mulatto slave shall not be whipped; which sum so ordered, adjudged, and paid to the said officers executing such sentence, shall by him be paid over to the State Treasurer, for the use of the state. (f)

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SECT. 10. *And be it enacted by the authority aforesaid,* That so much of all and every of the laws of this state as are hereby altered and changed, are hereby repealed, made null and void. (g)

Repeal.

Passed January 18, 1797.

C H A P. CXXV. c.

*An additional Supplement to the act, intitled, An act for the valuation of real and personal property within this state. (a)*

1797.

**W**HEREAS it hath become necessary, in conformity with the alterations which have taken place in this state in the meeting of the Legislature, and in the times of holding the courts of law, that the Levy Court in the several counties in this state should meet at such season as will better correspond with the meetings of other public bodies;

Preamble.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That the Commissioners of the Levy Court shall meet on the first Tuesday of February in every year, at the Court Houses in the respective counties; and shall then and there proceed to calculate and settle the public debts and charges which now are, or hereafter shall be, chargeable upon the said respective counties; and shall settle and adjust the sum and sums of money which ought of necessity

Annual meeting  
of the Levy  
Court to settle  
the public  
debts, &c.

TO

(f) This sect. hath reference to sect. 3, of chap. 182. a.

(g) For which see the respective references set down at the preceding sect. of this act.

(a) Chap. 98, c. passed Feb. 9. 1796.

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to be raised yearly to defray the charges of building and repairing court houses, prisons, work houses, and poor houses, and for maintaining the poor and impotent inhabitants of the respective counties in their several poor houses; and for laying out, repairing, amending, supporting, and erecting bridges, causeways; state roads, and other public roads and common highways, which are chargeable upon the counties, with such other uses as may redound to the public service and benefit of the said counties respectively; and shall also ascertain and set down such competent sum and sums of money as shall be yearly applied toward every of the said duties and services, together with such sum and sums of money as may be needful to make good deficiencies in county rates assessed, and not yet collected, and to enforce the collection thereof as need may require. (b)

When the court shall meet to hear appeals, &c.

Commissioners of the tax and Assessors to attend.

Penalty for neglect.

SECT. 2. *And be it enacted*, That the Commissioners of the Levy Court and Court of Appeal, in each county respectively, shall meet on the first Tuesday of March next, and on the first Tuesday of March in every succeeding year, for the purpose of receiving the returns of the valuations of the Assessors, and assessments made by the Assessors and Commissioners of the tax, to be by them returned agreeably to the directions of the act to which this is an additional supplement, and for the purpose of remedying the complaints of all and every person or persons who may be unequally or over rated, according to the directions of an act of the General Assembly of this state, intitled, *An act for raising county rates and levies*; and the Commissioners of tax in each county and the respective Assessors, and each and every of them, shall on the days aforesaid, and at all times for hearing of appeals, give daily attendance at the Levy Court and Court of Appeal of his or their county respectively, under the penalty of Twenty Dollars for every neglect or refusal, to be recovered by indictment in the Court of General Quarter Sessions of the Peace and

Gaol

(b) This sect. hath reference to sect. 3, of chap. 102 2.

Gaol Delivery, to be applied to the use of the state. (c)

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SECT. 3. *And be it enacted,* That the Commissioners of the tax, in each county respectively, shall hereafter meet on the first Tuesday of January annually, at which times the Assessors of each hundred shall attend on the said Commissioners, and return to them in writing their several valuations of real and personal property in their respective hundreds, according to the directions of the act to which this is a supplement; and after the assessments and valuations of the real and personal property within each county shall be arranged by the said Commissioners, agreeably to the directions of the act to which this is a supplement, the Clerk of the Peace in each county shall set up, or cause to be set up, and published in the most public places in the respective hundreds of the said counties, on or before the first day of February in every year, in writing, under his hand, an alphabetical list of each person whose property is valued, the number of acres of land and their aggregate valuation, the number of slaves and their aggregate valuation, the rate of the person, and the amount of the valuation of all other their personal property, and the amount of the valuations of the whole real and personal property of every person within the respective hundreds, together with notice of the day appointed by this act for holding the Court of Appeal; and for every neglect or refusal so to do, he shall forfeit and pay Twenty Dollars, to be paid to the State Treasurer for the use of the state, to be recovered by indictment in the Court of General Quarter Sessions of the Peace in each county. (d)

When the Commissioners of the tax shall meet annually.

Clerks of the Peace to publish lists, &c.

Penalty for neglect.

SECT. 4. *And whereas* it hath been represented to this General Assembly, that the Assessors in the several hundreds of the respective counties of this state have not yet made and completed their valuations of real and personal property, agreeably to the directions of

Meeting of the Commissioners and Assessors to complete the valuations according to the original act.

the

(c) This sect. hath reference to sect. 8, of chap. 102. a—to sect. 28, of chap. 98. c. and also sect. 17.

(d) This sect. hath reference to sects. 18, 19, of chap. 98. c.

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Clerk of the  
Peace to publish  
lists, &c.

Commissioners  
may adjourn, &c.

the act to which this is a supplement, *Be it therefore enacted by the authority aforesaid,* That the time of making such valuations shall be and is hereby extended to the first Tuesday of February next; at which time the Commissioners aforesaid shall meet at the Court Houses in their respective counties, and the said Assessors shall also then and there attend on the said Commissioners as aforesaid, and return to them as aforesaid their several valuations of real and personal property; and the said Commissioners shall then arrange the said valuations, and do and perform every act and thing required of them under the like penalties and in as full and ample manner as the same were required of them, under the like penalties and in as full and ample manner as the same were required of them to be done and performed on the first Tuesday of December; and the Clerk of the Peace in each county shall set up and publish in manner aforesaid, immediately after such arrangements, alphabetical lists as before directed, with notice as aforesaid, and for neglect or refusal so to do, to be punished as aforesaid. And in case the said Assessors shall not have completed their several valuations by the first Tuesday of February next as aforesaid, the Commissioners of the tax in each county respectively shall and may adjourn their sitting, from time to time from the said first Tuesday of February, until the said Assessors shall have made and returned their said several valuations in manner aforesaid, provided that such adjourned meeting shall not be extended beyond, nor held after, the last Tuesday of February next; and in case the said Commissioners shall adjourn their said meeting until the last Tuesday of February next, the Commissioners of the Levy Court and Court of Appeal for the present year, shall meet on the last Tuesday of March next, and then and there do and perform the services required of them by this act, and the act to which this is a supplement. (e)

SECT. 5. *And be it enacted by the authority aforesaid,* That all and every officer and officers, and other persons

(e) This sect. hath reference to sects. 11, to 28, inclusive, of chap. 98. c. and to chap. 119. c.

sons required by the act to which this is an additional supplement, to appear before and attend on the Commissioners of the tax and the Commissioners of the Levy Court and Court of Appeals respectively in the several counties, shall appear before, and attend on, the said Commissioners of the Levy Court and Court of Appeal respectively, at the places and times required by this act, and then and there do and perform all and every act and thing required of him or them in the same manner and under the like penalties, to be recovered as are prescribed in the act, intitled, *An act for the valuation of real and personal property in this state.* (f)

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Officers enjoined to attend the Commissioners, &c.

SECT. 6. *And be it enacted,* That the Clerk of the House of Representatives shall, immediately after the passing of this act, furnish the Clerks of the Peace in each county with a copy of this act, for the better information of the Commissioners of the Levy Court and Court of Appeal, the Commissioners of the tax, and the several Assessors in each county; to each of whom the Clerks of the Peace respectively shall give notice in writing of this act, and the provisions herein contained, so far as the same regards them respectively.

Notice to be given of this act, &c.

SECT. 7. *And be it enacted by the authority aforesaid,* That the provisions contained in the twenty-fifth and twenty-sixth sections of the act to which this is an additional supplement shall be, and is hereby extended to, and shall comprehend, be applied to, and include, all county rates and levies, taxes for building and repairing court houses, prisons, work houses, and poor houses, and for maintaining and supporting poor and impotent persons; for erecting, repairing, and supporting bridges, causeways, and roads, and to all and every tax for the support of government; and to all and every sum of money now or hereafter to be granted, struck, raised, laid, assessed, levied, or collected by any law of this state.

Extension of the provisions in chap. 98. sects. 25 and 26.

SECT. 8. *And be it enacted,* That from and after the first day of September next, that every freeman above the age of twenty-one years shall be rated, in addition to his assessment, a personal tax for a capital not exceeding

Of a personal tax.

(f) This sect. hath reference to sects. 11. 12. 18. 19. 21. 22, of chap. 98. c.

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ceeding One Thousand Pounds nor less than Fifty Pounds, at the discretion of the Assessors; and the Commissioners of the Levy Court and Court of Appeals may, at their discretion, order any person's name to be struck off the levy list that shall request it. (g)

Passed January 19, 1797.

C H A P. CXXVI. c.

1797.

*A Supplement to the act, intituled, An act for the better regulation of the roads in the county of Kent. (a)*

Preamble.

**W**HEREAS the duties required of the Commissioners of the roads in some of the hundreds of Kent county, have not been performed agreeably to the directions of the act of the General Assembly, intituled, *An act for the better regulation of the roads in the county of Kent.*

Commissioners  
authorized to  
lay out roads

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met; That William Denny, John Cowgill, and Daniel David, Commissioners for Duck-creek hundred; and Jonathan Needham, Clayton Cowgill, and Thomas Lamb, Commissioners for Little-creek and Dover hundreds; and the Commissioners of the roads named in the said act, and appointed by the Levy Court and Court of Appeal for Murderkill hundred; shall forthwith proceed to perform the duties required of the Commissioners of the roads for the several hundreds aforesaid, agreeably to the true intent and meaning of this act and of the said act of Assembly to which this is a supplement, who shall have as full and ample powers to lay out, and do and perform every act and service required of the Commissioners of the roads in the several hundreds in Kent county, and be compensated in the same manner, as the Commissioners named in the act to which this is a supplement had,*

(g) This sect. hath reference to sect. 32. of chap. 98. c.

(a) Chap. 99. c.

had, and shall be liable to the pains and penalties prescribed in the said act, for neglecting or refusing to perform the same. (b)

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SECT. 2. *And whereas* it has been represented to this General Assembly, that the Commissioners of the roads of Mispillion hundred have reviewed the roads in the said hundred, and laid the same out as required by the said act of the General Assembly; and that many of the citizens in that hundred are much dissatisfied with the proceedings of the said Commissioners, *Be it therefore enacted by the authority aforesaid,* That Richard Dalliner, William Burrowes, and Isaac Jones are hereby authorized, empowered, and required to review the roads laid out by the Commissioners aforesaid in Mispillion hundred, and lay out the same through the said hundred, touching at the several places in the said hundred named in the said act, in such manner as shall be advantageous to the public and least injurious to individuals, without favour or respect to any person or persons whatsoever, and to employ such Surveyor or Surveyors, labourers and workmen, as they think necessary in plotting and laying out the same; and that the persons herein last named, or any two of them, shall make a return thereof to the Judges of the Court of Common Pleas, at the next court to be held at Dover for the county aforesaid, describing the said roads in writing, under their hands, with courses and distances, with a fair map or plot of the same. (c)

Roads in Mispillion hundred to be reviewed,

and return to be made to the Common Pleas,

SECT. 3. *And be it enacted by the authority aforesaid,* That the Clerk of the Peace for the said county of Kent shall, at the next Court of General Quarter Sessions of the Peace and Gaol Delivery to be holden at Dover as aforesaid, deliver to the judges of the said court the map or plot which hath already been, or may be, made by the Commissioners of the roads for Mispillion hundred named in the said act to which this is a supplement; and the said judges shall and may then and there take both of the aforesaid returns into their consideration, and establish, ratify, and

Maps to be laid before the court.

Powers of the judges in establishing the roads.

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confirm

(b) This sect. hath reference to sect. 4, of chap. 99. c.

(c) These sects. 2, 3, have reference to sect. 4, of chap. 99. c.

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When established to be recorded

Reviewers to give notice, &c.

How the road from Little-creek to Dover shall be laid out.

To be deemed state roads.

confirm either of them, or such parts of both of them as will make complete roads through the said hundred, in such manner and form as to them shall seem best; and shall cause the maps and returns aforesaid, or one of them, to be altered, and the courses and distances of the roads so established and confirmed to be described agreeably to the opinion and judgment of the said court; and the map of the said roads, so confirmed and established, shall be then delivered to the Clerk of the Peace for the said county of Kent, which shall be entered on record in his office, together with the returns, maps, and plots of the roads laid out by the Commissioners in the other hundreds of the said county: And the Commissioners and Reviewers in the several hundreds aforesaid are hereby enjoined to regard the convenience of individuals as much as the nature of the case, and the public advantage will admit. And the said Commissioners and Reviewers are hereby required to give notice, by advertisement or otherwise, when the same can be done without delay, to the inhabitants along or through whose lands they are about to lay out the said roads, or any of them, in order that they may obtain all possible information upon the subject. (c)

SECT. 4. *And be it enacted,* That it shall and may be lawful for the Commissioners of the roads for Little-creek and Dover hundreds to lay the road leading from Little-creek to Dover; so as to avoid and not touch at the place where the landing upon the said creek is now situate; but to continue the road leading from the fast landing, from the place where the road leading from Dover shall intersect it, until the said fast landing road shall reach Little-creek, if it shall appear expedient and of public advantage so to lay out said road. (d)

SECT. 5. *And be it enacted by the authority aforesaid,* That the roads so recorded, established, ratified, and confirmed as aforesaid, shall from thenceforth be deemed and taken to be the state roads. (e)

SECT. 6. *And be it enacted by the authority aforesaid,* That

(d) This sect. hath reference to sect. 1, of chap. 99. c.

(e) This sect. hath reference to sect. 2, of said chap. 99. c.

That the Levy Court and Court of Appeals in the county aforesaid, in their nomination and appointment of Overseers of the roads, causeways, and bridges, according to the directions of the act to which this is a supplement, shall specify the road or roads, or the particular parts of their respective hundreds, for which each and every Overseer as aforesaid shall be appointed, and it shall not be lawful for the Overseers to apportion the roads, bridges, and causeways among themselves: And a warrant, under the hand of the Clerk of the Peace and the seal of his office, specifying therein the road or roads, or the particular parts of their respective hundreds, for which each and every Overseer as aforesaid shall be appointed, shall be made out and delivered to every Overseer as aforesaid, by the Clerk of the Peace, on or before the first day of March next, and on or before the first day of March in every year. And in case the Levy Court and Court of Appeals shall not make a quorum on the first Tuesday of February in every year, at which times the Overseers of the roads, causeways, and bridges in the said county, shall be annually nominated and appointed as in the said act is directed, the said Levy Court and Court of Appeals are hereby required to meet as soon after as possible, and make the appointments as aforesaid; and all and every appointment of Overseers as aforesaid, which hath been made since the first day of January in this present year, shall be deemed good and valid. (f)

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Roads, &c. assigned to each Overseer to be specified.

Warrants to be issued.

When the Levy Court shall appoint Overseers.

SECT. 7. *And whereas* it may be necessary, after the roads which may be laid out agreeably to this act, and to the act to which this is a supplement, shall be established, ratified, confirmed, and entered on record as aforesaid, that additional Overseers of the roads, causeways, and bridges in the hundreds respectively, should be appointed, or that alterations should be made in the then existing appointments suitable to the roads so established, ratified, confirmed, and entered of record; *Be it therefore enacted by the authority aforesaid,* That the Levy Court and Court of Appeals shall

may add to their number, or make alterations, &c.

(f) These two sects. have reference to sects. 8, 11, of chap. 99: c.

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shall meet on the Saturday of the second week in which the Court of Common Pleas shall be next held at Dover, for Kent county aforesaid, and shall then appoint such additional Overseers as aforesaid; and make such alterations in the then existing appointments of Overseers as aforesaid, as shall be suitable to the roads established, ratified, and confirmed in such hundreds as aforesaid; and shall also specify more particularly than hath hitherto been done, if it be necessary, the road or roads, or the particular parts of the roads, in the respective hundreds, for which each and every Overseer hath been appointed as aforesaid: (f)

When the power of the Commissioners shall cease.

SECT. 8. *And be it enacted by the authority aforesaid,* That from and after the establishment, ratification, confirmation, and recording of the roads as aforesaid, and from and after the confirmation or rejection, by the Court of General Quarter Sessions of the Peace, of the returns of such roads as ought to be kept up and supported by private persons, agreeably to the twenty-sixth section of the act to which this is a supplement, the authority and power of the Commissioners of the roads in the said hundreds respectively shall cease and determine. (g)

How the roads, &c. shall be supported, and damages paid.

SECT. 9. *And be it enacted by the authority aforesaid,* That the state roads aforesaid, and all other public roads and common highways, bridges, and causeways, now laid out, or hereafter to be laid out, within the said county of Kent, shall be laid out, erected, maintained, and supported at the common expense of Kent county aforesaid; and all damages, together with the expences and charges of laying out, returning, and recording the state roads aforesaid, shall be paid by the said county of Kent: And the Levy Court and Court of Appeal of the said county are hereby authorised, empowered, and required, at a court to be holden on the first Tuesday of February next, and on the first Tuesday of February annually for ever after, to ascertain and estimate such sums of money as shall be sufficient to lay out, open, repair, amend, erect, and support the state roads aforesaid, and all other

Levy Court to assess the taxes for the same.

(g) This sect. hath reference to sects. 25, 26, of chap. 99. c.

other public roads and common highways, bridges, and causeways as aforesaid; and thereupon, with the assistance of the Clerk of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the assessment to be made agreeably to the act for the valuation of real and personal property within this state, clear of all charges of collection, sufficient to lay out, erect, maintain, and support the state roads aforesaid, all other public roads and common highways, bridges, and causeways within the said county of Kent; and the Commissioners of the Levy Court shall issue their warrant to the Collector of each hundred, or other person authorized to collect county rates and levies, annexed to a duplicate of the said assessment certified under the hand and seal of the Clerk of the Peace, authorizing and requiring him forthwith to demand and receive from the persons rated in his assessment list, the sum *per* Pound which the said Commissioners of the Levy Court shall ascertain to be necessary for the purposes aforesaid; and the said Collectors, or other persons authorized to collect the county rates and levies, shall proceed without delay to collect, and, in case of neglect or refusal of the said persons to pay, to levy and recover the same in the manner directed by an act of Assembly, intitled, *An act for raising county rates and levies*; and the said Collectors respectively, or other person authorized to collect county rates and levies, shall respectively settle and account, with the County Treasurer, for a moiety of the sum to be collected, on or before the first Tuesday in June in this and every succeeding year, and for the residue on or before the first Tuesday of December thereafter; and the Clerk of the Peace shall certify to the said County Treasurer, the names of the several persons authorized to collect the said road taxes, and the sums they have to collect respectively, within twenty days after they shall be appointed; and the said rate shall be ascertained, and the said County Treasurer shall open an account against each of them for the several sums of money they have to collect, and credit them with the several sums of money by them paid; and in case of neglect to pay within the respective times appointed, the said County

Treasurer

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Summary mode  
of collection.

When the Col-  
lectors shall set-  
tle, &c.

Treasurer to be  
furnished with  
accounts, &c.

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Judgments on  
Collectors bonds  
to remain cau-  
tionary.

Treasurer is hereby authorized and required to sue their bonds respectively; and the said County Treasurer is to lay an account of his transactions relative to the said taxes, before the Levy Court and Court of Appeals on the first Tuesday of January in every year; and in case any of the said bonds shall be put in suit, and judgment shall be obtained, execution shall issue for the sum due on the hundred tax, and the said judgment shall nevertheless remain in full force for the purpose of issuing execution or executions for any other sum or sums of money, which the said person was authorized to collect and pay; and the bonds of the persons authorized to collect the county rates and levies for the present year, in the said county of Kent, are hereby declared to be good and available for any money which may come into their hands respectively by virtue of this act; and the bonds of persons authorized hereafter to collect the road taxes shall contain a condition for the true observance of this act. (b)

SECT. 10. And in order that no delay may happen in grubbing, clearing, and opening the said state roads, or in opening, repairing, amending, erecting, and supporting all other public roads and common highways, bridges, and causeways within the said county (except the bridges hereinafter mentioned);

By whom orders  
shall be drawn  
for the repara-  
tion of the roads,  
&c.

Be it enacted by the authority aforesaid, That the Commissioners of the Levy Court and Court of Appeal for the hundreds of Duck-creek, Murderkill, and Mispillion respectively, and the Commissioners of the Levy Court and Court of Appeal for Little-creek and Dover hundreds jointly, are hereby empowered and required, at their discretion, to draw an order or orders on the Collectors of the taxes for repairing the roads in the hundreds aforesaid, for the payment of the Overseer or Overseers of the roads in the respective hundreds, his and their labourers and workmen; and the Collectors respectively are hereby authorized and required to pay the said order or orders, and such order and payment shall be a sufficient voucher for them

(b) This sect. hath reference to sects. 5, 10, 19, 20, of chap. 99. c.

them on settlement of their accounts; and the said Commissioners respectively are hereby required to keep a book in which shall be entered an account of all orders by them drawn, the time when, and in whose favour, and shall lay the same before the Levy Court and Court of Appeal at their annual meeting in February, to be by them filed among the papers and proceedings of the said court: And if the money to be collected by the Collector of said taxes in any hundred shall not be sufficient for opening, repairing, amending, erecting, and supporting the said roads, bridges, and causeways in his particular hundred, the Commissioners respectively or jointly as aforesaid, and the Commissioners of Duck-creek, Murderkill, or Mispillion hundreds respectively, or Little-creek or Dover hundreds jointly, shall, as often as occasion may require, draw an order or orders upon the Collector of the taxes aforesaid of such other hundred, for such sum or sums of money as aforesaid, to be applied to the purposes aforesaid in such hundred in which such deficiency shall be as aforesaid, which order or orders shall be paid, received as vouchers, and entered in books as aforesaid; and in the like manner monies may be applied to each and every hundred as aforesaid. (i)

C H A P.  
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How money shall be applied to hundreds where deficiencies happen.

SECT. II. *And be it enacted,* That if any Overseer or Overseers, appointed by the Levy Court and Court of Appeal as aforesaid, shall refuse to perform the duty required of him as Overseer as aforesaid, the Commissioner or Commissioners of the Levy Court and Court of Appeal for the hundred in which such Overseer or Overseers may reside, shall appoint some other person or persons Overseer or Overseers as aforesaid, in the place of such person or persons appointed Overseer or Overseers by the Levy Court and Court of Appeal, or by the Commissioners thereof in any hundred as above directed, such person or persons shall forfeit Twenty Dollars, to be recovered and applied

Vacancies of Overseers how supplied.

Penalty for refusal to serve.

AS

(i) This sect, hath reference to sect. 12, &c. of chap. 99. c.

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What bridges  
shall be support-  
ed by the coun-  
ty.

Breadth of roads,  
bridges, &c.

Overseers to  
keep them in  
repair.

as is directed in the act to which this is a supplement. (k)

SECT. 12. *And be it enacted,* That Warrel's bridge, Martin's bridge, Jones's bridge, the bridges across Murderkill-creek, near Frederica, shall be supported, maintained, and repaired at the common expense of Kent county, by the Levy Court and Court of Appeal of said county, from time to time as need may require. (l)

SECT. 13. *And be it enacted,* That all state roads, laid out according to the directions of the act to which this is a supplement, shall be of the breadth of forty feet, thirty feet whereof shall be grubbed and cleared; and that all other public roads and common highways in the said county shall be of the breadth of thirty feet, twenty feet whereof shall be grubbed and cleared as aforesaid; and every causeway in any state road, or other public road and common highway, shall be of the breadth of fifteen feet; and every bridge in any state road, or other public road and common highway, shall be of the breadth of twelve feet, and railed on each side at least four feet high: And the Overseers of the roads, causeways, and bridges in the several hundreds in the said county, shall, as soon as conveniently may be, grub, clear, and open the roads to be laid out by this act and the act to which this is a supplement, and all other public roads and common highways within the said county, and shall erect and repair the bridges and causeways over all the aforesaid roads (except the bridges before named;) and if any such Overseer or Overseers shall neglect or refuse, as soon as conveniently may be, to grub, clear, and open the roads aforesaid, or shall after permit or suffer any part of the said roads, or any bridges or causeways over the same, (the bridges before named excepted) within their respective hundreds, be impeded by any nuisance whatsoever, or to remain impassable, incumbered, obstructed, or un-repaired, for the space of fifteen days together, every such

(k) This sect. hath reference to sect. 8, of chap. 99. c.

(l) This sect. hath reference to sect. 6, of chap. 131. a.

such Overseer or Overseers for every such neglect; being duly convicted thereof in the Court of General Quarter Sessions of the Peace and Gaol Delivery, shall be fined Fifteen Dollars, to be paid to the Collector of said hundred towards defraying the charge of repairing the roads within the same. (m)

CHAP.  
CXXVI.

1797.

Penalty for neglect.

SECT. 14. *And be it enacted by the authority aforesaid,* That every person or persons who now doth, or hereafter shall, occupy any house, mill, or land which now is or shall be benefited, improved, or rendered valuable by reason of any ditch, drain, mill race, mill pond, or other water course, cut, leading, or lying upon or running through or across any state road, or other public road and common highway within the said county, or by reason of any mill dam over, along, or upon which, any state road, or other public road or highway, now is or hereafter shall be laid, run, pass, or lead, shall make, support, maintain, and repair a sufficient way over such ditch; drain; mill race, mill pond, or other water course or mill dam, for the safe and convenient passage of men, horses, carts, waggons, and other carriages, under the penalty of Fifteen Dollars for each offence, to be recovered by indictment, and paid to the Treasurer of the county towards defraying the charge of repairing the roads in said county. (n)

In what cases owners of mills, &c. shall support a public way.

SECT. 15. *And be it enacted,* That the fifth, ninth, eleventh, twelfth, twentieth, twenty-fourth, and twenty-fifth sections of the said act, intituled, *An act for the better regulation of the roads in the county of Kent,* and so much of the fourth, eighth, tenth, thirteenth, and nineteenth sections of the said act, as are hereby altered or supplied, shall be and are hereby repealed, made null, and void; and all other parts of the said act shall be and remain in full force. (o)

Parts of chap. 99. repealed.

SECT. 16. *And be it enacted by the authority aforesaid,*

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That

(m) This sect. hath reference to sects. 2, 9, 11, 24, of chap. 99. c—and to sects. 4, 5, of chap. 131. a.

(n) This sect. hath reference to sect. 18, of chap. 99. c—and to sect. 8, of chap. 131. a.

(o) For which see the notes set down at the said respective sections in said chap. 99. c—as the notes to the preceding sects. in this act.

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1797.

Road from Berry  
Town continued.

That the Commissioners of the roads for Murderkill hundred are hereby authorized and required, in laying out the road from Berry Town to Bedwell Maxwell's, to continue the said road to Joseph Barker's landing, in such manner as they may think best for the public interest, and with the least damage to the owners of the lands throughout which the same may run. (p)

*Passed January 20, 1797.*

C H A P. CXXVII. c.

1797.

*An ACT for regulating the ferry over Christiana-creek, in New-Castle county. (a)*

Preamble.

**W**HEREAS public convenience, and the better accommodation of individuals, require that sundry new regulations should be adopted in the establishment of the said ferry.

Commissioners  
appointed to erect  
wharves,  
&c.

SECTION I. *BE it enacted by the Senate and House of Representatives of the state of Delaware, That Jacob Broom, Major Peter Jaquett, and William Stedham be, and they are hereby appointed Commissioners for the purposes hereinafter mentioned; and they, or any two of them, are hereby authorized and empowered, immediately after the publication of this act, to make, or cause to be made and erected, a sufficient wharf and landing on both sides of the said Christiana-creek, at the places on each side of the said creek where the road, now leading from Wilmington to the town of New-Castle, runs to the said creek; and to keep and maintain the same in good repair, suitable for footmen, horses, and carriages to pass and repass; and also to provide and maintain good and substantial ferry boats and men to be kept for the use of the said ferry.*

SECT.

(p) This sect. hath reference to sect. 1, &c. of chap. 99. c.

(a) For a preceding act with a similar title, and to be futuramente repealed by this act, see chap. 63. c. before.

SECT. 2. *And be it further enacted,* That, as soon as the said wharves and landings shall be erected and shall be in sufficient repair, and the said ferry boats shall be provided, it shall and may be lawful for the Commissioners aforesaid, or any two of them, to contract with one or more persons for the renting and keeping the said ferry, in such times, and on such terms, as they shall approve: *Provided,* That the person or persons who shall contract for the keeping and renting the said ferry shall, before he or they enter on the execution of such contract, give bond to the said Commissioners, with one sufficient surety, in the sum of Four Hundred Dollars to be paid to them or their successors, with condition thereto, *That he or they will repair and keep in good order, from time to time as need may require, a sufficient wharf and landing on both sides of the said Christiana-creek, and will maintain and keep, for the use of and at the said ferry, such good and sufficient boats and men as shall from time to time be needful for the passage of all persons, horses, cattle, carriages, and goods which are to be carried over the said creek, and shall give constant and due attendance on the said ferry, and discharge all further duties required by this act.*

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and to rent the ferry.

Lessees to give bond.

Condition thereof.

SECT. 3. *And be it further enacted,* That the cost and charges of repairing, erecting, and maintaining the said ferry, be and the same shall be discharged by the county of New-Castle, to be levied, raised, and collected as other county rates and levies, under the direction and by order of the Levy Court for the county aforesaid; and the said Commissioners, and their successors, are hereby required to account and settle with the Levy Court of the said county of New-Castle yearly and every year, and then to pay to the County Treasurer the balance of public money in their hands; and in such settlement, the said court shall make such allowances to them as shall be estimated a just and reasonable compensation for their time and trouble; and at such annual settlement, the said court shall either appoint other Commissioners to discharge the duties specified in this act, or continue those of the preceding year, as they shall think best.

Costs of reparation, how discharged.

Commissioners to settle annually;

their commissions.

Future appointments.

SECT. 4. *And be it enacted,* That the person or persons who shall hereafter keep the said ferry under the regulations

Rates of ferrage.

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1797.

regulations of this act, shall take and receive for ferryage over the same, the rates and prices following, *to wit*, for every single horse and rider Six Cents; for every led horse, ox, cow, or heifer, Four Cents; for every foot passenger Two Cents; for every sheep and hog One Cent; for a coach, or other four wheel carriage, and pair of horses and passengers, Twenty-five Cents; for a chair and fulkey, horse and riders, Twelve and an Half Cents; for a cart, one horse, and driver, Twelve and an Half Cents; for a waggon, two horses, and driver, Twenty-five Cents; and for every other horse in a cart or waggon, or other carriage, Four Cents.

Rates may be commuted for an annual sum,

to be determined by the Commissioners.

Ferriety for extortion.

Repeal of chap. 63. c.

SECT. 5. *Provided always, and be it further enacted,* That every person or persons who shall prefer an annual contract for the use of the said ferry, shall be entitled for himself and his family to all the benefits of the same, except as to stages for the conveyance of persons for hire, carts, waggons or other carriages loaded with hay or wood, for the sum of Six Dollars, to be paid in such manner that a quarterly payment shall always be in advance; and if any person or persons, who shall wish to make such contracts, shall think the said annual payment unreasonable and disproportionate to the number of their family and their use of the said ferry, upon application to the said Commissioners for that purpose, they, or any two of them, are hereby empowered to decide, without further appeal, what reduction, if any, shall be made from the annual payment herein before specified.

SECT. 6. *And be it enacted,* That if any person or persons having the care and keeping of the said ferry, shall exact or demand greater prices for the passing over the same than what is herein before prescribed and specified, he or they so offending shall, for every offence, forfeit and pay any sum not exceeding Fifty Dollars, one moiety thereof to the party grieved, and the other moiety to the Treasurer of the said county, for the use of the county, to be recovered by indictment and conviction in the Court of General Sessions of the Peace.

SECT. 7. *And be it enacted,* That so much of an act, intituled, *An act for regulating the ferry over Christiana-*

*tiana-creek, and the bridge over Brandywine, in New-Castle county, as hath respect to the said ferry over Christiana-creek; shall be and is hereby repealed, made null and void, from and after the date of the contract which may be first made by virtue of this act.*

CHAP.  
CXXVII.  
1797.

*Passed January 21, 1797.*

C H A P. CXXVIII. c.

*An ACT making provision for the support of government for the year of our Lord One Thousand Seven Hundred and Ninety-seven.*

1797.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That the sum of Twelve Thousand Dollars shall be raised and paid into the treasury of this state within the time hereinafter directed, and shall be assessed and levied in the several counties of this state in the following proportions, *That is to say,* For the county of New-Castle, the sum of Four Thousand Five Hundred and Seventy-one Dollars and Forty-two Cents; for the county of Kent, the sum of Four Thousand Dollars; and for the county of Suffex, the sum of Three Thousand Four Hundred and Twenty-eight Dollars and Fifty-eight Cents.

Twelve Thousand Dollars to be raised and paid into the treasury.

Each county's proportion.

SECT. 2. *And be it enacted,* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Levy Court of each county is hereby authorized and required, at their court to be held on the first Tuesday in February next, or at their next sitting of the Court of Appeal, to ascertain the sum *per centum* upon the whole rate of the counties respectively, according to the present assessment now making, when the same shall have been arranged by the Commissioners of the tax, and laid before and finally adjusted by the Court of Appeal, necessary to raise, clear of all charges of collection, the aforesaid several sums herein

Levy Courts to ascertain the sum Per Centum.

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CXXVIII.  
1797.

Warrants to be  
issued to the  
Collectors.

herein before directed to be assessed, raised, and levied in the counties aforesaid respectively; and the Clerk of the Peace for each county shall thereupon make out a warrant, to be signed by any two Commissioners of the Levy Court and Court of Appeal of the same county, directed to the Collector of each hundred that may be appointed agreeably to the directions of this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorizing and requiring such Collector forthwith to demand and receive, from the persons rated in his assessment list, the sum *per centum* which they shall ascertain as necessary to raise the several sums as aforesaid; and the said Collectors respectively shall proceed without delay to collect, and in case of neglect or refusal to pay, to levy and recover the same in the manner directed by the act of Assembly, intitled, *An act for raising county rates and levies*; and the said Clerk of the Peace shall, within thirty days after the holding of the Levy Courts aforesaid, transmit to the Auditor's Office a true account of the sum total, which every Collector shall be charged with pursuant to this act.

Chap. 102. a.

Auditor to be  
furnished with  
account.

In what cases  
the Collectors  
may sell land,  
&c.

SECT. 3. *And be it enacted*, That in all cases where the Collectors can find no effects upon the lands belonging to the party chargeable with the assessment, or of his tenant or person having the care thereof, sufficient to pay the same if distrained, and the rate cannot be otherwise recovered by reason of non residence or otherwise, it shall and may be lawful for the Collector of the hundred where the lands lie, with the approbation of the Court of General Quarter Sessions of the Peace held for the same county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at public auction, as the said court may judge to be necessary for the payment of the assessment.

When the taxes  
shall be paid in-  
to the treasury.

SECT. 4. *And be it enacted*, That the said Collectors respectively shall, on or before the first Monday in November next, pay to the State Treasurer the sum or sums of money they may or ought to have levied by virtue of this act.

SECT. 5. *Provided nevertheless, and be it enacted*,  
That

That each and every Collector may retain in his hands, of the sum or sums by him to be collected and paid as aforesaid, to cover his commissions and delinquencies, Sixteen Dollars in every Hundred Dollars until, and not longer than, the sitting of the Levy Court on the first Tuesday of February then next after; at which time each and every of the said Collectors are required to exhibit and settle their accounts of errors and delinquencies with the Levy Courts of their counties respectively; after which no farther accounts of errors or delinquencies shall be allowed; and the balance of the said tax then remaining in their hands, if any, shall pay over to the State Treasurer, deducting thereout Eight Dollars for every Hundred Dollars by them collected, and paid to the State Treasurer, for their commissions and trouble of collecting; and the said Collectors respectively shall for each and every payment of any sum of money whatever, made to the State Treasurer, take duplicate receipts, one of which shall be transmitted to the Clerk of the Peace in each county, within fifteen days after taking the same, under the penalty of Four Dollars for every neglect or refusal; and the said Clerk of the Peace shall *ex officio* return the said duplicate receipts to the Auditor of Accounts, within three months after the receipt thereof respectively.

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1797.

Collectors may retain, &c.

When they shall finally settle, &c.

Commissions.

Shall take duplicate receipts, &c.

SECT. 6. *And be it enacted,* That the State Treasurer shall appoint Collectors for the several hundreds, who shall each of them give bond in double the sum he is to collect, with such sureties as the State Treasurer shall approve of, conditioned for the faithful performance and discharge of their duty respectively in the execution of this act; and the State Treasurer shall be answerable to the state for any loss, which may arise to the state from the insufficiency of the Collectors, or their sureties, to pay the monies by them to be collected respectively by virtue of this act.

Treasurer to appoint Collectors,

for whom he shall be answerable.

SECT. 7. *And be it enacted,* That the State Treasurer shall, once in every three months, appear in the Auditor's Office for the settlement of his accounts; and at every such time, he shall render to

State Treasurer shall account with the Auditor.

the

C H A P.

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the Auditor of Accounts an exact statement of all the monies by him received, with the names of the persons by whom paid, together with a statement of the settlements he shall from time to time respectively make with the Collectors, specifying therein the several sum and sums of money allowed to each Collector for his commissions, and his allowances for delinquencies, and also a statement of monies by him paid, what amount, the time when, and the vouchers authorising every such payment; and shall, in the first week of December annually, appear in the said office, and proceed to adjust and settle and close his accounts for the year with the Auditor: And the State Treasurer shall discharge himself of all monies which shall come into his hands in pursuance of his office, and shall be allowed commissions for all monies which shall come into his hands, and for his services performed in pursuance of this act, and duly accounted for, at the rate of Three Dollars for every Hundred Dollars, and no more.

His commissions.

Treasurers bonds  
to be lodged in  
the Auditor's  
Office.

SECT. 8. *And be it enacted*, That all bonds given by the State Treasurer in pursuance of this act, and the act requiring the State Treasurer to give security, if approved by the Governor, shall be by him transmitted to the Auditor's Office for safe-keeping.

Collectors fees  
upon distress or  
execution.

SECT. 9. *And be it enacted*, That if any Collectors shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is intitled to by law for the like services, in the recovery of debts under Five Pounds; (a) and any person whose property shall be liable to payment of the said assessment, or any part thereof, may discharge the same at any time before the day of sale of the property distrained, and in such case, the Collector shall receive for his trouble one half of the fees he would be intitled to on a sale, and no more.

Appropriation:

SECT. 10. *And be it enacted*, That the aforesaid sum of Twelve Thousand Dollars, together with all monies which now are, or may hereafter come into the treasury

(a) For which see chap. 27. c. sect. 33—and chap. 58. c. sect. 5.

sary of this state (except such monies as may be re-  
 ceived from the Land or Loan Offices of this state,  
 or from marriage or tavern licences) (b) shall be ap-  
 propriated and applied to and in the following man-  
 ner; *That is to say*; So much thereof as may be neces-  
 sary shall be applied to the payment of the salaries  
 due, and to become due, to the Governor, Chancel-  
 lor, Judges of the Supreme Court and of the Court  
 of Common Pleas; Secretary, and Auditor of Ac-  
 counts, up to the first of January, which will be in  
 the year of our Lord One Thousand Seven Hundred  
 and Ninety-eight; and so much thereof as may be  
 necessary shall be applied to the payment of the daily  
 allowance to the Members of the General Assembly,  
 their Clerks, and other expences; and for printing the  
 laws passed at this session of the General Assembly;  
 and the votes and proceedings of the two branches  
 thereof; and the residue, if any there be; shall be ap-  
 plied to the payment of any sums of money due to the  
 citizens of this state, for which provision shall hereaf-  
 ter be made by law.

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CXXVIII.

1797.

For the payment  
of salaries

for the expences  
of the General  
Assembly, &c.

for payment of  
debts to citizens.

Passed January 21, 1797.

C. H. A. P. CXXIX. c.

*An ACT authorising certain Commissioners; therein men-  
 tioned, to adjust and settle all accounts between this  
 state and the estate of Cæsar Rodney, esquire; deceased:*

1797.

**W**HEREAS there are divers unsettled claims as Preamble.  
 well of this state against the estate of Cæsar  
 Rodney, esquire, deceased; as of the said estate against  
 the state of Delaware; and as Thomas Rodney, exe-  
 cutor of the last will and testament of the said Cæsar  
 Rodney, hath concurred in the appointment of cer-  
 tain Commissioners herein after mentioned to settle  
 and liquidate the said claims;

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SECTION

(b) See in chap. 133. c. sects. 3, 4, 5, some after provisions as to those monies.

C. H. A. P.  
XXXIX.

1797.

Commissioners  
appointed.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That James Booth, John Clayton, and Edward Roche, be, and they are hereby appointed, Commissioners to examine, adjust, and settle all accounts between the State of Delaware and the estate of Cæsar Rodney, esquire, deceased, which now remain unsettled and unliquidated.*

Their powers.

SECT. 2. *And be it enacted by the authority aforesaid, That the said Commissioners, or any two of them, be and they are hereby empowered to summon and call before them, and examine on oath or affirmation, all such witnesses as they shall deem necessary to ascertain any facts, or circumstances, relative to the said claims; and also to require all such papers from the public officers of this State, as shall be requisite for the determination and adjustment thereof, according to the principles of general equity and the laws of the land.*

To whom their  
report shall be  
made.

SECT. 3. *And be it enacted, That the said Commissioners, or any two of them, after having examined, settled, and adjusted the said claims respectively, shall report their determination thereupon, if in favour of the State, to the Court of Common Pleas for the county of Kent, who shall enter judgment upon the suit now depending, which shall await the decision of the Commissioners aforesaid; and thereupon be proceeded on as in other cases; and if in favour of the estate of the said Cæsar Rodney, to the General Assembly at their session next ensuing such settlement; and if the said report and determination shall be in favour of the estate of the said Cæsar Rodney as aforesaid, the faith of the State is hereby pledged for the payment of all monies found due as aforesaid.*

Their compen-  
sation.

SECT. 4. *And be it enacted, That the said Commissioners shall receive an adequate compensation for their trouble and expences in the said settlement, to be paid equally by this State and the executor of the said Cæsar Rodney, esquire, deceased.*

*Passed January 22, 1797.*

CHAP.

## C H A P . CXXX. c.

C H A P .  
CXXX.

1797.

*An ACT authorising the Treasurer of this state to appropriate certain public money to the payment of the claims therein mentioned, which have been allowed by the General Assembly.*

**B**E it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met, That the Treasurer of this state be, and he is hereby authorised and directed to pay unto William Carpenter, or to his order, the sum of One Hundred and Sixty-eight Pounds and Fifteen Shillings; to Joshua Clayton, esquire, or to his order, the sum of Forty-four Pounds and One Shilling; to the representatives of Elijah Hooton, or to their order, the sum of Fifty-nine Pounds Two Shillings and Fourpence Half-penny; and to Ann Haffeton, George Poulson, George Mously and Catherine his wife, heirs of William Poulson, late of New-Castle county, deceased, or to their order, the sum of Three Hundred and Forty-three Pounds Four Shillings and Sixpence; and to James Booth, esquire, the sum of Two Hundred and Ten Pounds for so much money advanced by him, or hereafter to be paid on the contract for completing the printing and binding the laws of this state; out of such public money as is, or may hereafter, come into his the said Treasurer's hands.

*Passed January 24, 1797.*

## C H A P . CXXXI. c.

*An ACT to increase the salary of the Auditor of Accounts. (a).*

1797.

**B**E it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,

(a) For preceding acts relating to the Auditor and his salary, see chaps. 143. b. —20. c.—65. c.—81. c. &c.

C H A P.  
XXXI.  
1797.

*met, That the Auditor of Accounts shall, for his services, receive the salary of Four Hundred Dollars, to be paid quarterly at the treasury of this state, to commence from the date of his last appointment; any law to the contrary notwithstanding.*

*Passed January 24, 1797.*

C H A P. CXXXII. c.

1797:

*An ACT to revive the proceedings of the Commissioners of the Land Office in Kent county, and for other purposes.*

Preamble.

**W**HEREAS doubts have arisen whether the proceedings of the Commissioners of the Land Office in Kent county, are not discontinued and put without day, by reason of the non coming of the Commissioners aforesaid at the days appointed by them for holding their terms, agreeably to the powers to them given by an act of the General Assembly, intituled, *An act to repeal part of an act, intituled, An act to extend the time of payment of the purchase money of certain lands granted to citizens of this state, and for other purposes;*

Chap. 101. c.

Chap. 90. c.

Revival of proceedings.

**SECTION 1.** *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That every caveat, process, proceeding, and other matter whatsoever, that were depending before the Commissioners of the Land Office in Kent county, and are now become discontinued, abated, and put without day, by reason of the non coming of the Commissioners aforesaid, shall be and are hereby revived and continued, and shall and may be heard, tried, and determined before the Commissioners of the Land Office in the said county, at the terms and times by them appointed and hereafter to follow, in as full and ample manner, to all intents and purposes whatsoever, as they might or could have been if such caveat, process, proceeding, and other matter, had not been determined by the means aforesaid.*

SECT.

SECT. 2. *And be it enacted by the authority aforesaid,* That, from and after the passing of this act, any two of the said Commissioners shall have full power and authority to hear, try, and determine all and every caveat, cause, proceeding, and other matter whatsoever, depending before the said Commissioners of the Land Office in the respective counties of this state; as fully and amply, to all intents and purposes, as three of the said Commissioners might or could do before the making of this act: And any one of the said Commissioners in his proper county, in case of the non-attendance of his associates, is hereby authorised and impowered, at the times and places prescribed by law, and the rules of the said Commissioners for the holding their terms respectively, to open and adjourn the said boards respectively, in the same manner, and to the same effect, as if three of the said Commissioners were present. (a)

CHAP.  
CXXXII.

1797.

Powers vested in two Commissioners.

Power of adjournment in one.

SECT. 3. *And be it enacted by the authority aforesaid,* That all appeals heretofore taken from the decisions and judgments of the Boards of Commissioners, in the respective counties of this state, shall be void unless the same be brought before, and entered on record in, the High Court of Errors and Appeals, before or during the sitting of the said court in the month of August next; and all appeals hereafter to be taken as aforesaid, shall be brought before, and entered on record in the said court, within one year from the taking the said appeal, or otherwise shall be void. (b)

When appeals shall be brought before the High Court of Errors and Appeals.

SECT. 4. *And be it enacted,* That from and after the third day of June next all actions then depending in the Court of Common Pleas in this state, shall be tried and determined according to their seniority, unless postponed or continued by the said court, according to the laws of the state.

Actions in Common Pleas to be tried according to seniority.

Passed January 24, 1797.

CHAP.

(a) This sect. hath reference to sects. 1, 3, of chap. 45. c.—to sect. 19, &c. of chap. 57. c.—and to sects. 6, 7, of chap. 101. c.

(b) This sect. hath reference to chap. 57. c. sect. 10.

C H A P.  
CXXXIII.

1797.

C H A P. CXXXIII. cont.

*A Supplement to an act, intituled, An act to create a fund sufficient to establish schools in this state. (a)*

SECTION I. **B**E it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met; That the Trustee for the fund for establishing schools in the state of Delaware, is hereby authorized, empowered, and required to sell, for the best prices which can by him be obtained, the three shares of stock of the Bank of Delaware by him heretofore purchased, and to appropriate the proceeds arising therefrom, together with the balance now remaining in his hands, and the money hereafter payable to him, Trustee as aforesaid, by the act to which this is a supplement, to the purpose of subscribing for as many shares of stock of the said bank, provided, by the act of incorporation thereof, for the use of the state, as the said sums on the original terms of subscription will procure. (b)

Trustee to sell stock heretofore purchased, and to subscribe for bank shares reserved for the state.

Chap. 96, c. sect. 11.

Shall vote, receive dividends, &c.

SECT. 2. *And be it enacted*, That the said subscription shall be made in the name of *The Trustee of the fund for establishing schools in the state of Delaware*, who, in that capacity, shall be intituled to give in as many votes as the number of shares for which he shall have subscribed, would entitle any original stockholder or stockholders to; and shall demand and receive the dividends on said shares as often as they become due, give acquittances therefor, and apply the same according to the true intent and meaning of the act of Assembly to which this is a supplement. (b)

SECT. 3. *And whereas* it is declared by the second section of the sixth article of the constitution of this state, that the salaries of the Chancellor and the Judges shall be payable quarterly, to their respective orders upon the Treasurer, out of any monies in the treasury. *And whereas* by the act to which this is a supplement,

Chap. 105, c.

(a) Chap. 105, c.

(b) These two sects have reference to sect. 4, of said chap. 105, c.—and to sect. 11, of chap. 96, c.

supplement, the money paid into the state treasury on account of marriage and tavern licences, between the time of passing that act, and the first day of January Eighteen Hundred and Six, is appropriated as part of a fund for establishing schools in this state; which appropriation may be supposed to contravene the intention of the constitution: *Be it therefore enacted by the authority aforesaid,* That the money arising from marriage licences and tavern licences, shall be, and is hereby, appropriated to the payment of the salaries of the Chancellor and Judges, in the first place; (c) and the residue of such money, from time to time, shall be appropriated and continued to and for the establishing schools in this state. (d)

CHAP.  
CXXXIII.

1797.

Appropriation of money arising from licences.

SECT. 4. *And be it enacted by the authority aforesaid,* That so much of the monies arising from the said marriage and tavern licences, of the monies received from the Trustees of the Loan Offices respectively, and of the monies arising from the sale of vacant lands, as shall hereafter be applied to the payment of the said salaries, or any of them, (e) shall be made up from any money arising from arrearage taxes, which may come into the treasury of this state, or by virtue of the act, intitled, *An act making provision for the year One Thousand Seven Hundred and Ninety-seven,* after the payment of the said salaries therefrom; or from any other monies in the treasury.

Monies applied to the payment of certain salaries, to be replaced.

Chap. 128. c.

SECT. 5. *And be it enacted by the authority aforesaid,* That all monies which shall or may be received by the State Treasurer from the Trustees of the Loan Offices respectively, and all monies arising from the sale of vacant lands in this state, shall be subscribed by the State Treasurer in the said Bank of Delaware, in the name of the state of Delaware, for so many shares of the said stock as the said money shall from time to time amount to, on the original terms of subscription in said bank; which said shares, so from time to time subscribed for, shall be taken as part of the fifty shares which

What monies the State Treasurer shall apply to the purchase of bank stock, &c.

(c) See chap. 5. c. sect. 5—chap. 27. c. sect. 1—and chap. 28. c. sect. 5.

(d) As per chap. 105. c.

(e) Under the constitutional provision in sect. 2, of art. 6.

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Chap. 96. c.

Proviso.

Repeal of parts  
of chap. 105. c.

which the state is entitled to subscribe agreeably to the act, intituled, *An act to incorporate a bank in the Borough of Wilmington, in this state.* And the State Treasurer; for the time being, shall and may, on the part of this state, give in as many votes as the shares subscribed shall entitle the state to, as stockholder, agreeably to the rules and regulations of said bank: *Provided*, That such shares, so subscribed, shall not be deemed or taken as any part of the fund for establishing schools in this state.

SECT. 6. *And be it enacted*, That so much of the act, to which this is a supplement, as is hereby altered and changed, is hereby repealed, made null and void; any thing in the said act to the contrary in anywise notwithstanding.

*Passed January 24, 1797.*

C H A P. CXXXIV. c.

1797.

*An ACT to prevent infectious diseases being brought into this state, and for other purposes.*

Preamble.

Chap. 37. a.

*In what cases masters of vessels shall not land any persons, or their effects, &c. under the penalty of One Thousand Dollars.*

**W**HEREAS the laws heretofore made to prevent infectious diseases being brought into this state, have not effectually answered the good purposes for which they were intended,

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That, from and after the passing of this act, no Commander, master, or other person having charge of any ship, or vessel, bound to any port in this state, having on board any greater number of persons than forty, or having any persons disordered with any infectious disease (the measles and small pox excepted,) or coming from any sickly port or place, shall bring his ship or vessel, or suffer or permit the same to be brought, nearer to any port or place of landing than the distance of one mile, nor shall land or bring on shore, nor cause or suffer to be landed or brought on shore, at any port or place in this state, any such persons, or any part of their goods or effects,

or

or the goods or effects of any person whatsoever, until he shall have obtained a permit, in writing, for that purpose, from the physician to be appointed in pursuance of this act, under the penalty of One Thousand Dollars.

C H A P .  
CXXXIV. }  
1797.

SECT. 2. *And be it enacted,* That the Governor shall appoint one skilful physician in the Borough of Wilmington, one in the town of New-Castle, one in the county of Kent, and one in Lewes, and one on or near Nanticoke river in the county of Suffex; whose duty it shall be, upon notice given to any of them by the commander, master, or other person having charge of such ship or vessel, to go on board said ship or vessel, and diligently enquire and examine, as well of the person having charge of said ship or vessel, as of the passengers on board, and by searching all parts of said vessel, whether any, and what persons on board, during the voyage, have been, or may then be infected with any contagious disease; how many died in the voyage, and of what distempers; and what is the present state and condition of the people on board: And if any commander, master, or other person having charge of such ship or vessel, shall have on board any person distempered with any infectious disease (except as before excepted,) and shall knowingly conceal the same, or shall not make a just and true discovery, to the said physician, of the sickly and disordered state of all and every person on board, from the time the said ship or vessel departed from her last port to the time of said enquiry, he shall forfeit and pay the sum of One Hundred Dollars for every such offence.

Physicians to be appointed;

their duty.

Penalty on masters for concealment,

SECT. 3. *And be it enacted,* That in each and every case wherein the physician appointed as is herein before directed, shall refuse to grant such permit, that he shall forthwith make report thereof to the Burgeses for the Borough of Wilmington, or to two Justices of the Peace, or to one Trustee of the Poor and one Justice of the Peace, residing nearest to the place where any such ship or vessel shall lay; which said Burgeses, or Justices, or Trustee of the Poor and Justice, are hereby authorised and required, under such regulations as to them shall seem most proper, and consistent with the health and safety of the country, under their

Physician refusing permit, shall report, &c.

By whom licences to land infected persons, shall be granted.

C H A P.

CXXXIII.

1797.

Chap. 96. c.

Proviso.

Repeal of parts  
of chap. 105. c.

which the state is entitled to subscribe agreeably to the act, intituled, *An act to incorporate a bank in the Borough of Wilmington, in this state*. And the State Treasurer; for the time being, shall and may, on the part of this state, give in as many votes as the shares subscribed shall entitle the state to, as stockholder, agreeably to the rules and regulations of said bank: *Provided*, That such shares, so subscribed, shall not be deemed or taken as any part of the fund for establishing schools in this state.

SECT. 6. *And be it enacted*, That so much of the act, to which this is a supplement, as is hereby altered and changed; is hereby repealed, made null and void; any thing in the said act to the contrary in anywise notwithstanding.

*Passed January 24, 1797.*

C H A P. CXXXIV. c.

1797.

*An ACT to prevent infectious diseases being brought into this state, and for other purposes.*

Preamble.

Chap. 37. a.

**W**HEREAS the laws heretofore made to prevent infectious diseases being brought into this state, have not effectually answered the good purposes for which they were intended,

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That, from and after the passing of this act, no Commander, master, or other person having charge of any ship, or vessel, bound to any port in this state, having on board any greater number of persons than forty, or having any persons disordered with any infectious disease (the measles and small pox excepted,) or coming from any sickly port or place, shall bring his ship or vessel, or suffer or permit the same to be brought, nearer to any port or place of landing than the distance of one mile, nor shall land or bring on shore, nor cause or suffer to be landed or brought on shore, at any port or place in this state, any such persons, or any part of their goods or effects,

or

In what cases  
masters of ves-  
sels shall not  
land any persons,  
or their effects,  
&c. under the  
penalty of One  
Thousand Dol-  
lars.

or the goods or effects of any person whatsoever, until he shall have obtained a permit, in writing, for that purpose, from the physician to be appointed in pursuance of this act, under the penalty of One Thousand Dollars.

C H A P .  
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1797.

SECT. 2. *And be it enacted,* That the Governor shall appoint one skilful physician in the Borough of Wilmington, one in the town of New-Castle, one in the county of Kent, and one in Lewes, and one on or near Nanticoke river in the county of Suffex ; whose duty it shall be, upon notice given to any of them by the commander, master, or other person having charge of such ship or vessel, to go on board said ship or vessel, and diligently enquire and examine, as well of the person having charge of said ship or vessel, as of the passengers on board, and by searching all parts of said vessel, whether any, and what persons on board, during the voyage, have been, or may then be infected with any contagious disease ; how many died in the voyage, and of what distempers ; and what is the present state and condition of the people on board : And if any commander, master, or other person having charge of such ship or vessel, shall have on board any person distempered with any infectious disease (except as before excepted,) and shall knowingly conceal the same, or shall not make a just and true discovery, to the said physician, of the sickly and disordered state of all and every person on board, from the time the said ship or vessel departed from her last port to the time of said enquiry, he shall forfeit and pay the sum of One Hundred Dollars for every such offence.

Physicians to be appointed ;

their duty.

Penalty on masters for concealment.

Physician refusing permit, shall report, &c.

By whom licences to land infected persons, shall be granted.

SECT. 3. *And be it enacted,* That in each and every case wherein the physician appointed as is herein before directed, shall refuse to grant such permit, that he shall forthwith make report thereof to the Burgeses for the Borough of Wilmington, or to two Justices of the Peace, or to one Trustee of the Poor and one Justice of the Peace, residing nearest to the place where any such ship or vessel shall lay ; which said Burgeses, or Justices, or Trustee of the Poor and Justice, are hereby authorized and required, under such regulations as to them shall seem most proper, and consistent with the health and safety of the country, under their

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Fee for license.

Penalty for going on board before permit granted.

Master shall duly provide for passengers, &c.

Dimensions of births, &c.

Penalty on Masters for contravening these regulations.

hands and seals, to grant a license to the owner or owners, or commander, of the said ship or vessel, for the landing all or any of such diseased and infected persons, as the said owner or owners, or commander, shall provide with suitable accommodations, without endangering the health and safety of the country; and the said Burgesses, or Justices, are hereby authorized to take and receive for every such license granted as aforesaid, containing the names of twenty persons or upwards, the sum of Two Dollars; and for any less number the sum of One Dollar, and no more.

SECT. 4. *And be it enacted*, That if any person or persons shall go on board any such ship or vessel, which shall be found having any infectious disease on board, before the commander, or other person having charge of such ship or vessel, shall have obtained a permit to land from the physician aforesaid, or without a special license from the said physician for that purpose, every such person so offending shall pay the sum of Ten Dollars for every such offence.

SECT. 5. *And be it enacted*, That, from and after the passing of this act, no commander, master, or other person, having charge of any ship or vessel bound to any port in this state, shall bring or import any greater number of passengers and servants, than shall be well provided and supplied with good and wholesome meat, drink, and other necessaries, particularly vinegar, as well to wash and cleanse the vessel as for the use of the persons on board during the voyage; and that the room or birth that shall be allowed to each single freight, or person of the age of fourteen years and upwards, shall be at least six feet in length and one foot six inches in breadth, and if under the age aforesaid, shall be at least the same length and breadth for two such persons; and that all such rooms or births shall, in the fore part of the ship or vessel, between decks, be of the height of three feet nine inches, and in the cabins and steerage two feet nine inches at least; and that no more than two whole freight persons shall be put together in one bedstead or division; and if any such commander, master, or other person having charge of any ship or vessel,

vessel, shall offend in the premises, either by not providing and supplying his passengers with the necessities aforesaid, or by not allowing the room and births herein before directed, he shall forfeit and pay the sum of Six Hundred Dollars for every such offence; and the physician herein before mentioned shall, on visiting any such ship, or vessel, having passengers on board, diligently enquire whether the directions herein before mentioned have been fully complied with; and if he shall find the contrary, he shall, under the penalty of Fifty Dollars, forthwith report the same to some Judge of the Supreme Court, or of the Court of Common Pleas; or to some Justice of the Peace, who shall thereupon issue his warrant for apprehending the said offender, and take sufficient surety for his appearance at the next Court of Quarter Sessions, and if he shall fail in finding such surety, to commit his body to the gaol of the county.

C H A P.  
CXXXIV.  
1797.

Physicians to enquire, &c.

Procedure against delinquent masters.

SECT. 6. *And be it enacted,* That the physician who shall visit any ship or vessel, and discharge the duties by this act enjoined and required, shall receive for his trouble Ten Dollars for each vessel, to be paid by the commander, master, owner or factor thereof.

Physician's fee.

SECT. 7. *And be it enacted,* That all and every commander, master, or other person, having charge of any ship or vessel bound to any port in this state, shall pay, or secure to be paid, to the said physician, the sum of Six Cents (over and above the monies before directed to be paid) for every person he shall import and land in this state; which said sum the said person having charge of such ship or vessel, is hereby authorized to recover from such passengers and servants respectively; and the said physician shall keep a regular account of all the passengers and servants landed in his respective district, and make a return of the same unto the Levy Court of his respective county, once in every year; and shall, in the month of December annually, pay over all the monies above directed in this section, unto the Treasurer of the Trustees of the Poor in his county, to be applied, as said Trustees may direct, for the use of the poor; and said physician shall receive for his trouble five *per cent.* for receiving and paying the same. (a)

Masters to pay Six Cents for each person landed.

Physician to account for the same.

Application thereof, &c.

SECT.

(a) See also chap. 66. a. sects. 5. 7—and chap. 114. a. sect. 2.

C H A P.  
CXXXIV.

1797.

Appropriation  
of the fines and  
penalties.

SECT. 8. *And be it enacted*, That one moiety of the fines and penalties mentioned in this act, shall be for the use of the Trustees of the Poor for that county in which suit shall be brought for all or any of the said fines or penalties; and the other moiety thereof to the use of him or her who will sue for the same, by action of debt, bill, plaint, or information.

Repeal of chap.  
37. a. &c.

SECT. 9. *And be it enacted*, That the act, intituled, *An act to prevent sickly vessels coming into this government*, and the supplement thereto, is hereby repealed, made null and void.

Passed January 24, 1797.

C H A P. CXXXV. c.

1797.

*An ACT for establishing the boundaries of the town of New-Castle, and for other purposes therein mentioned.*  
Passed January 24, 1797.

C H A P. CXXXVI. c.

1797.

*An ACT to carry into effect, in the county of New-Castle, an act, intituled, An Act for the valuation of real and personal property within this state. (b)*

Preamble.

**W**HEREAS the Assessors in the several hundreds, and the Commissioners of the tax, in the county of New-Castle, have omitted to make and complete their valuations of real and personal property, and to arrange the same, agreeably to the directions of the laws of this state,

Powers of the  
Assessors and  
Commissioners  
revived.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That the powers and authority given to the Assessors in the several hundreds, and to the Commissioners of the tax in the county of New-Castle, by an act of the General Assembly, intituled, *An act for the valuation of real and personal property within this state*, shall be, and are hereby revived; and that the said Assessors and Commissioners shall forthwith do  
and

(b) See chap. 53. c.

and perform all and every act and thing to be done and performed by them, or any of them, in as full and ample manner as was required of them, or any of them, by the said act.

C H A P.  
CXXXVI.  
1797.

SECT. 2. *And be it enacted,* That the Assessors in the several hundreds in the county aforesaid, shall return to the Commissioners of the tax in the said county, their respective valuations of the real and personal property, made in the same manner as is directed and required of them by the act last mentioned, on or before the third Monday of June instant; at which time the said Commissioners shall meet at the Court-House in the town of New-Castle, and shall then and there examine the said valuations; and, if the same, or any of them, shall not be then made and completed, the said Commissioners shall and may, from time to time, appoint some other day or days, by which the said Assessors shall make and complete their valuations.

Assessments  
when returnable.

Meeting of the  
Commissioners.

Power of ad-  
journalment.

SECT. 3. *And be it enacted by the authority aforesaid,* That as soon as the said Assessors shall have made and completed their several valuations as aforesaid, and returned the same to the said Commissioners, the said Commissioners shall advertise their subsequent meeting, and give notice of the said valuations, in the same manner as is directed by the fourteenth section of the act, intituled, *An act for the valuation of real and personal property within this state*; at which subsequent meeting the said Commissioners shall proceed, from day to day, to hear and determine the complaints of any person or persons that may be aggrieved, and generally to arrange the said valuations, so that no person or persons may be unequally or over-rated, until the said arrangements shall be finished by them.

Power of the  
Commissioners  
to hear and de-  
termine com-  
plaints, and ar-  
range the valua-  
tions.

SECT. 4. *And be it enacted,* That any four of the said Commissioners shall form a quorum.

Quorum.

SECT. 5. *And be it enacted,* That within ten days after the assessments and valuations of the real and personal property in the said county, shall be arranged agreeably to the directions of the aforesaid act of the General Assembly, the Clerk of the Peace in the said county shall set up, or cause to be set up and published,

Assessments to  
be published.

C H A P.  
CXXXVI.

1797.

Further powers  
of the Com-  
missioners.

published, in the most public places in the respective hundreds of the said county, alphabetical lists in the same manner as is directed by the act, intituled, *An additional supplement to the act, intituled, An act for the valuation of real and personal property within this state.*

SECT. 6. *And be it enacted by the authority aforesaid,* That the Commissioners of tax in the said county shall have full power and authority to compel the attendance of the several Assessors, and every of them, at such times as they shall appoint, by warrant to be issued by the Clerk of the Peace, under his hand and seal, directed to the Sheriff of the county.

Levy Court and  
Court of Ap-  
peal, when to  
meet and hear  
appeals.

SECT. 7. *And be it enacted,* That the Commissioners of the Levy Court and Court of Appeal in the said county of New-Castle, shall meet on the fourth Tuesday after the said assessments and valuations of the real and personal property in the said county shall be arranged and completed as aforesaid, of which arrangements the Clerk of the Peace of the said county shall, immediately after the same is finished, give notice to the said Commissioners of the Levy Court and Court of Appeal, for the purpose of receiving the returns of the valuations of the Assessors and assessments, made by the Assessors and Commissioners of the tax, to be by them returned agreeably to the laws of this state, and for the purpose of remedying the complaints of all and every person or persons who may be unequally or over-rated, according to the directions of an act of the General Assembly, intituled, *An act for raising county rates and levies*; and the Commissioners of the tax in the county aforesaid, and the respective Assessors, and each and every of them, shall at such time give daily attendance at the Levy Court and Court of Appeal aforesaid, under the penalty of Twenty Dollars for every neglect or refusal, to be recovered by indictment in the General Quarter Sessions of the Peace and Gaol Delivery, to be applied to the use of the state.

Commissioners  
and Assessors to  
be attendant  
thereon.

Further duties  
enjoined the  
Levy Court.

SECT. 8. *And be it enacted by the authority aforesaid,* That the Commissioners of the Levy Court, after the appeals aforesaid shall be heard and determined, shall do and perform every act and thing required of them by the first section of the act of the General Assembly, intituled,

intituled; *An additional supplement to the act*, intituled, *An act for the valuation of real and personal property within this state*, in as full and ample manner as the Commissioners might or could have done the same on the first Tuesday of February last, or at any other time.

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CXXXVI.  
1797.

SECT. 9. *And whereas* it is necessary to enlarge the time of the payment of the quota of New-Castle county of the sum of Twelve Thousand Dollars to be raised and paid into the treasury of this state agreeably to an act, intituled, *An act making provision for the year of our Lord One Thousand Seven Hundred and Ninety-seven*. Be it therefore enacted by the authority aforesaid, That the respective Collectors of the county of New-Castle shall, on or before the first Monday in February next, pay, to the State Treasurer, the sum or sums of money they may or ought to have levied, by virtue of the said act of the General Assembly last mentioned.

State tax, when payable into the treasury.

SECT. 10. *And be it enacted by the authority aforesaid*, That all and every officer and officers, and other persons required by the act, intituled, *An act for the valuation of real and personal property within this state*, and by the act, intituled, *An additional supplement to the act*, intituled, *An act for the valuation of real and personal property within this state*, to appear before, and attend on, the Commissioners of the tax, and on the Commissioners of the Levy Court and Court of Appeal in the said county, respectively, shall appear before, and attend on the said Commissioners of the tax and the Commissioners of the Levy Court and Court of Appeal in the said county, at the place and times required by this act; and shall then and there do and perform all and every act and thing, required of him or them, in the same manner, and under the like penalties, and to be recovered as is prescribed in the said act, intituled, *An act for the valuation of real and personal property within this state*.

Officers enjoined to attend the Commissioners, &c.

Passed June 3, 1797.

C H A P.  
CXXXVII.

C H A P. CXXXVII. c.

1797.

*An ACT to appoint a Trustee of the Loan Office for the county of New-Castle.*

Preamble.

**W**HEREAS the place of the Trustee of the Loan Office for the county of New-Castle hath become vacant by the resignation of Thomas M'Kean Thompson.

James M'Callmont appointed Trustee.

*BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met,* That James M'Callmont, of the said county of New-Castle, be, and he is hereby appointed Trustee of the Loan Office for the said county of New-Castle; and that the said James M'Callmont, upon giving bond, and taking the oath or affirmation required, by the laws of this state, to be given and taken respectively by a Trustee of the said office, shall have all the power and authority, be entitled to the same rewards, and be liable to the same penalties, as a Trustee of the Loan Office in any of the counties of this state can have, or be liable to, by the laws thereof.

*Passed June 3, 1797.*

C H A P. CXXXVIII. c.

1797.

*An ACT to transfer certain public records into the Register's Office of the several counties of this state respectively, and for other purposes.*

Preamble.

**W**HEREAS, for the convenience of the public, it is necessary, that certain records of the Orphan's Court, under the late constitution of this state, should be transferred to the Register's Office of the several counties respectively, as connected with those offices, under the present constitution and laws of the state.

*SECTION 1. BE it therefore enacted by the Senate and House of Representatives of the state of Delaware, in General*

*veral Assembly met,* That, immediately after the publication of this act, it shall be the duty of the Clerks of the Orphans Courts in the several counties of this state, and they are hereby required, to deliver over into possession of the Register of Wills, in the respective counties, all administration and testamentary bonds, all accounts of deceased persons' estates settled by the late Orphans Courts, and generally all other papers and records whatsoever in their possession, connected with the said office of Register of Wills, under the present constitution and laws of this state.

C H A P.  
CXXXVIII.

1797.

What records shall be transferred into the Registers Offices.

SECT. 2. *And whereas* it is necessary, that an office should be provided for the safe-keeping of the books and papers appertaining to the Recorder's Office in the county of Kent, *Be it therefore enacted by the authority aforesaid,* That the Recorder of Deeds for the county of Kent be, and he is hereby authorized and impowered to use and occupy, as a public office, the lower room in the south-east corner of the State House, in the town of Dover.

Room in the State-house appropriated as an office for the Recorder of Kent.

C H A P. CXXXIX. c.

*An additional Supplement to the act, intitled,* An act for the better regulation of the roads in the county of Kent. (a)

1797.

**W**HEREAS no provision is made by the act, intitled, *A supplement to the act, intitled, An act for the better regulation of the roads in the county of Kent,* (b) for drawing any money out of the treasury of Kent county, which has been, or may be, assessed by the Levy Court and Court of Appeal of said county, for laying out, erecting, maintaining and support-

Preamble.

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ing

(a) Chap. 99. c.

(b) Chap. 126. c.

C H A P.

GXXXIX.

1797.

Monies in the  
treasury assessed  
for the support  
of the roads,  
&c. made pay-  
able to the  
Overseers.

Timber, &c.  
on land laid out  
for roads, may  
be used by those  
who were own-  
ers of such  
land.

But where da-  
mages have  
been allowed,  
the value of  
the timber shall  
be deducted  
thereout.

ing the state roads, and other public roads, and com-  
mon highways, bridges, and cauleways, in the said  
county, after the same hath been paid into the hands  
of the Treasurer of the said county.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met,* That all money assessed by the Levy Court and Court of Appeal of the county of Kent, for the laying out, erecting, maintaining and supporting the state roads, and other public roads, common highways, bridges and cauleways in the said county (except for Worrell's bridge, Martin's bridge, Jones's bridge, and the bridges across Murderkill-creek, near Frederica), which hath been, or may be, paid over by the Collectors, or any of them, to the Treasurer of the said county, shall be payable to the respective Overseers of the roads in the several hundreds, so far as need may require, on the order or orders of the Commissioners of the Levy Court and Court of Appeal, drawn upon the Treasurer of the county, in the same manner as money is made payable by the several Collectors to the Overseers aforesaid, upon orders drawn in their favour by the said Commissioners.

SECT. 2. *And be it enacted by the authority aforesaid,* That all timber trees and other trees, woods and underwoods, standing within the limits of the state roads, and other public roads and common highways in the said county, and all such trees, woods, and underwoods, which have been standing within the limits aforesaid, and cut down by any Overseer or Overseers since the first day of January last past, shall and may be taken and disposed of by the person or persons who were the owner or owners of land laid out, by the Commissioners of the roads in the respective hundreds, for state roads and other public roads and common highways in the county of Kent, to his, her, or their own proper use and benefit, without being accountable for the same, unless such person or persons shall have damages assessed for him, her, or them, agreeably to the provision contained in the act, intituled, *An act for the better regulation of the roads in the county of Kent*; in which case, the value of the said timber

timber trees and other trees, woods and underwoods, shall be taken as so much of the said assessed damages: And in order that such value may be known, the several Overseers are hereby required to appraise all such trees, woods, and underwoods, and return the same to the Clerk of the Peace of the said county.

CHAP.  
CXXXIX.  
1797.

How the value shall be ascertained.

*Provided nevertheless,* That it shall and may be lawful for the Overseers in their respective hundreds first to use and apply all such trees, woods, and underwoods, for and towards the support of the bridges and causeways in the said hundreds, as shall or may be necessary for the same.

Proviso.

SECT. 3. *And be it enacted by the authority aforesaid,* That in all cases where the state roads, and other public roads and common highways, in the said county of Kent, have been, or may be, laid out by the Commissioners of the roads in the respective hundreds, upon any ground enclosed, on which any grain now is growing, that such part of the said state roads, and other public roads and common highways, shall not be opened, nor the fences removed therefrom, until the first day of December next; and that the roads now in use, which will be supplied by such roads laid out, or to be laid out as aforesaid, shall be continued open until the first day of December next.

Roads laid out upon ground on which grain is growing, not to be opened till 1st December, 1797.

SECT. 4. *And be it enacted by the authority aforesaid,* That each and every of the Overseers of the roads in the said county of Kent, shall enter in a book a particular account of his transactions relative to the said business, the number of days in which he and the workmen and labourers may be employed; the number of workmen and labourers, and the amount of all monies paid by him to any person or persons; which said book, together with his receipts and vouchers for all money paid and expended on the said roads, shall be laid before the Commissioners of the Levy Court and Court of Appeal, at their meeting in February in every year.

Overseers shall enter in a book an account of their transactions,

which shall be laid before the Levy Court.

SECT. 5. *And be it enacted by the authority aforesaid,* That no Overseer shall furnish any materials, labourers, workmen, work-horses, or draught-cattle, from his own estate, servants, slaves, or stock, for the repairing any of the said roads, bridges, or cauleways in

Shall not furnish materials, &c. from their own estates.

C H A P.  
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1797.

Their pay Per  
Diem.

in the said county: And each and every Overseer shall be paid for their services respectively, in proportion to the number of labourers and workmen employed by them at one time, as follows: For every day, in which one labourer or workman shall be employed, Ten Cents; and for every day, in which two, and not more than four workmen or labourers shall be employed, Thirty Cents; and for every day, in which five, or any greater number of workmen or labourers shall be employed, One Dollar, and no more.

Repeal.

Chap. 99. c.

SECT. 6. *And be it enacted*, That so much of the thirteenth section of the act, intituled, *An act for the better regulation of the roads in the county of Kent*, as is hereby altered, or supplied, shall be and is hereby repealed, made null and void.

*Passed June 3, 1797.*

C H A P. CXL. c.

1797.

*An ACT to enable Jacob Broom to raise the sum of Four Thousand Dollars, by lottery, for the purposes therein mentioned.*

Preamble.

**W**HEREAS it hath been represented to this General Assembly, that Jacob Broom, of the Borough of Wilmington, had erected and completed, near said borough, a cotton manufactory, which promised to be of public utility, and that the same was destroyed by fire; and the said Jacob Broom having requested the aid of the Legislature to enable him to re-establish the same, and this General Assembly being willing to advance all undertakings promotive of public good, have agreed to enact,

Jacob Broom  
authorized to  
institute a lot-  
tery.

SECTION 1. *AND be it enacted by the Senate and House of Representatives of the state of Delaware, in General Assembly met*, That it shall and may be lawful for the said Jacob Broom to raise, by way of a lottery, the sum of Four Thousand Dollars, clear of all expences and deductions whatsoever, to and for the uses and purposes of erecting, repairing, and re-establishing  
his

his cotton manufactory, near the Borough of Wil-  
mington.

C H A P.

CXL.

1797.

SECT. 2. *And be it further enacted by the authority  
aforesaid,* That the said Jacob Broom, previous to  
selling any tickets in the said lottery, shall lay the  
scheme thereof before the Governor of this state, to  
be approved of by him; and shall also enter into a  
bond, to the Governor of this state, in the penal sum  
of Twenty-four Thousand Dollars, with sufficient  
surety, to be approved of by the Governor, condi-  
tioned for the faithful execution of this act, and due  
payment of all the prizes that may be drawn in said  
lottery, at the expiration of forty days after the draw-  
ing of the said lottery shall be completed, if demand-  
ed, and further conditioned, that if the said sum of  
Four Thousand Dollars is not applied to the re-esta-  
blishment of the said cotton manufactory, within two  
years after the drawing of the said lottery is complet-  
ed, that then the said Jacob Broom will pay, or cause  
to be paid, the said sum of Four Thousand Dollars,  
or so much thereof as is not appropriated to the uses  
and purposes aforesaid, into the treasury of this state,  
to be applied to the uses and purposes of the state.

Scheme to be  
approved by the  
Governor.

Jacob Broom to  
give bond in  
Twenty-four  
Thousand Dol-  
lars.

Condition  
thereof.

SECT. 3. *And be it further enacted by the authority  
aforesaid,* That, as soon as the said tickets shall be  
sold, the said Jacob Broom shall certify the same to  
the Governor of this state, and upon such certificate  
being presented, it shall and may be lawful for the  
Governor to appoint three Commissioners to superin-  
tend the drawing of the said lottery, which said Com-  
missioners shall take an oath or affirmation, diligently  
and faithfully to perform the duties intrusted to  
them.

The Governor  
shall appoint  
three Commis-  
sioners to su-  
perintend the  
drawing.

Their oath.

SECT. 4. *And be it further enacted by the authority  
aforesaid,* That the said Commissioners, or any two of  
them, shall attend at the drawing of each day; and  
when the whole is completed, shall cause an accurate  
list of the fortunate numbers to be published in the  
two newspapers in the Borough of Wilmington; and  
the said Commissioners shall receive, of the said Ja-  
cob Broom, Two Dollars for each day's attendance  
on the duties enjoined on them.

Shall daily at-  
tend the draw-  
ing, and shall  
publish the for-  
tunate num-  
bers.

Their allow-  
ance.

SECT.

C H A P.  
CXL.

1797.

Prizes not de-  
manded within  
twelve months,  
how applied.

If the tickets be  
not sold within  
two years, the  
monies received  
shall be return-  
ed.

SECT. 5. *And be it further enacted by the authority  
aforesaid,* That all prizes not demanded within twelve  
months after publication as aforesaid, shall be applied  
as aforesaid to the re-establishment of the said cotton  
manufactory.

SECT. 6. *And be it further enacted by the authority  
aforesaid,* That if the said tickets shall not be sold  
within two years after the Governor shall approve of  
the scheme, that the said Jacob Broom shall return  
and pay over to every person, on demand, the respec-  
tive sums that may have been received for tickets sold  
in said lottery.

Passed June 3, 1797.

## C H A P. CXLI. c.

1797.

*An ACT for establishing the boundaries of the town of  
New-Castle, and for other purposes therein mentioned.*

SECTION I. **B**E it enacted by the Senate and House of  
Representatives of the state of Dela-  
ware in General Assembly met, That James Booth,  
George Read the younger, Nicholas Vandyke, Ar-  
chibald Alexander, and John Crow, be, and they  
are hereby nominated and appointed, Commissioners;  
who shall have full power and authority, and they,  
or any three of them, are hereby required and direct-  
ed, as soon as conveniently may be after the passing  
of this act, taking with them a skilful Surveyor, to  
be qualified upon his solemn oath or affirmation, to  
make an accurate survey of the town of New-Castle  
aforesaid, and to ascertain and fix the boundaries and  
limits of the same; and to lay out, open, and regu-  
late, the streets, lanes, and alleys within the said  
town; and the said Surveyor shall, under the super-  
intendance and direction of the Commissioners aforesaid,  
make out a careful plot or map of the survey, so  
to be made as aforesaid; which plot or map shall  
contain an account of the boundaries of the said town,  
and the courties, width, and names, of the several  
streets,

Commissioners  
appointed to fix  
the limits of the  
town, and to lay  
out and regulate  
the streets, lanes  
and alleys.

Survey to be  
made, and map  
recorded.

streets, lanes, and alleys, (the names of the said streets, lanes, and alleys, to be given by the Commissioners aforesaid, or a majority of them;) and the said plot or map shall be signed by the said Surveyor and Commissioners, and the same shall be lodged in the Recorder's Office for the county of New-Castle, there to be recorded or enrolled; which said plot or map, or the record thereof, shall be deemed, taken, and received in all courts of law or elsewhere within this government, to be evidence of the boundaries of the said town of New-Castle, and of the courses, width, and names, of the several streets, lanes, and alleys within the same: *Provided always*, That the said Commissioners, in ascertaining and fixing the said boundaries of the town of New-Castle aforesaid, shall confine themselves, as nearly as may be, to the at present reputed boundaries of the said town; and in laying out, opening, or regulating the streets, lanes, and alleys in the said town, they shall confine themselves, as nearly as may be, to the now reputed streets, lanes, and alleys within the same; and that they be not permitted, and they are hereby forbidden, to lay out or open any street, lane, or alley, unless such street, lane, or alley, hath heretofore been deemed and reputed to be public, or unless they shall have evidence of its being so; *Provided nevertheless*, That nothing herein contained shall be construed to hinder or prevent the laying out, opening, or altering any such street, lane, or alley, as aforesaid, for the sake of straightening the same or otherwise, where the person or persons through whose ground the same would run shall voluntarily agree that the same may be done.

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CXLII.  
1797.

Restrictions in fixing the boundaries, and laying out the streets, &c.

Proviso.

SECT. 2. *And be it enacted*, That the said Commissioners shall fix posts and stones in the earth in the center or middle of the streets respectively, where they intersect one another, which posts and stones so set and fixed in the earth in the middle of the streets as aforesaid, as well as all such other posts and stones as shall from time to time hereafter be so set or fixed in the earth, by the Commissioners herein or hereafter to be appointed, shall, in all cases, and in all courts of law within this government, be deemed, taken,

Land-marks established

C H A P.  
CXLI.

1797.

Penalty for removing them.

taken, and allowed as land-marks; and if any person or persons shall, at any time hereafter, wilfully pluck up or remove any of the said posts or marked stones, and shall be thereof convicted in the Court of General Sessions of the Peace for the county aforesaid, he or they shall severally forfeit and pay the sum of Forty Dollars, besides the costs of prosecution, to the use of the Commissioners and inhabitants of the said town of New-Castle, to be employed in and towards defraying the expences of carrying this law into execution.

Persons aggrieved, may appeal from the Commissioners;

SECT. 3. *And be it enacted*, That if any owner or owners of any lot or lots, or part of a lot, within the said town, shall conceive himself, herself, or themselves aggrieved by any act or acts of the said Commissioners, or a majority of them, relative to the boundaries of the said town, the location of the said streets, lanes, and alleys, that then it may be lawful for such person or persons, at any time within the space of thirty days next following the time of the delivery of the said return into the Recorder's Office, but not after, to appeal therefrom to the next Court of Common Pleas, or to the next Supreme Court, to be holden for the county of New-Castle, he, she, or they, first entering into recognizance before the Prothonotary or Clerk of the said Court, with at least one sufficient surety, in double the value of the property in controversy, and sufficient to answer all cost, to prosecute the said appeal with effect, and to abide the order of the said court.

but shall first enter into recognizance.

Mode of proceeding upon the appeal.

SECT. 4. *And be it enacted*, That in case of an appeal or appeals in manner aforesaid, the person or persons, who conceives him, her, or themselves to be aggrieved, shall be the appellant or appellants, and the Commissioners, or the survivors of them, shall be appellees; and the Court of Common Pleas, or the Supreme Court, are hereby authorized and impowered to direct such proceedings to be had therein as will cause a trial to be had by the Court and Jury of the matter in controversy between the parties by a feigned issue, and to give judgment accordingly; and if in any such case, it shall be determined by a jury, that the appellant or appellants is or are aggrieved, the quantity

quantity of land claimed by such appellant or appellants shall be particularly described by the verdict of the same jury, and judgment of the said court; and, in all such cases, the court and jury shall have full power and authority to take into consideration all circumstances relative to the pretensions of the parties, and to do justice according to the very right of the matter and the law of the land.

C H A P.  
C X L I .  
1797.

SECT. 5. *And be it enacted,* That the Commissioners appointed by this act shall continue in office until the first Tuesday in May, which will be in the year of our Lord One Thousand Seven Hundred and Ninety-eight; on which day, and on the same day annually in future, the freeholders and inhabitants, who are taxables of the said town of New-Castle, shall meet at the Court House in the said town, and the Electors, between the hours of twelve in the forenoon and four in the afternoon, having first appointed two or more discreet persons to be judges of such election, proceed to choose by ballot a like number of discreet persons, who shall be stiled Commissioners; and the said Commissioners appointed by this act, as well as those hereafter to be appointed in manner aforesaid, shall have full power and authority, and they are hereby required and directed, to lay out the proper pavements and gutters for carrying off the water, at the expense of the proprietors of the ground in front of which such pavements and gutters are made, and upon application made to them, by either of the parties, to enter upon the lands of any person or persons, in order to lay out the foundation and regulate the walls to be built between party and party within the said town, as to the breadth or thickness thereof, which foundation shall be laid equally upon the lands of the persons between whom such party-walls shall be made; and the first builder shall be reimbursed one moiety of the charge of such party-walls, or for so much thereof as the next builder may have occasion to make use of, before such next builder shall any wise use or break into the said wall; and that the charge or value thereof shall be set by the said Commissioners, or any three of them: *Provided,* That nothing in this act shall be construed to extend to

Continuance of the present Commissioners in office.

How future ones shall be elected.

Powers of the Commissioners.

How party-walls shall be erected, and the first builder reimbursed.

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CXLI.

1797.

Penalty for  
building with-  
out, or contrary  
to, the direc-  
tions of the  
Commissioners.

abrogate, annul, or alter, any contract that hath heretofore been, or may be, made by the owners of adjoining lands.

SECT. 6. *And whereas* it may so happen, that there are at present dwelling houses and other buildings erected, which do project on the streets of the said town, but which cannot be removed without greatly injuring the same; *Be it therefore enacted*, That when such houses or buildings as aforesaid shall fall down by reason of decay, or otherwise be destroyed, that then and in such case, if the owner or owners of any such house or building as aforesaid, or if any person or persons in other cases, shall begin to lay the foundation of any party-wall or other building as aforesaid, before the same be viewed and directed by the said Commissioners, or some three of them, or shall build contrary to such directions, every such person, as well employer as master-builder, shall forfeit and pay the sum of Twenty Dollars each, besides costs of prosecution, to be recovered in the name of the Commissioners aforesaid, by bill, plaint, or information, in any Court of Record within this government, wherein no essoin, protection, or wager of law shall be allowed, nor any more than one imparlance; and all such forfeitures shall be paid to the Treasurer for the time being, to be appointed as is herein after mentioned, one moiety thereof for the use of the said town, and the other moiety to the prosecutor.

Mode of recovery, and application of the forfeiture.

Commissioners allowance.

SECT. 7. *And be it enacted*, That the said Commissioners, for their trouble, in and about the premises, shall be paid by the party or parties concerned in such foundation, or erecting such party-walls or other buildings, the sum of One Dollar each, and no more.

Power of the Commissioners to regulate partition fences.

SECT. 8. *And be it enacted*, That the said Commissioners, or any three of them, shall have full power to regulate all partition fences within the said town, and where the adjoining owners or possessors do improve or inclose their lots, such fences shall be made in the manner generally used, and kept in good order, at the equal costs of the parties; and that the said Commissioners shall be the judges of the costs or

How the charges of erecting and supporting them shall be paid.

charges

charges to be borne by both or either of the said parties; and if either party, between whom such partition fence is or shall be made, on request of the other, shall neglect to pay his, her, or their share or proportion of the expense of such partition fence, to be ascertained and fixed by the Commissioners as aforesaid, and for keeping the same afterwards in repair, that then the party at whose cost the same was so made or repaired, may recover the same before any Justice of the Peace for the county of New-Castle, as debts under Forty Shillings are recovered by the laws of this state; and the said Commissioners shall be paid by the party or parties between whom such partition fence is or shall be made, One Dollar and no more.

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CXLI.

1797.

Mode of reco-  
very.

SECT. 9. *And be it enacted*, That the said Commissioners shall be, and they are hereby authorized, empowered, and required, to guard against encroachments being made on any of the streets in the said town, to be laid out and regulated in manner as is herein before mentioned, and to remove any such encroachments, if any at present exist, or may hereafter be made on said streets, by reason of inclosures or otherwise, except so far as is excepted or reserved in respect to dwelling houses and other buildings that may project on any of the streets as aforesaid; and if any person or persons shall presume to encroach on any of the streets, to be laid out and regulated as aforesaid, or shall commit any nuisance therein by obstructing the same, and do not remove such obstructions and encroachments forthwith, such person or persons so offending, and being duly convicted thereof in any Court of General Sessions of the Peace, shall be fined in any sum not exceeding Fifty Dollars, to be paid to the Treasurer for the time being, to be applied for the removing such nuisances, and for defraying the expences arising from the putting this law in execution.

Penalty for ob-  
structing or en-  
croaching upon  
the streets.

Recovery and  
application.

SECT. 10. *And be it enacted*, That the said Commissioners herein appointed, or hereafter to be elected, or a majority of them, are hereby authorized and impowered to estimate and determine what sum and sums of money may be necessary to be raised for defraying the expense of making a map or plan of the said

Commissioners  
shall determine  
the sums neces-  
sary to be raised  
for public uses.

TOWN,

C H A P.  
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1797.

Shall make an  
assessment there-  
of, and cause  
the same to be  
collected.

Assessment to be  
published.

Treasurer to be  
appointed.

Mode of reco-  
vering the taxes.

town, and recording the same; for the adjusting any matters of controversy relative to the bounds of the said town, streets, lanes, and alleys; for setting up and fixing land marks; for repairing the market house in the said town, and for erecting such number of public pumps in the streets of the said town as the said Commissioners, or a majority of them, may think necessary; and to cause the same to be collected from the inhabitants, and the estates within the limits of the said town from persons not residing within the same; and to this end, that the said Commissioners, or a majority of them, shall make a just rate or assessment on the persons and estates within the said town, to and for the uses aforesaid, and ascertain the quota or share of the sum or sums of money to be paid by each person or estate, and make a fair list thereof, being first qualified faithfully to perform the said duty: *Provided*, That those persons, who are not liable to be taxed for the relief of the poor, shall not be taxed or assessed by virtue of this act.

SECT. II. *And be it enacted*, That the said Commissioners, or a majority of them, shall cause to be set up, at the Court House in the town of New-Castle aforesaid, a duplicate of the assessment made in virtue of this act; and every person, and owner or names of every estate within the said town, so assessed, shall, within twenty days after the said duplicate shall be set up at the Court House aforesaid, pay to the Treasurer to be nominated and appointed by the said Commissioners, their respective quotas of the said assessment, and in case of neglect or refusal to pay the same, within the time before mentioned, the said Treasurer is hereby authorized and impowered to cause the same to be levied by sale of the delinquent or delinquents goods and chattels, lands and tenements, by warrant under the hand and seal of any one Justice of the Peace, which such Justice is hereby authorized and required to issue at the instance and request of the said Treasurer, in the name of the whole, or a majority of the said Commissioners, and to direct the same to any Constable of the said county, or to the Sheriff of the county of New-Castle, at the discretion of the said Treasurer; and in such case, any Sheriff

or

or Constable to whom such warrant may be delivered, is hereby authorized and impowered to expose to sale by public vendue, after ten days notice, the said goods and chattels, lands and tenements, of the delinquent or delinquents, and to sell the same to the highest and best bidder, and apply so much of the amount of sales as may be necessary to discharge the said assessment, and return the overplus, if any there be, to the owner or owners, deducting such legal costs therefrom as may be allowed by the laws of this state in such cases made and provided; and that the said Commissioners shall settle their accounts annually before a Committee to be appointed by the inhabitants of the said town, at a town meeting.

C H A P.  
CXLI.

1797.

Commissioners  
to settle their  
accounts annually,

SECT. 12. *And be it enacted*, That all monies raised by virtue of this act, shall be paid by the Treasurer to the order of a majority of the said Commissioners; and the said Treasurer shall settle his accounts with the said Commissioners at least once in every year, and shall receive such compensation for his services as they may think necessary.

Treasurer, upon  
whose order he  
shall pay money.When he shall  
settle his accounts.

SECT. 13. *And be it enacted*, That every white freeman of the age of twenty-one years, having resided within the said town of New-Castle one year next before the election, and within that time paid a state or county tax, and every other such freeman, owner of property within the said town for one year next before the election, and within that time having paid therefor a state or county tax, shall be, and they are hereby authorized and impowered to elect by ballot on the first Tuesday in May next, and on the same day annually in future, or in case of neglect to elect that day, then any other day after ten days notice, one suitable person to serve in the office of Clerk of the market in the said town of New-Castle, who is hereby authorized, impowered, and required, to exercise the powers and perform the duties required to be done and performed by the Clerk of the market of the said town of New-Castle, by an act, intituled, *An act for establishing a market in the town of New-Castle, for appointing a Clerk of the market, and directing the assize of bread.*

Clerk of the  
market, when  
and by whom he  
shall be elected.

SECT.

C H A P.

CXLII.

1797.

His emoluments.

SECT. 14. *And be it enacted*, That all suits, penalties, fines, and forfeitures, as are directed to be forfeited and paid by the said recited act, intituled, *An act for establishing a market in the town of New-Castle, for appointing a Clerk of the market, and directing the assize of bread*, shall be applied to the use of the Clerk of the said market; and also the one moiety of the rent of the stalls in the market-house in the said town, shall be applied to the use of the Clerk of the market aforesaid, and the other moiety to and for the purpose of repairing the said market-house, and keeping it in repair.

How the rents of the stalls in the market shall be fixed.

SECT. 15. *And be it enacted*, That it shall and may be lawful for the said Commissioners, or a majority of them, annually, or as often as there shall be occasion, by warrant under their hands and seals, to nominate and appoint three persons, inhabitants of the said town, to ascertain and fix the rents of the stalls, in the said market-house; and that the Clerk of the market shall not demand, take, or receive, from any person or persons whatsoever, for the rent of the stalls, any greater sum than may be so ascertained and fixed as aforesaid, on penalty of forfeiting the sum of Ten Dollars, one moiety thereof to the use of the person who shall sue for the same, and the other moiety for the use of the inhabitants of the said town.

Penalty for exaction.

Repeal.

Chap. 71. a.

SECT. 16. *And be it enacted*, That so much of the said recited act, intituled, *An act for establishing a market in the town of New-Castle, for appointing a Clerk of the market, and directing the assize of bread*, as is hereby altered, shall be, and the same is hereby, repealed and made null and void; any thing in the said act contained to the contrary in any wise notwithstanding; and also so much of the said act as regards the assize of bread.

*Passed June 3, 1797.*

The following *ADDENDA et ERRATA*, to Vol. II. with some lesser Errors not noted therein, accumulated much from the Editor of the Notes, in this Impression of the Laws, not having had a View of the Proof-Sheets sent from the Press; and from his having completed and sent for the Press the Notes to the Laws preceding the Year 1796, before those of 1797 were enacted.

## Page Line

- 595 To 1054, inclusive, add the letter "b." to the numerals of each chap. at the head of every page in the margin of Vol. II. to said page 1054, inclusive.
- Idem last After "Appendix," add, "page 82."
- 597 last At the end of note (d) add, "Yet see chap. 133. c. sect. 3, the appropriation in chap. 28. c. affirmed."
- 606 At the end of note (c) add, "but see after chap. 105. c.—and chap. 133. c. sect. 3."
- 612 last At the end of note (a) add, "chap. 120. c."
- 681 last At the end of note (c) add, "chap. 120. c."
- 735 last At the end of note (e) add, "—and see chap. 202. b. sect. 9, as to part of such certificates, the property whereof is disputed."
- 736 last save one, after "certificates," read "with an exception in sect. 9."
- 750 last At the end of note (b) add, "—and chap. 202. b. sect. 9, as to part of such certificates, the property whereof is disputed."
- 810 last At the end of note (b) add, "and chap. 120. c."
- 870 last At the end of note (b) add, "—and chap. 229. b. sect. 6, passed Jan. 29, 1791, directing the Trustees of the several Loan Offices also to return to him annually an accurate state of the same."
- 885 In line 5, of note (a) after "sect." *dele* "5," and insert "4."
- 386 39 At the end of sect. 6, add (i) and at the bottom of the page, by way of note, add, "(i) By an act concerning negro and mulatto slaves, chap. 124. c. passed Jan. 18, 1797, all manumissions to be in writing, signed and sealed by the master or mistress, and attested and subscribed in his or her presence by one or more competent and credible witnesses; with a provision for recording the same in sect. 3—and in sect. 6, continuing the requisite security, as in chap. 188. a. sects. 2, 4—and sect. 6, above."
- 890 In line 5, of note (a) *dele* "such," and insert, "executory."
- 944 In margin of sect. 5, insert, "chap. 43. a."
- 976 last save one, at the end of note (d) add, "but this altered in chap. 133. c. and the former appropriation affirmed."
- 1037 6 After "accounts," add (b) and at the bottom of the page, by way of note, add, "(b) See also chap. 134. c. sects. 7, 8, That the Six Cents for every passenger or servant imported and landed in this state, to be collected by the Health Officer, and a moiety of the fines and penalties mentioned in said chap. are to be paid to the Treasurers above for the county where they happen."
- 1054 In margin, opposite line 10, and above "1792," insert, "Chap. 1. c."
- 1055 And to the last page of the chapters of the laws of 1797, add the letter "c." to the numerals of each chap. at the head of every page after 1054.
- 1090 In margin, opposite to sect. 6, add, "See also art. 6, sect. 9, of the constitution of 1792, page 40."
- 1095 2 After "state," add, "(d)" and at the bottom of the page, by way of note, add, "(d) See also chap. 124. c. sect. 5."
- 1106 In margin, *dele* "204," and insert "205."
- 1110 In margin, *dele* "149," and insert "139."

Page	Line	
1121	last	To note (y) add, "and in chap. 200. a. sect. 5."
1127	last	To note (c) add, "but see this of sect. 5, above affirmed in chap. 133. c. sect. 3."
1131	last	To note (c) add, "as also in a preceding chap. 189. a. sect. 3, passed October 31, 1767, until repealed and supplied in said chap. 178. b."
1180		At the end of note (f) add, "and in sect. 6, the Board to hold four terms in the year—and see chap. 132. c. sect. 2, the power of adjournment given to one, &c."
Idem		At the end of note (g) add, "but see chap. 132. c. sect. 3, That all appeals to the High Court of Errors, &c. are to be entered of record there within one year from the taking thereof. As to those taken before that act, to be entered before or during the sitting of that court in August, 1797."
1195	25	After "New-Castle county," add, "(a)" and at the bottom of the page, by way of note, add, "(a) See after chap. 127. c. an act with a similar title, making other provision for keeping the ferry there."
1202		At bottom of this page add; "See chap. 137. c. page 1362, a new appointment in place of Thomas M'Kean Thompion."
1214		At the end of note (a) add "also chap. 131. c."
1239	21	After "or persons to," add (a) and at the bottom of the page, by way of note, add, "(a) See chap. 133. c. page 1352, certain funds of the state appropriated for subscribing towards the shares above provided for the use of the state."
1254		Last of note (d) add thereto, "and see chap. 136. c. page 1358, further provision as to New-Castle county."
1261		Last of note (s) add thereto, "and in chap. 136. c. sect. 7, page 1360."
1298	last	Dele "95," and insert "105."
1310	last	Dele "(a)" and insert "(c)" and after "before," add "page 1308."
1324	last but one,	dele "139," and insert "129."
1325		In note (f) dele "182," and insert "188."
1327		Last line of note (c) add there, "and see note (s) in page 1261."
1330	last	Add thereto, "See also chap. 139. c. page 1363, for an additional supplement."
1340	last but one,	dele "and to be futrely repealed by this act."
1342		Last line in margin, dele "63. c." and insert, "138. a. sects. 1, 2."
1362		In margin, under "Preamble," insert, "See chap. 75. c. page 1202, for his appointment."

# T A B L E

O F

## A C T S

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AN act for the fitting of the orphans court	I.	51.
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An act confirming devises of lands, and validity of nuncupative wills		<i>ibid.</i>
An act empowering widows and administrators to sell so much of the lands of intestates as may be sufficient to clear their debts		<i>ibid.</i>
An act for taking lands in execution for payment of debts		<i>ibid.</i>
An act for the effectual establishment and confirmation of the freeholders of this province and territories, their heirs and assigns, in their lands and tenements		55.
An act about acknowledging and recording deeds		<i>ibid.</i>
An act for ascertaining the descent of lands, and better disposition of the estate of persons dying intestate		59.
An act for preventing clandestine marriages		<i>ibid.</i>
An act confirming devises of lands, and the validity of nuncupative wills		60.
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An act for obliging the sheriff, clerk, and register of wills and testaments for the county of Sussex, to reside in the town of Lewes in the said county		81.
An act for the better settling intestates estates		94.
An act for cutting a new mouth for the creek called the Murtherkill, in Kent county, into the bay of Delaware		97.

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An act for the better settling intestates estates		257.
An act for regulating and establishing fees		268.
An act for the more easy and speedy recovery of small debts		<i>ibid.</i>
An act for reprinting, exchanging, and re-emitting all the bills of credit, and for striking six thousand and one hundred pounds, &c. to be emitted on loan		<i>ibid.</i>
An act for the better relief of the poor of the county of New-Castle		<i>ibid.</i>
An act for enabling the trustees of the respective loan-offices within this government, to lend two hundred and thirty pounds for the uses in this act mentioned		274.
An act for reprinting, exchanging, and re-emitting twenty thousand pounds of the bills of credit of this government		<i>ibid.</i>
An act for repairing and amending the highways, roads, causeways, and bridges, within the hundred of New-Castle		<i>ibid.</i>

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An act obliging persons returned and appointed for constables, to serve accordingly	298.
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An act for raising the sum of one thousand pounds for his majesty's use, and providing a fund for sinking the same	<i>ibid.</i>
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An act for establishing a militia in this government	<i>ibid.</i>
An act to restrain the exportation of provisions and warlike stores from the government of the counties of New-Castle, Kent, and Suffex, upon Delaware	<i>ibid.</i>
An act for the new appointment of trustees for the several general loan-offices of this government	<i>ibid.</i>
An act to revive and continue an act of assembly of this government, intituled, "An act to restrain the exportation of provisions and warlike stores," &c.	351.
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An act for the better regulation of the king's roads in Kent county	<i>ibid.</i>
An act for appointing an agent, residing in England, for this government.	380.
An act for striking four thousand pounds in bills of credit, and giving the same to the king's use, and for the providing a fund for sinking the same	<i>ibid.</i>
A supplement to an act, intituled, "An act to encourage the building of good mills within this government"	385.
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An act for amending an act, passed in the 17th year of the reign of his late majesty George the second, intituled, "An act for the better relief of the poor of the county of New-Castle"; and for extending the same to the counties of Kent and Suffex, and for other purposes herein after mentioned	I. 471.
An act for the appointment of rangers and regulation of strays	<i>ibid.</i>
An act for regulating and establishing fees	<i>ibid.</i>
An act for the repairing and keeping up the causeway adjoining the creek called the Murther-kill, in Kent county	523.
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An act directing the choice of assessors for the present year in the county of New-Castle, and for reviving the levy court and court of appeal in the said county, and the process of the supreme court in the several counties in this state; and for occasional adjournments or removals of the courts from the county-towns	625.
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An act against desertion, and harbouring deserters, or dealing with them in certain cases	<i>ibid.</i>
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An

An act for the further security of the government	II 633.
An act to prevent the inhabitants of this state from dealing and furnishing the enemies thereof with supplies, and for other purposes therein mentioned	<i>ibid.</i>
An act for regulating and establishing the fees of divers civil officers of this state, and for other purposes therein mentioned	<i>ibid.</i>
An act to prevent the exportation of provisions from this state beyond the seas	634.
An act to prohibit the exportation of provisions from this state beyond the seas, for a limited time	643.
An act for the quartering of soldiers	645.
An act to appoint commissioners to hear and determine the claims of the officers and soldiers of the whig-battalion, stationed at Newark and Dover, in this state, in the year of our Lord one thousand seven hundred and seventy-seven, and of the inhabitants of the counties of New-Castle and Kent, and others, whose property was seized and taken by said battalion and others, officers and privates of the militia of this state, to prevent a trade with the enemy, &c.	646.
An act to prohibit, for a limited time, the distilling of whiskey, and other spirits, from wheat, rye, or any other sort of grain, or from any meal or flour	647.
An act to prevent and punish frauds and abuses in the quarter masters and commissaries departments, and for ascertaining the pay of impressed teams and their drivers	<i>ibid.</i>
An act to increase the salaries and allowances to the justices of the supreme court	655.
A supplement to an act, intituled, "An act for keeping in good repair the causey and bridge over the Broad-kiln creek, in Suffex county, and for regulating the toll for passing the same"	<i>ibid.</i>
An act for relieving the distresses of the inhabitants of the island of Bermud <sup>s</sup>	657.
An act for the speedy recovery of public debts	665.
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An act to prohibit the exportation of provisions from this state beyond the seas for a limited time	<i>ibid.</i>
An act to prevent forestalling and engrossing, and for other purposes therein mentioned	679.
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An act for the amendment of the laws for establishing the salaries and allowances to the president, justices of the supreme court, and justices of the courts of common pleas and orphans courts of this state, and the fees of the other civil officers herein after mentioned, and the allowance to jurors and witnesses	692.
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An act for embodying a number of the militia of this state for the purpose of reinforcing the army of the United States	II. 703.
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An act for the preservation of buildings erected upon the lands of inhabitants of this state for the use of the United States, and vesting such buildings and lands in the United States, during the present war, and to punish persons for waste or trespasses made or committed thereon, and for other purposes therein mentioned	<i>ibid.</i>
An act for the relief of divers persons concerned in the late insurrection in Sussex county	719.
An act to recruit the regiment of this state, now in the service of the United States	<i>ibid.</i>
An act for the protection of the trade of this state on the river and bay of Delaware	738.
An act for ascertaining the allowance to members of the general assembly, and for other purposes	739.
An act for expediting the march of the recruits raised for the Delaware regiment	747.
An act to dispose of sundry supplies collected in Sussex county for the army of the United States	750.
An act for aiding the discontinuance of the process and proceedings in the court of general quarter sessions of the peace and gaol delivery in Kent county	<i>ibid.</i>
An additional supplementary act to the act, intitled, "An act for establishing a militia within this state"	751.
An act to vest in the Congress of the United States a power to levy duties of five per centum ad valorem, on certain goods and merchandizes imported into this state, and on prizes and prize-goods condemned in the court of admiralty thereof, and for appropriating the same.	762.
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An act to remedy defects that have arisen in the execution of an act of assembly, intitled, "An act for embodying a number of the militia of this state, for the purpose of reinforcing the army of the United States"	<i>ibid.</i>
An act for increasing the powers of the justices of the supreme court and for other purposes	769.
An act for the protection of the trade of this state on the river and bay of Delaware	771.
An act for aiding and more effectually carrying into execution certain acts of Congress of the twentieth and twenty-seventh days of February last past	<i>ibid.</i>
An act to prevent the sales of lands, goods and chattels, by virtue of executions, in certain cases, for a limited time, and for other purposes	<i>ibid.</i>

A supplementary act to the act, intitled, "An act for the protection of the trade of this State on the river and bay of Delaware"	775.
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An act to increase the daily allowance to grand and petit jurors and witnesses	<i>ibid.</i>
An act to empower the president to appoint suitable persons to preside in the several courts of general quarter sessions of the peace of this state	815.
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An act to establish certain free ports within the Delaware state, and for the encouragement of commerce.	<i>ibid.</i>
An act for the recovery of the sum of one thousand five hundred and fifty-three pounds eighteen shillings and six-pence, due from the estate of John Vining, esq. deceased, formerly one of the trustees of the loan-office for the county of Kent	849.
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An act for continuing "An act for the auditing and arranging the accounts of this state, and for the more effectual settlement of the same"	868.
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REPEALED, EXPIRED, OR OBSOLETE.

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An act to appropriate the perquisites arising from marriage and tavern licences	929
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An act for the payment of the wages of the electors, appointed to choose a president and vice-president of the United States	1054.
An act to enable the governor of this state to incorporate a company for opening a canal and lock navigation on the waters of Brandywine creek	1129.
An act for the support of government by duties upon vellum, parchment, and paper	1158.
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T A B L E

T A B L E

P R I V A T E A C T S.

**A**N act for keeping in good repair the dykes and sluices belonging to the marsh on the north end of the town of New-Castle, lately in the tenure and occupation of John Donaldson, Robert French, and Richard Halliwell, esqrs. deceased I. 87.

An act empowering Timothy Hanson, esquire, attorney to Rebecca Kearney, administratrix of Philip Kearney, esquire, deceased, to convey and make over unto Messrs. Benjamin Shurmer, John Hall, Hugh Durborow, and Andrew Caldwell, several tracts or parcels of land in the county of Kent; on Delaware 95.

An act for keeping in good repair the dykes and sluices belonging to the marsh on the south west end of the town of New-Castle, commonly called the Town-marsh 134.

An act for the keeping in good repair the dyke and sluices belonging to the marshes at Swanwick, in the tenure and occupation of Jehu Curtis, Adam Hay, executor of John Silfbee, Cornelius Kettle, and Samuel Eves ibid.

A supplementary act, to an act, intituled, "An act to enable the owners and possessors of the meadow, marsh, and cripple, on the fourth side of Christiana-creek, called Fearnhook marsh, and of the marsh meadow on the fourth side of the same creek, called Bosman's-creek marsh, in the hundred and county of New-Castle, to keep the banks, dams, and sluices, in repair, and raise a fund to defray the expence thereof" II. 646.

An act for the more effectual draining and improving the marsh, cripple, and low land, on Morris's branch, in Appoquinimink hundred and county of New-Castle, and for other purposes therein mentioned 703.

A supplementary act, to an act, intituled, "An act to enable the owners and possessors of a certain tract of meadow, marsh, and cripple, on both sides of Mill Creek, below the town of New-Castle, to keep the banks, dams, and sluices in repair, and to raise a fund to defray the expence thereof," passed on the twenty-fourth day of March, in the year of our Lord one thousand seven hundred and seventy 750.

An act for enabling James M'Mullan the younger, and his issue, to take and use the surname of Gardner, pursuant to the will of James Gardner, deceased 802.

An

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