

L A W S  
OF THE  
STATE  
OF  
DELAWARE,

FROM THE SECOND DAY OF JANUARY, ONE THOUSAND SEVEN  
HUNDRED AND NINETY-EIGHT, TO THE TWENTY-  
FIFTH DAY OF JANUARY, ONE THOUSAND  
EIGHT HUNDRED AND FIVE.

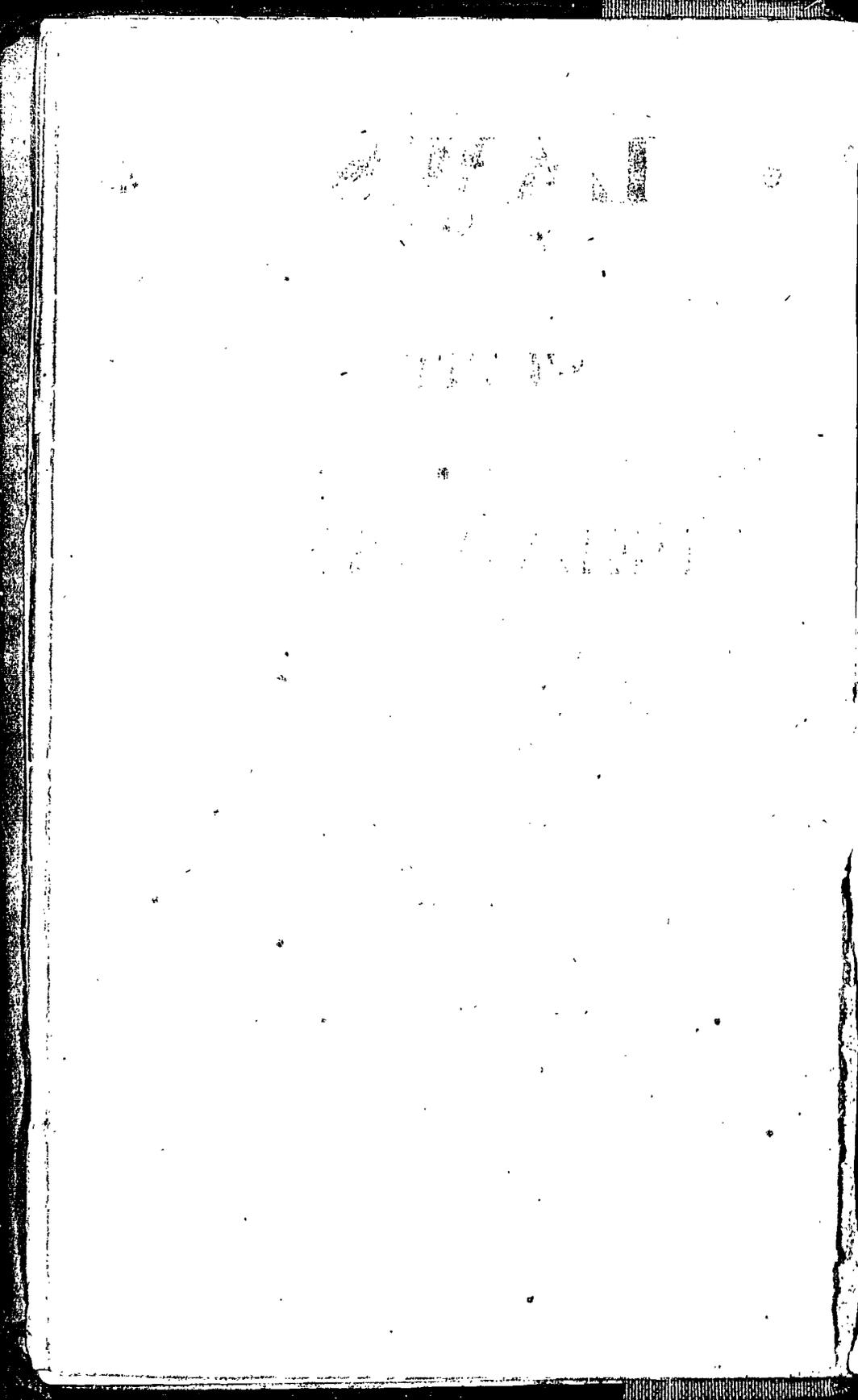
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VOLUME III.  
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*Published by Authority.*  
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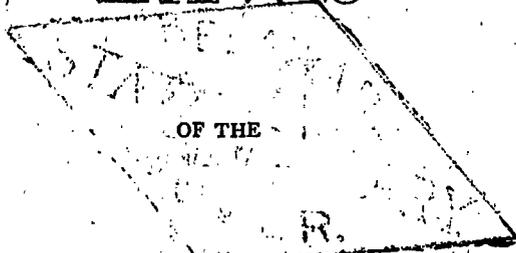
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1816.



# LAWS



## STATE OF DELAWARE.

### CHAP. I.

### CHAP. I.

1798

*An ACT to prevent the issuing of warrants for the location of land.*

**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 not be lawful for the Recorder of Deeds, in any county in this State, to issue any warrant, directed to the surveyor of the county, authorising him to survey and locate any land or lands whatever; and that no surveyor of any county shall survey, locate, or make any plot of any lands upon any warrant of any recorder, which may be hereafter issued; and that all and every such warrant, survey, location, and plot shall be utterly null and void; any law to the contrary thereof in any wise notwithstanding.

Warrants issued hereafter, and surveys made thereon, declared void.

*Passed January 11, 1798.*

## C H A P.

## II.

1798

## C H A P. II.

*An ACT to provide for the erection of a public bridge across Broad-creek, in the county of Sussex.*

Commissioners appointed to erect a bridge over Broad-creek,

and to make the necessary roads and causeways to and from the same.

The place for the erection of the bridge, &c. shall be ascertained by a jury;

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William Barclay Cooper, William Townsend, and Manaen Bull, of the said county, or any two of them, are hereby authorised and empowered to cause to be erected, as soon as may be, a safe, good, and sufficient bridge and abutments over Broad-creek in the said county, at such place between the saw-mill of George Mitchell and the landing of Isaac Cooper, on the said creek, as the freeholders herein after directed to be summoned for that purpose, or any four of them, may determine is most conveniently situated for the erection of the same: and the above named Commissioners, or any two of them, are hereby further empowered to have the necessary roads and causeways leading to and from the said bridge, made in the direction, and for the distance, which shall be assigned by the said freeholders, or any four of them.

SECT. 2. *And be it further enacted,* That it shall and may be lawful for the said Commissioners, or any two of them, to apply to the Prothonotary of Sussex county, and thereupon the said Prothonotary is hereby required and directed, by a writ directed to the Sheriff of the said county, to cause six good and substantial freeholders of said county, not inhabitants of either of the said hundreds of Little-creek or Broad-creek, to attend and view the premises in the presence of the parties interested, if they will attend upon notice given them by the Sheriff for that purpose ten days at least before the meeting of the said Sheriff and freeholders, who shall, upon their oaths or affirmations respectively, to be administered by the said Sheriff, determine the place most proper for the erection of the said bridge, and the roads and causeways leading to and from the same, and thereon to proceed to ascer-

tain the place for the erection of the said bridge, and to survey and lay out the roads to and from the said bridge; and also by their verdict to say and determine, whether any and what damages the owner or owners of any land through which the road and causeway may be laid; and after a verdict given by a majority of said freeholders, the Sheriff is hereby commanded, by a certain instrument in writing, under his hand and seal, and the hands and seals of the said freeholders, or a majority of them, to certify and return the verdict and determination of the said freeholders into the Court of General Quarter Sessions of the Peace, where (if the same shall be approved by the said Court) the same shall remain upon record, and be deemed and taken a public bridge, road, and causeway: *Provided always,* That the said verdict and determination so made and determined as aforesaid shall not be confirmed by the said Court, until the damages so assessed as aforesaid, if any, be paid or tendered by the Commissioners, or any one of them, to the owner or owners through whose land the said road or causeway may be laid.

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who shall also determine the damages.

Verdict not to be confirmed till damages be paid or tendered

SECT. 3. *And be it further enacted,* That the said bridge shall be so constructed as to admit boats without masts, scows, and stocks, to pass under it with ease and convenience; that the abutments and causeway shall be at least twenty feet wide, and the bridge at least sixteen feet wide; that there shall be made on each side of the bridge and abutments, a strong railing, at least three and an half feet high: And the said Commissioners, or any two of them, are hereby required to appear before, and account for such monies as may come into their hands, with the Commissioners of the Levy Court of the said county, at their meeting to be held on the first Tuesday of February, in the year of our Lord One Thousand Seven Hundred and Ninety-nine, and at such other times as the Commissioners of the said Levy Court may think proper to appoint.

Bridge, how to be constructed, &c.

Commissioners to account with the Levy Court.

SECT. 4. *And be it further enacted,* That the commissioners of the Levy Court of said county are hereby au-

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Additional rate  
to be laid on the  
hundreds of  
Broad-creek &  
Little-creek.

thorised and required, at their meeting on the first Tuesday in February next, to lay such additional sum on the quota of the county tax to be paid by the people of the hundreds of Broad-creek and Little-creek in the said county, as will be sufficient to raise, in each of those hundreds, the sum of one hundred and fifty dollars, clear of all delinquencies and charges of collection; which sum of money, or any part of it, as soon as it is paid into the Treasury of the said county, shall be liable for the orders of the said commissioners, or of any two of them.

Allowance to  
the Sheriff and  
freeholders.

SECT. 5. *And be it further enacted,* That there shall be paid, by the said commissioners, two dollars to the sheriff, and to each of the said freeholders the same sum, for every day's attendance on the business assigned them by this act; and the amount thereof shall be allowed the said commissioners, on the settlement of their accounts with the said Levy Court, out of the money herein before directed to be levied for the purpose aforesaid; and if any of the Commissioners herein appointed shall refuse to serve, die, or remove to any distance above ten miles from said bridge, or be rendered incapable of acting before the said bridge, roads, and causeways are completed, the commissioners of the Levy Court shall nominate and appoint, in writing, some other person or persons; which said person or persons, so appointed, are hereby empowered and authorised to act in the premises, as fully as if he or they had been appointed by this act.

When new  
Commissioners  
shall be appoint-  
ed and by  
whom.

How the  
bridge, &c.  
when complet-  
ed, shall be  
maintained.

SECT. 6. *And be it further enacted,* That the said bridge, abutments, causeways, and roads, when they are completed, shall thereafter be maintained, repaired and kept up, at the joint expense of the hundreds of Broad-creek and Little-creek; and whenever any disputes arising between the overseers of the roads of the said hundreds, relating to the said bridge, abutments, roads, or causeways, cannot be adjusted, the commissioners of the Levy Court of the said county may, from time to time, confide the exclusive management of repairing the said bridge, abutments, roads, and causeways, to such person or persons as

Power of the  
Levy-Court as  
to reparation.

they may see proper, and under such regulations and restrictions as they may provide.

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*Passed January 16, 1798.*

This section repealed by chap. cv. in 4th Vol. 299, where it is declared that the Bridge shall be a public Bridge, and repaired at the expence of Sussex County.

C H A P. III.

*An ACT to prevent the erection of booths, or selling of spirituous or other liquors, in any county-town on the day of the annual election; and for other purposes.*

1798

**W**HEREAS the practice of erecting booths, and selling spirituous or other liquors, in the county towns in this State, on the day of the annual elections, is pernicious to the morals of the people, destructive of the freedom of election, and productive of riotous and disorderly behaviour, to the great disturbance of the peace of the State. Preamble.

**SECT. 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 or persons shall, on the first Tuesday of October of any year, or on the day next preceding or succeeding that day, set up any booth, stall, or other convenience, for the selling of spirituous or other liquors, or shall, on the said first Tuesday of October in any year, with or without such booth, stall, or other convenience, sell, or expose to sale, any wine, rum, brandy, whisky, perry, cyder, porter, beer, metheglin, mead, or other vinous, spirituous, or malt liquor, in any town in this State within which the annual election of members of the general assembly shall be holden, or at any place within two miles of the town or place in which such annual election shall be holden, he, she, or they, shall for every such offence, forfeit and pay to the State the sum of twenty dollars, to be recovered by indictment in the court of General quarter sessions of the peace and jail delivery in the county in which such offence shall be committed.

Penalty for erecting booths, stalls, &c. or selling strong liquors, in county-towns on the day of the annual election.

Mode of recovery.

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Proviso, as to  
tavern-keepers  
and merchants.

SECT. 2. *Provided always*, That this act shall not be construed to hinder any tavern-keeper, merchant, or other person, from selling liquors in their respective tavern-houses, stores, or other houses, in any such town or place, or within two miles thereof, on the said first Tuesday of October, in the same manner as by law they are permitted to sell at other times.

Justices of the  
peace and Con-  
stables required  
to attend at the  
County-town  
on the day of  
annual election :

and to suppress  
such booths, or  
stalls.

SECT. 3. *And* for the more effectual suppression of booths, stalls, and other conveniencies for the selling, giving away, or otherwise disposing of spirituous or other liquor, in the said towns in this State, on the said first Tuesday in October, *Be it enacted by the authority aforesaid*, That each and every Justice of the peace and constable in the respective counties in this State, are hereby commanded and required to repair to the town or place in their counties respectively, in which the annual election of the members of the general assembly shall be holden, on the said first Tuesday of October, and there attend from ten o'clock in the forenoon to six o'clock in the afternoon of that day ; and if it shall appear to any Justice of the Peace, upon his own view, or upon the oath of any credible witness, (or upon his or her affirmation, he or she being conscientiously scrupulous of taking an oath) that any person or persons hath or have set up any booth, stall or convenience for the selling, giving away, or otherwise disposing of liquor, in any town or place in this State within which such annual election shall be holden, or within two miles of the town or place within which such annual election shall be holden, on the said first Tuesday of October, each and every such Justice is hereby authorised, required, and directed, to call to his aid and assistance all other Justices of the Peace, and all and every the constables, and other citizens of the county, and forthwith, together with such other Justices, and with the constables and other citizens, to prostrate, beat down, and remove all and every such booth, stall, and other convenience ; and the said Justice shall make a record of such suppression in the following form of words, or in any other form to the like effect :

Record of sup-  
pression.

county, *to wit* ; *Be it remembered, that on*

*this first Tuesday of October in the year* I, A.  
*B. one of the Justices of the Peace of* county,  
*do suppress a booth of* in the town of  
*(or within two miles of the place within which the annu-*  
*at election is holden,) as the case may be, in pursuance*  
*of an act of the General Assembly in such case made*  
*and provided; which record shall be certified to the*  
*next Court of General Quarter Sessions of the Peace,*  
*there to be filed amongst the records thereof.*

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SECT. 4. *And be it further enacted by the authority aforesaid,* That if any Negro or Mulatto slave or slaves, or Negro or Mulatto servant, or apprentice, of any person or persons who does not or do not reside within the limits of the town, in which such annual election as aforesaid shall be holden, shall be found within the limits of such town on the first Tuesday of October in any year, the master or mistress of all and every such Negro or Mulatto slave or slaves, or servant, or apprentice, on conviction thereof before any one Justice of the Peace of the county, either upon his own view, or upon the oath of any credible witness, (or upon his or her affirmation, he or she being conscientiously scrupulous of taking an oath) shall forfeit and pay to the State for every such Negro or Mulatto slave, servant, or apprentice, Two dollars, to be recovered with costs, by distress and sale of the master's or mistress' goods and chattels, by warrant under the hand and seal of the Justice before whom such conviction may be had: *Provided nevertheless,* That in case of sickness, it shall be lawful for any master or mistress to send any Negro or Mulatto slave to any such town or place as aforesaid for necessaries for any sick person in his or her family, or to any physician for medical assistance, for the said slave there to remain for any space of time not exceeding one hour; such master or mistress giving such slave written orders for that purpose. *And provided always,* That in case any such Negro or Mulatto slave or slaves, servant or servants, apprentice or apprentices, shall go to any such town or place on the day aforesaid, without such written orders as aforesaid, that then and in such case, it shall and may be lawful for any Jus-

If any Negro or Mulatto slave, servant, or apprentice, of persons not residing within such town, be found therein on the day of the election, the master or mistress shall forfeit Two Dollars.

Proviso.

Such slave, servant, or apprentice, to be also imprisoned.

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tice to imprison him, her, or them, in the jail of the said county for any time not exceeding forty-eight hours; the costs of which said imprisonment shall be deducted from the forfeiture aforesaid.

Penalty on free Negroes or Mulattoes, not residing within such town, being found therein on the day of the election.

How recovered

Proviso.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if any free Negro or free Mulatto, who does not reside within the limits of such town as aforesaid, shall be found within the limits of such town on the first Tuesday of October in any year, every such free Negro or free Mulatto, on conviction thereof before any one Justice of the Peace of the county, either upon his own view, or upon the oath of any credible witness, (or affirmation, he or she being conscientiously scrupulous of taking an oath) shall forfeit and pay to the State Two dollars, to be recovered with costs as is directed in the fourth section of this act; and in case such offender shall not have goods and chattels, wherefrom the said forfeiture and costs may be made, then he or she shall be committed to the public jail of the county, there to remain till the same are fully paid and discharged: *Provided nevertheless,* That in case of sickness, it shall be lawful for any free Negro or free Mulatto to go to any such town or place for necessaries for any sick person in his or her family, or to any physician for medical assistance, and there to remain for any space of time not exceeding one hour.

How Negroes or Mulattoes residing therein, shall be punished for disorderly behaviour on that day.

SECT. 6. *Be it enacted,* That if any free Negro or Mulatto, or Negro or Mulatto slave, residing within the limits aforesaid, shall be guilty of any riotous or disorderly behaviour on the aforesaid first Tuesday of October, he or she shall, in the manner and by the authority aforesaid, be imprisoned for the same for any length of time not exceeding twenty-four hours, and punished further for any offence or offences they may commit, in the same manner as the law directs in such cases.

SECT. 7. *And be it enacted,* That the Justice of the Peace before whom any person shall be convicted, agreeably to the fifth or sixth sections of this act, shall make a record of such conviction in the following

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form of words, or in any other form to the like effect:

County, to wit:

*Be it remembered, that on this first Tuesday of October, in the year* is convicted before me the subscriber, one of the Justices of the Peace for the said County of

*A. B. for that a Negro (or Mulatto) apprentice, servant, or slave, named* of his or her, or he the said *A. B. being a free Negro (or a free Mulatto,)* was found within the limits of the town of

*on this day, and I do adjudge the said A. B. to forfeit and pay to the State of Delaware Two Dollars, and the said apprentice, servant, or slave to be imprisoned* hours. Given under my hand and seal the day and year aforesaid.

Form of record of conviction under sections 5 and 6, of this act.

*Provided nevertheless, That it shall and may be lawful for any slave, or free Negro or Mulatto, driving any stage-waggon or carriage of burthen, not conveying articles intended to be disposed of on that day, at any such town or place, by any such slave, or free Negro or Mulatto, on his, her, or their own account; or attending on his or her master or mistress; or travelling through any County in this State, to be and remain within the limits of any such town or place as aforesaid as long as may be reasonably necessary: any thing in this act to the contrary in any wise notwithstanding.*

Proviso.

SECT. 8. *And be it enacted by the authority aforesaid, That if any Justice of the Peace or Constable in any County in this State, shall neglect or refuse to repair to the town or place in their Counties respectively, in which the annual election for Members of the General Assembly shall be holden, on the said first Tuesday of October of every year, and there attend from ten o'clock in the forenoon to six o'clock in the afternoon of that day, and then and there do and perform the duties required of them respectively by this law, every such Justice of the Peace shall forfeit and pay to the State Fifty Dollars; and every such Constable shall forfeit and pay to the State Twenty Dollars; and every other citizen such sum as he may be fined in the discretion of the Court, to be recovered by indictment in the Court of General Quarter Sessions of the Peace and Jail Delivery, in the county in*

Justices of the peace & constables neglecting to attend and perform their duties,

the penalty.

Penalty on other citizens.

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which such Justice, Constable, or other citizen resides ; and upon the conviction of any such Justice of the Peace, the said Court is hereby directed to certify the same to the Governor of the State.

Persons sued may plead the general issue, and if, &c. shall recover double costs.

SECT. 9. *And be it further enacted by the authority aforesaid,* That if any suit or action shall be commenced, brought, or prosecuted against any Justice of the Peace, or Constable, or other person, for any act or thing by him or them done in pursuance of this act, it shall and may be lawful to and for the defendant or defendants to plead the general issue, and on trial thereof to give this act in evidence, and such record of suppression or conviction as aforesaid ; and if the plaintiff or plaintiffs shall become nonsuit, or forbear further prosecution, or suffer discontinuance, or if a verdict and judgment shall pass against him or them, the said defendant or defendants shall recover double costs, for which he shall have the like remedy as in cases where costs by law are given to defendants.

*Passed January 17, 1798.*

Supplement, 3d Vol. 221.

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C H A P. IV.

1798

*An ACT to prevent aliens from voting at elections in this State, and for other purposes.*

Preamble.

**W**H E R E A S it is the duty of the Legislature effectually to guard the rights of the citizens entitled to vote.

No person deemed an alien, according to the laws of the United States, shall be admitted to vote at any election, unless previously, naturalized, &c.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That no person, who, according to the laws of the United States, is deemed an alien, shall be admitted to vote at any general or special election, or for inspectors thereof, within this State, although he may have resided in the State two years before the election, and within that time paid a State or County tax which shall have been assessed at least six months

before the election, unless he has been previously naturalized according to the directions of a law of the United States, entitled, *An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject*, passed the twenty-ninth day of January, in the year of our Lord One Thousand Seven Hundred and Ninety-five, or shall have been otherwise naturalized previous to that time, and shall produce to the Sheriff, Coroner, or other judge of such election, a certificate under the seal of the Court wherein he has been naturalized, or if otherwise naturalized previous to that time, then such certificate, or other written evidence thereof, as from the nature of such naturalization such person was entitled to have at the time of his naturalization.

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SECT. 2. *And be it enacted*, That if any such alien, who hath not been previously naturalized as aforesaid, shall offer to vote at any such election in this State, or shall endeavour to persuade, on the day and at the place of such election, any elector, qualified to vote at any such election, to vote for or against any person or persons whatsoever, he shall, for every such offence, forfeit Fifty Dollars, one moiety thereof to be applied to the State, and the other moiety to such person or persons as will sue for the same, to be recovered with costs in any Court of Record in this State, by action of debt, bill, plaint, or information; and on the trial of every such action, it shall be incumbent on the defendant to prove his naturalization in manner aforesaid.

Such alien offering to vote, or to persuade any elector, shall forfeit Fifty Dollars.

SECT. 3. *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 this act, 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 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 for-

Persons prosecuted under this act shall give special Bail.

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feitures incurred for such offence or offences, in case he or they shall be convicted thereof, or to yield his or their bodies to prison.

General elections, at what time they shall begin, and be closed.

Penalty on a judge thereof for opening, &c. a ticket ;

and on an elector for offering more than one.

Proviso.

Repeal of part of section 3. chap. 61. a.

SECT. 4. *And be it enacted,* That the general elections in this State shall begin on the first Tuesday of October annually, between the hours of nine and eleven o'clock in the forenoon, and the poll thereof shall be carried on, without interruption or adjournment, till six o'clock in the afternoon of the same day, and no votes shall be received afterwards ; and if any judge of election, inspector, or other person, after any ticket hath been delivered by a qualified elector, and before the polling of the tickets be closed, shall presume to unfold, open, or pry into any such ticket, with design to discover the names of the persons contained in any such ticket, every person so offending, shall forfeit and pay Thirty-two Dollars to the party grieved, to be recovered with costs, by bill, plaint, or information, in any Court of Record ; and if any elector offers any more than one ticket, with a fraudulent design, every such person shall forfeit and pay Thirty-two Dollars for every such offence, to be recovered with costs by any person who will sue for the same as aforesaid : *Provided nevertheless,* That it shall and may be lawful for any judge of election, or inspector, to examine any ticket to see whether there be two or more tickets deceitfully folded together ; and if there be two or more tickets so folded together, then all and every such ticket shall be rejected.

SECT. 5. *And be it enacted,* That so much of the third section of the act, entitled, *An act for regulating elections, and ascertaining the number of the Members of Assembly,* as permits the Sheriff, or other judge of election, or inspector, to read the names contained in any paper or ticket, or to ask any elector *whether these are the persons for whom he votes,* shall be and is hereby repealed, made null and void.

*Passed January 23, 1798.*

The 1st. 2d. and 3d. sections repealed by chap. xxvi. vol. 5. page 50. And sec. 4 altered and supplied by sections 8 and 10 of chap. clii. in 4th vol. 427 and 429.

## C H A P. V.

C H A P.

V.

1798

*An ACT for extending the powers of the Auditor of Public Accounts to the settlement of the county, road, and poor, taxes, &c. within the State.*

**W**H E R E A S it appears to be requisite and necessary, that the respective taxes authorised to be raised by the Levy Court and Courts of Appeal within this State, for county purposes, should be further accounted for than as by the existing laws are prescribed, as well for the better information of the General Assembly and of their constituents, as for the preventing or correcting of errors or mistakes that may happen in the present mode of accounting.

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 Clerks of the Peace in the respective counties of this State, officiating as Clerks of the Levy Courts and Courts of Appeal within the same, shall, and they are hereby required, annually to transcribe from the minutes of the said Levy Courts and Courts of Appeal, an additional, fair, and true duplicate of all the proceedings of the same Courts, and within two months after the rising of the same Courts of Appeal, carefully transmit and cause the same to be delivered to the Auditor of Accounts for the time being, to enable him to demand and take full and complete accounts of the receipts and payments of all the monies directed to be raised, by the said Courts respectively, by way of tax, for the current year; and the said Auditor is hereby required to provide good and sufficient books, at the expense of the State, where he shall make entries of the said duplicates accordingly, and also of the several accounts and settlements herein after directed to be made by and before him.

Clerks of the Peace to furnish duplicates of the proceedings of the Levy Court to the Auditor;

who shall enter the same, and all accounts, &c.

**SECT. 2.** *And be it enacted,* That each County Treasurer in the State shall, annually in the month of February, lay before the said Auditor the true

County Treasurers shall annually lay a state of their accounts before the Auditor;

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and treasurers  
of the poor in  
like manner.

Auditor shall at-  
tend annually at  
the County-  
Towns, and ad-  
just such ac-  
counts.

\* In October by  
chap. xxxiv. 3d  
Vol. 74.  
In the Spring  
Terms of the  
Court of Com-  
mon Pleas, 3d  
Vol. 139.

Chap. 148 a.

and just state of all the accounts relating to the public in his hands, including therein the respective sums of money by him received, with the names of the persons from whom received, and the time and times of such his receipts, and also his the said County Treasurer's payments thereout, specifying the names of the persons to whom, on what account, and the time and times when paid, exhibiting at the same time the vouchers and receipts evidencing such payments; and the Treasurers of the Poor of the several counties in the State are hereby also directed and required in like manner, annually in the same month of February, to lay before the Auditor aforesaid a full, true, and just state of all monies that shall or may come to any of their hands as Treasurer of the Poor of his county, either from the Collectors of the respective hundreds thereof, from the Health Officer of the county for the head money of passengers and servants imported and landed therein, from fines and forfeitures payable for the use of the poor there, or from or by any other ways or means whatsoever, and also of his the said Treasurer of the Poor's payments thereout, as in the case of the County Treasurer herein before is prescribed: And to this end the Auditor of Accounts is hereby authorised and required to attend at the respective county towns of the State, *to wit*, New-Castle, Dover, and George Town, in the said month of \*February annually after the present year, then and there to receive, settle, and adjust all such accounts as aforesaid, with the said respective County Treasurers and Treasurers of the Poor; to every of whom the said Auditor is to transmit a previous notice of the day or days of his attendance at the same county towns respectively for the purposes before mentioned.

SECT. 3. *And whereas* by an act of Assembly, passed March Thirty-one, One Thousand Seven Hundred and Sixty-four, entitled, *A supplementary act for the amendment of an act of General Assembly of this government, entitled, An act for the better regulation of roads in New-Castle county*, any two Justices of the Peace, together with the Overseer or Overseers of the Poor,

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and since the act of Assembly passed the fourth of February one thousand seven hundred and ninety-two, sect. 13, with the constables of the respective hundreds of the said county, were authorised and required to make a rate, according to the rate of the county assessments for the current year, of such sum or sums of money, in each respective hundred, sufficient to establish a fund, in the hands of the collector for the time being, to pay the overseer or overseers of the public roads therein, their workmen and labourers, as soon as their service should be performed, by orders to be drawn by any one Justice of the Peace of the said county, on the collector of the taxes for the hundred in which the said service should be performed; and that the Justices of the Peace within the said county of New-Castle, or any two of them; should annually examine and settle the accounts of the said collectors, so far as such accounts related to their proceedings under this recited road act; and that the same Justices should then order the then last collectors to pay the balance in their hands to the collectors of the respective hundreds for the ensuing year: Now to the end that the sum or sums of money, so to be raised under this last recited act, may be also further accounted for, and made more publickly known, and errors or mistakes prevented or corrected, *Be it enacted*, That after the passing of this act, it shall be the duty of, and incumbent upon, the two Justices of the Peace making the rate for the respective hundreds in the county of New-Castle, to form a fund in the hands of the collector for the making and supporting the public roads as before mentioned, annually to certify the proceedings therein, and carefully transmit the same to the auditor of public accounts, within one month after making the same rate; and that it shall be the duty of, and incumbent upon, the Justice of the Peace drawing orders, under the authority of the aforesaid road act, for paying the labourers and workmen on the said public roads, in the respective hundreds of the said county of New-Castle, annually to certify, and carefully to transmit, to the said auditor of public accounts, on or before the second day of the spring

Justices making the rate for the support of the roads in New-Castle county, shall transmit their proceeding to the Auditor.

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term of the court of Common pleas for the said county, a true and correct list of each and every order so drawn by him the said Justice, specifying its date, the sum drawn for, the name of the person to whom to be paid, and the name of the collector required to pay the same.

Collectors of the road-taxes in each county shall lay their accounts before the Auditor,

who shall attend and adjust the same.

In what cases he may appoint other days for attendance and settlement.

County Treasurers, &c. not exempted from accounting as heretofore.

SECT. 4. *And be it enacted,* That the collector of taxes in each hundred of the county of New-Castle is hereby directed and required, on or before the said second day of the spring term of the court of Common pleas for the said county, annually to lay before the auditor of public accounts aforesaid, a full, true, and just state of all monies that he may have received of the road tax or taxes for his hundred, or for balances of such from preceding collectors, and also his the said collector's payments thereout, specifying the names of the persons to whom, and the time and times when paid, exhibiting at the same time the vouchers, orders, and receipts evidencing such payments; and for this purpose the auditor of accounts is hereby authorised and required to attend at the town of New-Castle annually, on the said second day of the spring term of the court of Common pleas, to receive, examine, and settle those accounts of the said respective hundred collectors.

SECT. 5. *Provided always, and be it enacted,* That if it shall so happen, that the said auditor, or any of the accountants herein before mentioned, shall be disabled from giving their attendance at any of the times herein before specially limited and prescribed, it shall and may be lawful for the auditor to fix other periods of time for such attendance, having regard to the time prescribed for making his reports in the premises for public utility: *And provided also,* That nothing in this act shall exempt the respective county treasurers in this State from accounting with a committee of the Levy court, as in the *act for raising county rates and levies* (1) is prescribed; or the respective treasurers of the poor, in each of the counties of the State, from making up and settling their accounts with the board of trustees of the poor of their

(1) Chap. 102. a.

respective counties; or the respective collectors of hundreds in the county of New-Castle, from settling their accounts for the road taxes there, with the Justices of the Peace of that county, or any two of them, as in the before recited road act (2) for New-Castle county is directed.

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SECT. 6. *And be it enacted,* That the Auditor shall and may ascertain what allowance is to be made to every of the accountants aforesaid, for performing the duties required of them under this act, furnishing each accountant with a certificate of such allowance to be retained by or paid to him, out of the fund of monies for which his account had been required.

Auditor to ascertain allowance to the accountants.

SECT. 7. *And be it enacted,* That the Auditor of public accounts shall annually report his proceedings, in all of the matters herein prescribed to be done by and before him, to the General Assembly of the State, at an early period of its session next after the accounting herein before directed; and also shall furnish the respective courts of appeal in each county, with a full statement of the respective accounts as aforesaid to be settled and adjusted by him, and this on the first day of the meeting of the same court, before the appointment of the several collectors of hundreds for the ensuing year, or of the county treasurer on a vacancy, omitting in the statements to be furnished to the courts of appeal for Kent and Sussex counties, the accounts and proceedings to be taken and adjusted under the herein before recited road law for New-Castle county.

To whom, and at what times, the Auditor shall report.

SECT. 8. *And be it enacted,* That the Auditor of public accounts shall be allowed the additional annual sum of two hundred dollars for his services under this act, payable half yearly as his other salary; and for his travelling charges, when attending on the duties of his office out of the county in which he may reside, five cents for every mile to and from the place of his residence.

His additional compensation.

*Passed January 23, 1798.*

(2) Chap. 184. a.

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Chap. 100. c.

C H A P. VI.

*A Supplement to the act, entitled, An Act for the better regulation of the roads in the county of Sussex.*

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the commissioners of the Levy Court and Court of Appeals shall, at their annual meeting in February next, and in every year after, ascertain and estimate a certain proportion of the road tax, laid and rated for the supporting and keeping up the roads, bridges, and causeways, in each hundred in the said county, which proportion of the said road tax shall not be discharged in labour, but shall be paid to the collector in each hundred in money, to be paid to the overseers of the roads for the use of the said roads.

What portion of the road tax shall be paid in money.

Overseers to be appointed on the first Tuesday in Feb. annually.

Warrants to be issued to them.

In what cases appointments may be made at other times.

SECT. 2. *And be it enacted by the authority aforesaid,* That the Levy Court and Court of Appeals in the said county, at a session to be holden on the first Tuesday of February in this and every year, shall nominate and appoint in each of the hundreds of the said county, one or more overseers of the roads, causeways, and bridges therein, and shall specify the road or roads, or the particular parts of their respective hundreds, for which each and every overseer shall be appointed; 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 shall be appointed, and also the proportion of the road tax to be paid in money as aforesaid, shall be made out, and delivered to every overseer as aforesaid, by the Clerk of the Peace, on or before the first Tuesday of March next, and on or before the first Tuesday 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 time the overseers of the public roads, causeways, and bridges, in the said county, shall be annually nominated and appointed, the said Levy Court and Court of Ap-

peals are hereby required to meet as soon after as possible, and make the said appointments.

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SECT. 3. *And be it further enacted,* That all persons in the said county, who shall hereafter elect to discharge in labour that proportion of the road tax which may be commuted into labour on the roads of the said county, shall contribute the same in the hundreds where they may be respectively assessed, before the fifteenth day of June in this and every year, or be liable to pay the same, or such part thereof as at that time is unsatisfied by labour, in money.

Within what time labour on the roads shall be performed.

SECT. 4. *And be it enacted,* That the overseers of the roads, causeways, and bridges in their several hundreds, shall give notice, by two or more advertisements, of the particular days before the fifteenth of June, on which, and the places where, they will be prepared to superintend and receive the work of all such persons, residing or assessed within their respective districts, as shall prefer discharging that proportion of their road tax which may be commuted into labour, noting likewise in the said advertisement, that if any person shall work out, or cause to be worked out, more than the amount of their road tax, it shall be their own loss; [and the said overseers respectively shall estimate the labour so done, at the rate of fifty cents for a good and sufficient days work as an able, faithful, and industrious man would perform] and shall then give a certificate to each person, specifying therein the value of the work done or procured to be done by him or her; but in no case shall any certificate specify a sum greater than the amount of such person's proportion of the road tax which may be commuted into labour; and every certificate so granted, according to the amount thereof, shall be as good and valid in discharge of so much of such person's proportion of the road tax as may be commuted into labour, as if it were a receipt for so much, signed by the collector of the said tax.

Overseers to give notice of the times and places, &c.

Labour how rated.

So much as is between crotchets repealed. 4 vol. 221. chap. lxxviii.

Certificates thereof to be given.

SECT. 5. *And be it further enacted,* That the collectors of the said tax shall respectively account, on or before

When the collectors shall account.

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the first Monday in August in this and every year, for one moiety of the said tax, which may remain to be collected, after deducting from the whole amount of their respective lists the amount of the tax which shall have been satisfied in labour by the fifteenth of June in this and every year; and for the residue the said collectors shall account on or before the third Monday in October, in this and every year, when they shall be allowed, in compensation for their trouble, ten dollars on every hundred dollars which they have actually collected.

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Overseers to keep the roads, bridges, &c. in repair.

SECT. 6. *And be it enacted,* That 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 of 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; 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, within their respective hundreds, to be impeded by any nuisance whatsoever, or to remain impassable, incumbered, obstructed, or unrepaired, for the space of fifteen days together, every such overseer or overseers, for every such neglect, being duly convicted thereof in the court of General quarter sessions of the peace and jail delivery, shall be fined in any sum not exceeding fifteen dollars, to be paid to the collector of said hundred, towards defraying the charge of repairing the roads within the same.

Penalty for neglect.

By whom orders in their favour shall be drawn.

SECT. 7. *And be it enacted,* That the commissioners of the Levy Court, in their respective hundreds, are hereby empowered and required to draw orders for money from time to time, in favor of the several overseers in their said hundreds, upon the collectors of their respective hundreds, or the county treasurer; of which orders they shall keep a fair and regular

account, to be entered in books to be provided and kept for that purpose, distinguishing the date and amount of each order, and in whose favour drawn; and the offices of Commissioner of the Levy court and court of Appeals, and overseer of the roads, shall never be held, at the same time, by one and the same person.

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Offices of commissioner and overseer incompatible.

SECT. 8. *And be it further enacted,* That every person or persons who now doth, or hereafter shall, occupy any house, mill, or land which now is or shall be benefitted, improved, or rendered valuable, by reason of any ditch, drain, mill race, or 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, 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 thirty dollars for each offence, to be recovered by indictment; and every mill dam, over which any public road may pass as aforesaid, shall be at least twelve feet wide on the top, and every bridge at least thirteen feet wide, with strong railing (on both sides if necessary,) at least three and an half feet high.

In what cases owners of mills, &c. shall support a way over their race, or other water-course.

Width of mill-dams & bridges.

SECT. 5. *And be it further enacted,* That the Levy court and court of Appeals of the said county, are hereby empowered to allow such moderate and reasonable compensation to those persons who have laboured, or caused to be done labour, on the said roads to a greater amount than their several proportions of the road tax, and for whose satisfaction no provision as yet hath been made, as the said Court shall think proper to grant; and one moiety of the amount thereof shall be added to the road tax of the present year, and the residue to the road tax of the next year, in such manner that each hundred, in which the said ex-

Extra labour performed on the roads, how provided for.

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tra work was done, shall contribute the amount thereof, and no more; and the collectors of the said tax are hereby authorised and required to pay, out of the monies in their hands respectively arising from the said tax, such orders as the Levy Court and Court of Appeals may give, in writing, on account of the same; and the said orders, with proper discharges thereon, shall be sufficient vouchers for so much on settlement of their accounts with the county treasurer.

Overseers shall enter, and render to the Levy Court, exact accounts of their transactions, &c.

SECT. 10. *And be it further enacted,* That each and every of the overseers of the roads in the said county, shall enter in a book a particular account, of his transactions, relative to the said roads, bridges, and causeways, both before and after the fifteenth day of June in this and every year, 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 Appeals, at their meeting in February in every year.

Shall not furnish materials, &c. from their own estates, &c.

their compensation.

SECT. 11. *And be it enacted by the authority aforesaid,* That no overseer shall furnish any materials, labourers, workmen, workhorses, or draught cattle, from his own estate, servants, slaves, or stock, for the repairing any of the said roads, bridges, or causeways 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 superintended or employed by them, at one time, as follows: For every day in which one workman or labourer shall be employed, twenty cents; and for every day in which two, and not more than four workmen or labourers shall be superintended or 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.

SEC. 12. *And be it further enacted,* That before any allowance shall be made by the Levy court and court of appeals to any overseer or overseers, for their trouble in superintending the making, repairing, and keeping up the public roads, highways, causeways, and bridges, the Commissioners of the Levy court shall have viewed and examined all the said roads, causeways, and bridges, in their respective hundreds, and have reported, in writing, the state thereof to the Levy court and court of appeals.

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Commissioners of the Levy Court shall view the roads, &c. before compensation be made to the Overseers.

SECT. 13. *And be it enacted,* That it shall not be lawful for the collectors of the road tax, before the fifth of June in this and every year, to levy and recover any other part of the said road tax, excepting that proportion thereof which shall have been ascertained and directed by the Levy court and court of appeals, to be paid in money, by virtue of the first section of this act.

Restriction upon the Collectors in levying the tax.

SECT. 14. *And be it further enacted,* That the eighth, eleventh, twelfth, thirteenth, fifteenth, nineteenth, and twenty-third sections of the act, entitled, *An act for the better regulation of the roads in the county of Sussex,* and so much of the fourteenth and twenty-first and other 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 and virtue.

Repeal.

Chap. 100. c.

*Passed January 23, 1798.*

CHAP. VII.

*An ACT to vest certain lands, in New-Castle county, in Thomas Magens, notwithstanding his being an alien at the time of purchasing and taking the same.*

1798.

*Passed January 23, 1798.--- Private act.*

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## C H A P. VIII.

*An ACT to vest a certain lot of land, in the town of New-Castle, in John Mundall, notwithstanding his being an alien at the time of purchasing the same.*

*Passed January 23, 1798.---Private act.*

## C H A P. IX.

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

Compensation  
to the Attorney  
General.

**B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That, from the first day of January instant, the Attorney General shall receive for his services, exclusively and independently of the fees arising upon all criminal prosecutions, the sum of three hundred and fifty dollars annually, to be paid at the treasury of this State; any law, usage, or custom to the contrary in any wise notwithstanding.

*Passed January 24, 1798.*

## C H A P. X.

1798

*An ACT for the better ordering, assessing, levying, and collecting of taxes, and making provision for the support of government for the year of our Lord One Thousand Seven Hundred and Ninety-eight.*

Preamble.

**W**H E R E A S it appears to be necessary, for the better ordering, assessing, levying, and collecting of taxes, that some permanent regulations

should be made therefor, to which all future laws making provision for the support of government, may have reference.

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SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That for the better ordering, assessing, levying, and collecting of the tax hereby granted, and all other taxes which may be hereafter granted for the support of government, the Levy courts of each county are hereby authorised and required, at their court to be held on the first Tuesday of February next, or at their next sitting of the Court of appeal, and so annually hereafter, to ascertain the sum *per centum* upon the whole rate of the counties respectively according to the 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, and so according to the then last assessment, necessary to raise, clear of all charges of collection, the tax hereby granted, and all other taxes which may be hereafter granted for the support of government, and 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, authorising and requiring such collector forthwith to demand and receive, from the persons rated in his assessment list, the sum *per centum* which he shall ascertain as necessary to raise the sum or sums hereby or hereafter to be granted 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 entitled; *An act for raising county rates and levies*; and the said clerk of the peace shall, within thirty days after the day of holding the Levy courts or courts of appeal as aforesaid, transmit to the auditor's office

When the taxes shall be annually assessed

This Section altered, & repealed. 4th Vol. 335.

Warrants to be issued to the Collectors.

Chap. 102. a.

Auditor to be furnished with account of the sum chargeable to each collector

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a true account of the sum total, which every collector shall be charged with pursuant to this or any other act granting money for the support of government.

In what cases  
the Collectors  
may sell land,  
timber, &c.

SECT. 2. *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 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, grain or grass thereon, at public vendue, as the said court may judge to be necessary for the payment of the said assessment.

When the taxes  
shall be paid into  
the treasury.

SECT. 3. *And be it enacted,* That the said collectors respectively shall, on or before the first Monday in November next, and annually hereafter, pay over to the State treasurer the sum or sums of money they may or ought to have levied by virtue of this or any other act as aforesaid.

Collectors may  
retain for com-  
missions, &c.

When they shall  
finally settle, &c.

SECT. 4. *Provided nevertheless, and be it enacted,* That each and every collector may retain in his hands, of the sum or sums of money 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 setting of the Levy court on the first Tuesday of February then next after; at which time each and every of the said collectors are hereby required to exhibit and settle their accounts of errors and delinquencies, with the Levy courts of their counties respectively; after which no further accounts of errors and 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

Commissions.

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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Shall take duplicate receipts &c.

SECT. 5. *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 insufficiencies of the collectors, or their sureties, to pay the money by them to be collected respectively, by virtue of this or any other act as aforesaid.

Treasurer to appoint Collectors for whom he shall be answerable.

SECT. 6. *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 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, settle, and close his accounts for the year last passed, with the Auditor: And the State treasurer shall discharge himself of all monies which shall come into

Times and mode of his accounting with the Auditor.

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His commissi-  
ons.

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 bonds to be  
lodged in the  
Auditor's office.

SECT. 7. *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 (the Governor) transmitted to the Auditor's office for safe keeping.

Collectors fees  
upon distress or  
execution.

SECT. 8. *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 services, in the recovery of debts under five pounds; 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 the sale of the property distrained; and in such case, the collector shall receive for his trouble one half the fees he would be entitled to on sale, and no more.

Twelve thou-  
sand dollars to  
be raised for the  
year 1798.

SECT. 9. *Be it further enacted by the authority aforesaid,* That the sum of twelve thousand dollars shall be raised and paid into the treasury of this State within the time, and in the manner, herein before 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; for the county of Sussex, the sum of three thousand four hundred and twenty-eight dollars and fifty-eight cents.

Each county's  
proportion.

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 of this State (except such monies as may be received from the land or loan offices of this State, or from marriage or tavern licences not appropriated to the payment of the salaries of the Chancellor and Judges,) shall be appropriated and applied to and in the following manner, that is to say, So much thereof as may be necessary, shall be applied to the payment of the salaries due, and to become due, to the Governor, Chancellor, Judges of the Supreme court and court of Common pleas, Secretary, and Auditor of accounts, and Attorney General, up to the first of January, which will be in the year of our Lord, one thousand seven hundred and ninety-nine; 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 applied to the payment of any sums of money due to the citizens of this State, for which provision shall hereafter be made by law.

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For the payment  
of salaries;For the expen-  
ces of the Gene-  
ral Assembly,  
&c.For payment of  
debts to citi-  
zens.

*Passed January 24, 1798.*

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C H A P. XI.

*An ACT authorising the appointment of an additional number of Justices of the Peace for the county of Sussex.*

1798.

**B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, two thirds of the members of each house consenting to and approving thereof, That the number of Justices of the Peace for the county of Sussex may at any time hereafter be enlarged, provided that there be not more than sixteen persons in

Number of the  
Justices to be  
enlarged, but  
not to exceed  
sixteen.

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the commission of justices of the peace in the said county, at the same time.



C H A P. XII.

1798.

*An ACT to prevent swine running at large in the village of Milford.*

Limits within which hogs shall not run at large.

This Section repealed in 3d vol. 349.

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 day of May next, 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 a corner of Joseph Oliver and Peter Caverly's land, on Mispillion-creek, and thence extending, with the line of the aforesaid lands, until it intersects the line of William Bradley and Joseph Oliver, and thence till it intersects the line of John Draper, and thence extending therewith to Mispillion-creek, and then up the said creek to the place of beginning.

If suffered so to do, may be killed.

This Section repealed in 3d vol. 349.

Notice thereof to be given to the owners.

Penalty for neglect.

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 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, to be sued for by the owner or owners of such hog or hogs, to and for the use of such owner or owners, before any Justice of the peace of the county of Kent.

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.

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Persons sued may plead the general issue, &c.

SECT. 4. *And be it further enacted*, That the act, entitled, *An act to prevent swine running at large in the town of Milford, and within the limits therein prescribed*, passed at Dover, January the twenty-eighth, in the year one thousand seven hundred and ninety, be, and it is hereby declared to be repealed, made null and void; any thing in the said act to the contrary in any wise notwithstanding.

Repeal of Chap. 309. b. 2d vol. 970.

*Passed January 24, 1798.*

C H A P. XIII.

*An ACT for the relief of William Prentiss, an insolvent debtor confined in the public jail at George Town in the county of Sussex, but, who is not an inhabitant of this State.*

1798.

*Passed January 24, 1798.—Private act.*

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*A Supplement to the act, entitled, An act for taking lands in execution for payment of debts.*

Chap. 46. a.

**W**HEREAS it is necessary that some provision should be made by law to enable Sheriffs,

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in the several counties of this State, to complete the sale and conveyance of lands taken in execution for the payment of debts, in case of the death of the purchaser thereof before a deed or deeds be executed for perfecting and completing a title to the same.

Purchaser of  
real estate, sold  
or delivered by  
Sheriff, dying  
before the title  
be completed,

the heir, &c.  
may apply to  
the court of  
Common pleas.

Court shall  
make an order  
for executing a  
Deed, &c.

**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, in all cases where lands, tenements, or hereditaments within this State, have been heretofore, or shall hereafter be, sold or delivered by virtue of any writs of execution, *Venditioni Exponas* or *Liberari Facias*, to any person or persons who have heretofore, or shall hereafter die, before a deed or deeds be executed by the proper officer for completing a title, under such sale or delivery, to the said lands, tenements, or hereditaments, it shall and may be lawful for any person or persons interested in such sale or delivery as heir, devisee, or otherwise, under the person or persons to whom such sale or delivery were or shall hereafter be made, to represent the truth of the case, by petition, to the Justices of the court of Common pleas to be held for the county in which the lands lie; and if thereupon it shall appear to the said court, by the records thereof, that the said lands, tenements, or hereditaments, have been taken and sold or delivered in manner directed by the laws of this State, and that the purchaser or purchasers thereof are dead, and no lawful deed executed for conveying the same, it shall and may be lawful for the Justices of the said court, and they are hereby required in such cases, to cause an order of Court to be made, thereby authorising and commanding the Sheriff or Coroner for the time being, as the case may require, upon payment of the consideration money for which such lands, tenements, or hereditaments were sold or delivered, to execute such lawful deed or deeds, and to do such other lawful acts, for the conveying or delivering over the said lands and tenements to the person or persons who shall be entitled thereto, as heirs, devisees, or otherwise, under the purchaser thereof, as might or ought to be done to

the purchaser himself, in case he had not died; and such sale and conveyance so made by virtue of any such order of Court, shall be available in law; and the respective grantees therein, their heirs, and assigns, shall hold and enjoy the same as completely, and in the same manner, as in cases of other conveyances by Sheriffs or Coroners under the laws of this State.

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Deeds declared  
available in law.

SECT. 2. *Provided nevertheless, and be it enacted,* That if it should afterwards appear before the court of Chancery, or before any court of Common law, or before the high court of Errors and Appeals, upon the trial of any action, real, personal, or mixed, of or concerning or touching any such land or lands, that the person or persons to whom such deed is made, is or are not the heir or heirs, devisee or devisees, of such purchaser or purchasers, or otherwise has not or have not title in such lands, derived from such purchaser or purchasers, or if any greater estate shall be conveyed by such deed to the person or persons to whom such deed shall be made, than such person or persons has or have derived from such purchaser or purchasers; that then, and in every such case, such deed shall be and remain in trust to and for the use and uses of the proper heir or heirs, devisee or devisees, or other person or persons, according to the estate, right, title, and interest of him, her, or them, or any of them, derived from the purchaser or purchasers, of, in, or to any such land.

Such deeds,  
being made to  
persons not hav-  
ing title, shall  
be in trust for  
the proper heir,  
&c.

*Passed January 26, 1798.*

CHAP. XV.

*An ACT to enlarge the time for making the valuation of real and personal property, and for other purposes.* 1798.

**W**HEREAS the valuation of real and personal property for the year of our Lord, one Preamble.

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Chap. 98, c.

thousand seven hundred and ninety-eight, has not been made within the time prescribed in the act, intitled, *An act for the valuation of real and personal property within this State.*

Power of Assessors & 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 power and authority given to the assessors in the several hundreds, and to the commissioners of the tax in the counties in this State, by the aforesaid act of the General Assembly, shall be and is hereby revived; and that the assessors and commissioners shall forthwith do and perform all and every act and thing to be done and performed by them, and by every of them, in as full and ample manner as was required of them, and every of them, by the act aforesaid.

When the valuations shall be returned, and the commissioners meet, &c.

SECT. 2. *And be it enacted,* That the assessors in the several hundreds in the counties in this State, shall return to the commissioners of the tax in the said counties, their respective valuations of the real and personal property, made in the same manner as is directed and required by the act aforesaid, on or before the second Monday in February next; at which time the said commissioners shall meet at the court houses in the counties respectively, 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 said valuations.

Commissioners shall give notice of subsequent meeting.

Chap. 98 c.

and hear complaints, &c.

SECT. 3. *And be it enacted;* That as soon as the 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 day of meeting, and give notice of said valuations in the manner prescribed by the fourteenth section of the aforesaid act; at which subsequent meeting the said commissioners shall proceed, from day to day, to hear and determine the complaints of all persons who may be aggrieved, and ge-

nerally to arrange the said valuations so that no person may be unequally or overrated, until the said arrangements shall be finished by them.

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TO SECT. 4. *And be it enacted,* That any four of the 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, the clerks of the peace in the said counties shall set up, or cause to be set up, and published in the most public places in the respective hundreds of the said counties, alphabetical lists, in the same manner as is directed by the act, entitled, *An additional supplement to the act, entitled, An act for the valuation of real and personal property in this State.*

Clerks of the peace to publish lists, &c.

Chap. 125. c.

SECT. 6. *And be it enacted,* That the commissioners of the tax in the counties respectively, shall have full power and authority to compel the attendance of the several assessors in their respective counties, on the said second Monday in February next, and at such other 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 said counties respectively.

Further power of the commissioners.

SECT. 7. *And be it enacted,* That the commissioners of the Levy court and Court of appeal in the said counties shall meet on the fourth Tuesday after the said assessments and valuations shall be arranged and completed as aforesaid, of which arrangement the clerk of the peace of 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 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 persons who may be unequally or overrated, according to the directions of an act, entitled, *An act for raising county rates*

Levy court, when to meet and hear appeals.

Chap. 102. a.

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Commissioners  
& Assessors to  
be attendant  
thereon.

and levies; and the commissioners of the tax in the respective counties, and the respective assessors, and each and every of them, shall at such time give daily attendance at the Court of appeal aforesaid, under the penalty of twenty dollars for every neglect or refusal, to be recovered by indictment in the court of General quarter sessions, to be applied to the use of the county.

Levy Court,  
when to per-  
form duties en-  
joined by.

Chap. 125. c.

SECT. 8. *And be it enacted,* That the commissioners of the Levy court and Court of appeal, after the appeals aforesaid shall be heard and determined as aforesaid, shall do and perform every act and thing required of them by the first section of the act, entitled, *An additional supplement to the act, entitled, An act for the valuation of real and personal property within this State,* in as full and ample manner as the said commissioners may or can do the same on the first Tuesday of February next, or at any other time, provided the same shall not then have been done and performed.

Officers enjoined to attend the Commissioners and the Levy Court.

Chap. 98. c.

Proviso.

SECT. 9. *And be it enacted,* That all, and every officer and officers, and other persons, required by the before recited acts, or by any of them, 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 respective counties, 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 counties, at the places 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, entitled, *An act for the valuation of real and personal property in this State: Provided nevertheless,* That if the assessment and valuation of the real and personal property in any county in this State, hath been made and arranged, agreeably to the directions of the first before recited act of Assembly, and

of the supplement thereto, then and in such case the commissioners of the Levy court and Court of appeal shall forthwith proceed thereon, as directed in the said acts of Assembly.

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SECT. 10. *And be it enacted,* That after the said assessments and valuations shall have been made and arranged, and the commissioners of the Levy court and Court of appeal in each county shall have remedied the complaints of all persons who may be unequally or overrated, that then no entire new assessment and valuation shall be again made in any county in this State, until the time herein after mentioned; but that all lands rated and valued in every such assessment, shall stand rated, valued, and assessed at the sum which shall be finally fixed and ascertained by the commissioners of the Levy court and Court of appeal in each county, agreeably to this and the before recited acts of assembly; and that the personal tax, and valuation and assessment of the personal property, of every person rated and assessed in every such assessment, shall stand rated, valued, and assessed, and charged to every person, so rated and Assessed, at the sum which shall be so finally fixed and ascertained as aforesaid; and that upon every alienation of real property, such person holding such property, or the person liable to be charged with the same, according to the true intent and meaning of the said act, entitled, *An act for the valuation of real and personal property in this State*, shall be rated for, assessed, and charged with such real property according to such last assessment and valuation.

Assessments & valuations, when arranged, to continue until, &c.

Real property how chargeable upon alienation.

Chap. 98. c.

SECT. 11. *And be it enacted,* That the assessor in each hundred in the several counties in this State, shall annually rate the personal tax, and value and assess the personal property, of every person who may arrive to the age of twenty-one years, come and reside within the state, who shall not before have been rated and assessed, new leases taken by lessees, any land which may be discovered not before to have been valued, personal property acquired by devise; and also make out a list of the alienation or transfer of

What valuations of property, &c. shall be annually made by the Assessors.

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Duty of the Rec-  
orders.

Valuations of  
personal proper-  
ty, &c. to be  
made in the  
year 1800;

And so in every  
third year ex-  
clusively.

Valuations of  
real property to  
be made in the  
year 1803;

all real property, which may have happened by sale, death, or otherwise; and return the said rate of personal tax, valuation of personal property, new leases, and land not before valued, and lists of alienation or transfer of real property, on the first Tuesday of January, annually, to the commissioners of tax in each county, who shall arrange and lay the same as aforesaid before the commissioners of the Levy court and Court of appeal annually, in February; who, after the same shall have been finally adjusted as before directed, shall annex the same to the said valuations of real and personal property in each county, as part of the taxable property thereof; and it shall be the duty of the Recorders respectively *ex officio* to make out lists of all sales of land recorded in their offices, and deliver such to the assessors of the hundreds respectively, before the first day of October annually.

SECT. 12. *And be it enacted*, That in the year Eighteen hundred, all the personal property in each hundred in the several counties in this State, shall be valued and assessed, and the personal tax rated by the assessors of each hundred respectively; which said assessment, valuation, and rate, after the arrangement by the commissioners of the tax, and final adjustment by the commissioners of the Levy court and Court of appeal, shall be taken as the value and rate of the personal property and rate of personal tax; upon which, together with the then existing valuation of the real property in each county, all taxes shall be levied and assessed; and so at the end of every third succeeding year, excluding the year on which such valuation was made, shall such valuation of personal property, and rate of personal tax, be made, arranged, and completed, to operate for the next three years.

SECT. 13. *And be it enacted*, That in the year Eighteen hundred and three, all the real property in each hundred in the several counties in this State, shall be valued and assessed by the assessors of each hundred respectively; which said assessment and valuation, after the arrangement by the commissioners of the tax, and final adjustment by the commissioners of the Levy court and Court of appeal, shall be taken as the value of the real property; upon which, together with

the valuation of personal property, and rate of personal tax in each hundred in the respective counties, all taxes shall be levied and assessed; and so at the end of every sixth succeeding year, excluding the year on which such valuation was made, shall such valuation of real property be made, arranged, and completed, to operate for the next six years.

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and so every sixth year, exclusively.

SECT. 14. *And be it enacted,* That all county rates and levies, poor taxes, road taxes, and State taxes, shall annually be levied and assessed upon the valuations and assessments respectively now making, and to be made, according to the times directed in this act, and in the manner mentioned in the before recited acts of the General Assembly.

All taxes to be levied according to such valuations.

SECT. 15. *And be it enacted,* That the collectors of the county rates and levies, of the road taxes, and of the poor taxes, shall respectively, before they enter upon their office, give bond with two or more good and sufficient freeholders, jointly and severally, together with a warrant of attorney thereto annexed for confessing judgment for the penalty therein contained, in the name of the State of Delaware, to be taken and approved of by the commissioners of the Levy court and Court of appeal, at their meeting in March annually, in double the sum to be collected by such collector, conditioned for the true and faithful performance of his duty, in the execution of his office, according to law; and in case of their, or any of their refusal or neglect so to do, the said commissioners of the Levy court and Court of appeal shall forthwith appoint other or others in his or their stead, who shall give security as aforesaid; and that so much of the fifteenth section of the act, entitled, *An act for raising county rates and levies*, and of the third section of the act, entitled, *An act for the better relief of the poor*, as is hereby altered or supplied, shall be, and is hereby repealed.

Collectors to give bond, &c.

Refusing, &c. others to be appointed.

Repeal of part of chap. 102. u. s. 15, chap. 218. b. s. 3.

SECT. 16. *And be it enacted,* That the commissioners of the Levy court and Court of appeal shall appoint the collectors of the several hundreds respectively in

Collectors when appointed.

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Repeal.  
Chap. 102. a.  
s. 9.

each county, at their meeting in February next, and annually; and that so much of the ninth section of the act, entitled, *An act for raising county rates and levies*, as directs the appointment of collectors at the Court of appeals, shall be and is hereby repealed.

*Passed January 26, 1798.*

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1798.

*An ACT to provide for the arming the quota of the militia of this State, required by an act of the Congress of the United States.*

The Governor  
authorised to  
purchase 1070  
muskets, &c.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Governor of this State be authorised to provide, by purchase, one thousand and seventy muskets, of the size, kind, and bore as are directed by the laws of the United States, with bayonets, belts, and musket slings; and also the same number of cartridge boxes, constructed to answer the bore of the muskets, with brushes and priming wires.

Appropriation for  
the purchase.

SECT. 2. *And be it enacted*, That twelve thousand dollars shall be and are hereby appropriated to the purchase of said muskets, bayonets and belts, and cartridge boxes and musket slings, brushes and priming wires, to be paid by the treasurer of this State to the order or orders of the Governor.

Funds out of  
which it shall  
be satisfied;

SECT. 3. *And be it enacted*, That the said sum of twelve thousand dollars shall be paid out of the monies which shall be received by the State treasurer, from the trustees of the loan offices respectively, from the sale of vacant lands in this State, from the dividends arising from the shares of the stock of the Bank of Delaware subscribed for in the monies aforesaid, from interest accruing on the stock of the United States funded by this State, and from all taxes now in arrear and unpaid, after the payment of

the salary officers of this State ; and that the State treasurer shall not subscribe any monies arising from the loan offices or from the sale of vacant lands, in the Bank of Delaware, in the name of the State of Delaware, for any shares of the stock of the said bank, until after the application of the said twelve thousand dollars, according to the directions of this act.

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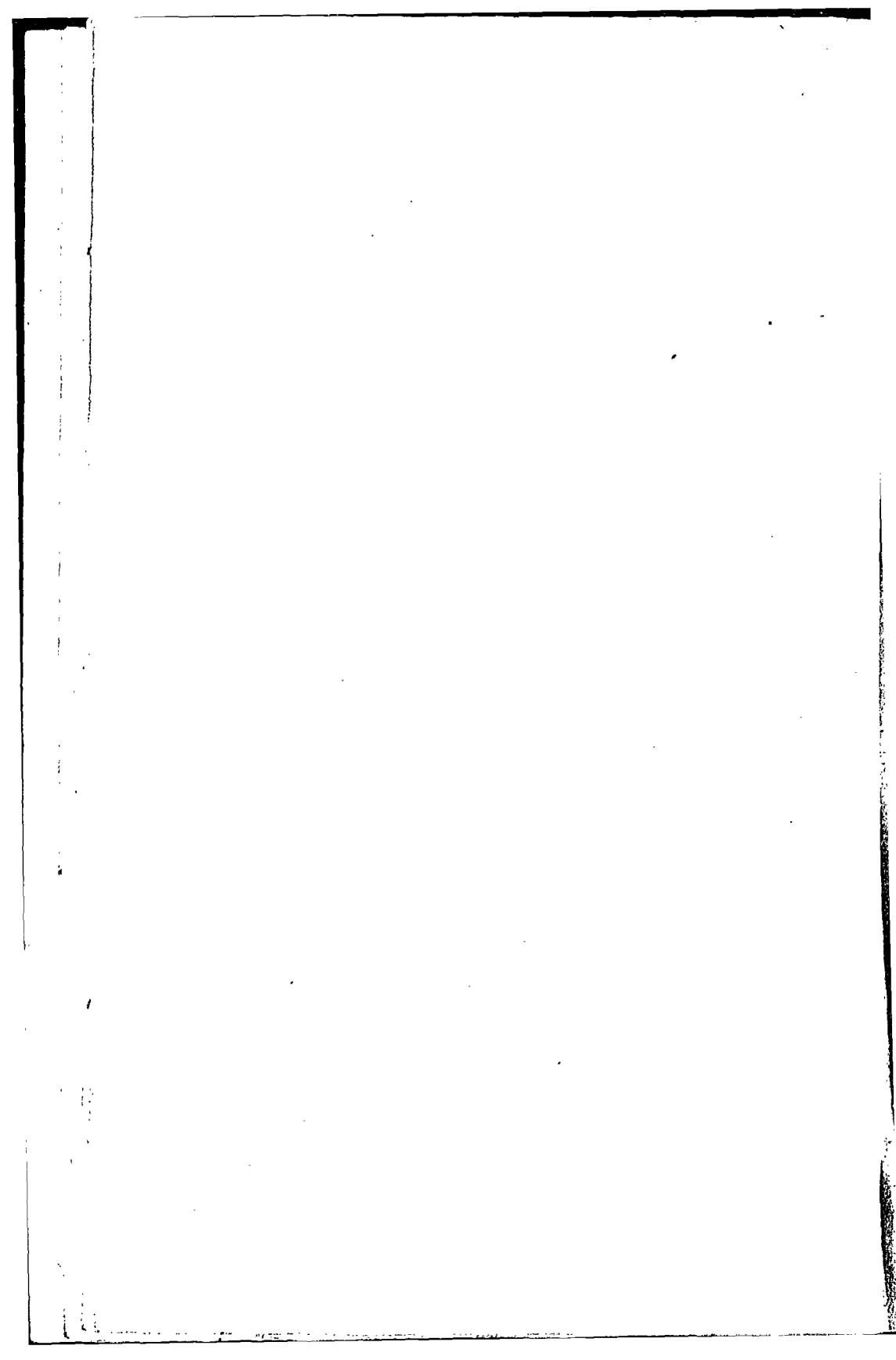
before which,  
the treasurer  
shall not sub-  
scribe for bank  
stock.

SECT. 4. *And be it enacted*, That the Governor be and is hereby required to lay before the General Assembly of this State, at their next session, an account of his transactions in the premises.

Governor to re-  
port his trans-  
actions.

*Passed January 27, 1798.*

This act repealed by Sec. 3. chap. lvii. 3d vol. 137.



## C H A P. XVII.

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A Supplement to the act, entitled, *An act to prevent infectious diseases being brought into this State, and for other purposes.*

Sec 2d vol. 1354.  
3d vol. 121.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Burgesses and assistants, by and with the advice of the health officer of the Borough of Wilmington, one Justice of the peace, and the commissioners of the town of New-Castle, and two Justices of the peace, or one Justice of the peace and a trustee of the poor, in any other part or district of this State, are hereby respectively authorized and empowered, at all times hereafter, as often as they shall receive or obtain information of the existence or prevalence of an infectious or contagious disease in any foreign port or place, or any port or place in the United States, to make known to the citizens and other inhabitants of the borough, town or district, by proclamation, the existence or prevalence of such infectious or contagious disease, and thereby order and direct, that no ship or vessel bound from, or that may have touched at any of the said infected ports or places, shall, from and after the publication of such proclamation in the said borough, town, or district in this State, be brought or approach nearer to the said borough than the mouth of Christiana creek, after the publication of such proclamation, or to the port or place of landing in the said town or district, than the distance of one mile, after the publication of such proclamation in the said town or district, and that no person or persons be landed or put on shore, or be suffered nor permitted to be landed or put on shore, nor any goods or merchandises be landed or unladen, or suffered or permitted so to be, from on board such ship or vessel, after publication of the proclamation as aforesaid; and the master or other person, having the charge or command of the said ship or vessel, and all persons on board the said ship or vessel shall be subjected and submit to the per-

Who are authorized to prohibit persons or goods coming in a ship or vessel from an infected place, from being landed.

Quarantine to be performed, when advised by the health officer.

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formance of such quarantine and other cautionary and preventive measures, as the said burgesses and assistants, by and with the advice and consent of the health officer of the said borough, for the said borough, and the said justice of the peace and the commissioners, together with the health officer of the town of New-Castle, for the said town, and two Justices of the peace, or one justice of the peace and trustee of the poor, for any other part or district in the State, shall at any time or times prescribe or enjoin the observance of, for the purpose of guarding against the introduction of any infectious or contagious disease, that may exist or prevail in any ports or places as aforesaid.

Burgesses, &c. authorised to suspend all intercourse by land, between any infected place, and any town, &c. of this State.

SECT. 2. *And be it further enacted by the authority aforesaid,* That immediately from and after the publication of the said proclamation, the burgesses and assistants, or a majority of them, by and with the advice and consent of the health officer of the said borough, for the said borough, one justice of the peace and the commissioners of the town of New-Castle, or a majority of them, for the said town, and two justices of the peace, or one justice of the peace and a trustee of the poor for other parts or districts in this State, shall be, and are hereby vested with full power and authority, to suspend altogether the intercourse by land, between any cities, towns or places in the United States, or elsewhere, during the existence or prevalence of any infectious or contagious disorder, and the said borough, town, or other part or district, in this State; or to impose such regulations and restrictions thereon, as may be deemed best calculated to prevent the introduction of any such infectious or contagious disease, and most conducive to the safety and health of the inhabitants.

Penalty on masters of vessels for contravening these regulations.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if any ship or vessel shall be brought within the respective distances aforesaid, or goods, wares or merchandises landed from such ship or vessel, in contravention of the provisions of this act, or the regulations or restrictions that may at any time be adopted in pursuance of the authority hereby dele-

gated the master or commander thereof, and owner and consignee, and all persons on board the said ship or vessel, who shall contravene the said provisions, regulations or restrictions, shall respectively forfeit and pay the penalty of five hundred dollars each.

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SECT. 4. *And be it further enacted,* That all persons owning or having the charge of any carriage, for the conveyance of persons, goods, merchandise or chattels, and travelling horses, shall forfeit and pay the sum of three hundred dollars, respectively, for each and every act done in contravention or violation in any respect of the before recited restrictions or regulations.

Penalty on owners of carriages, goods, &c. for contravening these regulations.

SECT. 5. *And be it further enacted,* That all owners, masters, captains or consignees, as well as the ships or vessels; and all owners of carriages of whatsoever sort, and travelling horses, and the carriage and horses shall be and are hereby declared to be bound, for the forfeitures and penalties under this act, or the act to which this is a supplement, and the said ships or vessels, carriages and horses shall and may be attached, seized, and detained by virtue of a precept, to be issued for that purpose, by any judge of the Supreme court or Court of common pleas of this State, who is hereby authorized and empowered, upon application to him made by the physician appointed, by virtue of the act to which this is a supplement, for the borough of Wilmington, or by the burgesses of the said borough, or by the physician appointed as aforesaid for the town of New-Castle, or by the commissioners of the said town, or by the physician appointed as aforesaid, or by a trustee of the poor in any other part or district of this State, to issue the said precept, to be directed to the Sheriff of any county within this State, or to any constable of any county, borough, or town within the same, (who is hereby authorized and directed to serve the same) commanding him forthwith to attach, seize and detain, such ships or vessels, carriages or horses; of which said attachment, seizure and detention, due notice shall be given in writing to the owner, consignee or other

Owners and masters of ships and carriages, together with the ships and carriages, &c. to be bound for the penalties incurred under this act.

Vessels, &c. shall be attached.

Notice of the attachment shall be given to the owners of vessels and carriages,

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unless bail be given to all writs issued by virtue of this act.

Judges to enquire in a summary way, what penalties have been incurred,

and to give judgment for the same.

Vessel, &c. to be sold at public vendue.

person having the charge or care of such ships or vessels, carriages or horses, by the said Sheriff or constable; and unless good and sufficient bail to the value of the same be given, to all and every writ or writs duly and regularly taken out and issued forth for the recovery of all and every of the forfeitures and penalties, which may or shall be incurred under or by virtue of this act, or the act to which this is a supplement, for or by reason of such ships or vessels, carriages or horses, having been used in contravention of the provisions, regulations and restrictions, ordained and directed by, or which may be adopted agreeably to this act, or the act to which this is a supplement, within one month after such due notice given as aforesaid; then and in that case, it shall and may be lawful for the said judge, upon a further application to him made, by the said physician, burgesses, commissioners or trustee, for that purpose, and he is hereby authorized and empowered, to proceed to enquire in a summary way what penalties or forfeitures have been incurred as aforesaid, for which such ships or vessels, horses or carriages are liable as aforesaid; and if upon such enquiry as aforesaid, it shall appear to the satisfaction of the said judge, that any forfeitures or penalties have been incurred as aforesaid, for which the said ships or vessels, horses or carriages, are liable as aforesaid, and for the recovery of which any writ or writs have been duly and regularly taken out and issued forth, and that due notice has been given as aforesaid of the attachment, seizure and detention of the said ships or vessels, horses or carriages; the said judge is hereby authorized and empowered to give judgment, that the same be forfeited, and to issue his precept to the said Sheriff or constable, commanding him upon such public notice being first given of the time and place of sale, as the said judge shall deem just, reasonable and proper, to make sale of such ships or vessels, horses or carriages, at public vendue or auction, and to pay with the proceeds of such sale, such penalties or forfeitures incurred as aforesaid, for which the said ships or vessels, horses or carriages are liable as aforesaid, and for which any writ or writs have been duly and regularly taken out and issued forth as aforesaid, and

which have been determined upon such enquiry as aforesaid by the said judge, together with reasonable costs, to be taxed by the said judge: *provided always*, that if the proceeds of such sale, as aforesaid, should not be sufficient to satisfy all such penalties and forfeitures incurred, sued for and determined, as aforesaid, then the said Sheriff or constable, shall apply the amount of the proceeds in his hands, after deducting in the first place such reasonable costs taxed as aforesaid, to the payment of such forfeitures or penalties in equal parts or proportions. *And provided further*, if there should be any surplus remaining in his hands after the payment of all the forfeitures and penalties incurred, sued for and determined as aforesaid, then the said Sheriff or constable is hereby directed to pay the same to the owner, consignee, or other person having the charge or care of such ships or vessels, horses or carriages as aforesaid.

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Surplus remaining in the officers hands, to be paid over to the owner.

SECT. 6. *And be it further enacted*, That all actions or prosecutions to be commenced against any master, captain, owner, or consignee of any ship or vessel, or other person by virtue of this act, or the act to which this is a supplement, shall be brought within six months next after the offence was committed.

Action to be brought in six months.

SECT. 7. *And be it further enacted by the authority aforesaid*, That the health officers aforesaid, and any health officer, that may have been, or shall be appointed, in any other part of this State, under and by virtue of the act to which this is a supplement, shall be and are hereby respectively authorized and required to appoint by writing under their hands, a deputy or deputies to perform the duty of health officer, enjoined or directed by this act, or the act to which this is a supplement, in case of the sickness, absence from home, or inability on the part of such health officer to perform the said duties; and that the said health officer who may appoint a deputy or deputies as aforesaid, shall be responsible for any misconduct of the said deputy or deputies in the performance of the said duties.

Health officer authorized to appoint deputies.

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All civil officers  
to aid in the ex-  
ecution of pow-  
ers enjoined by  
this act.

SECT. 8. *And be it further enacted,* That all civil officers of this government are hereby authorized and required, on request being made, to aid and assist in the execution of the powers and duties enjoined by this act, and the act to which this is a supplement, and if it be deemed necessary by the persons entrusted with the execution of the provisions of this act, or the act to which this is a supplement, they may command and have the aid and assistance of the *posse comitatus*, for the purpose.

Penalties incur-  
red, shall be su-  
ed for in the  
name of the  
State.

SECT. 9. *And be it enacted,* That all forfeitures and penalties, which may hereafter be incurred under, or by reason of this act, or the act to which this is a supplement, shall be sued for and recovered in the name of the State of Delaware, with costs of suit; if incurred at the borough of Wilmington or the town of New-Castle, by the physicians of those ports or places, respectively, appointed by virtue of the act to which this is a supplement, or by the burgesses of the borough of Wilmington, or by the commissioners of the town of New-Castle respectively; and if incurred in other parts or districts of the State, in which there is no such physician, by a trustee of the poor; and in all cases of suits for penalties under this act the parties sued shall give special bail as in other cases, in which special bail is by law requirable; and that three fourths of the fines and penalties mentioned in this act, or the act to which this is a supplement, shall be for the use of the trustees of the poor for that county in which such suit shall be brought, for all or any of the said fines or penalties, and the other one fourth thereof, to the use of the physician, burgesses, commissioners or trustee of the poor, who are hereby empowered and directed to sue for the same.

Appropriation  
of fines and pe-  
nalties.

Part of former  
act repealed.

SECT. 10. *And be it further enacted,* That so much of the act, entitled, *An act to prevent infectious diseases being brought into this State and for other purposes,* to which this is a supplement, as is hereby altered or amended, shall be and is hereby repealed and made null and void.

## C H A P. XVIII.

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XVIII.  
1799*An ACT for the better regulation of the Borough of  
Wilmington.*

**W**HEREAS in and by an act of Assembly, passed the thirteenth day of June in the year of our Lord, one Thousand seven hundred and seventy-two, entitled, *An act for the better regulating the wharves, public streets, buildings, party walls, and partition-fences, in the borough of Wilmington, in the county of New-Castle, upon Delaware, and for raising money on the inhabitants of the said borough for the public use and benefit thereof,* it is among other things enacted, that all the streets and squares of said borough, shall be and remain as they are now laid out and regulated, agreeable to a map or plan of said borough, made from an actual re-survey thereof, and signed by order of the burgesses and assistants of said borough, by John Stapler, Esq. Griffith Minshall and William Poole, gentlemen, which is hereto annexed: And whereas the said map or plan of the said borough of Wilmington, therein referred to, by some accident, hath been lost or destroyed, so that the same, by the most diligent search, cannot now be found or obtained; and as it is of great importance to the inhabitants of the said borough, that some certain map or plan should be established, to which they may have reference, in laying out, extending, and regulating the streets, lanes, and alleys of the said borough. And whereas a new map or plan of the said borough has been prepared, under the direction of the burgesses and assistants, and with the assent of the inhabitants of the said borough, in town-meeting expressed; which said map or plan is now produced, and from the best evidence that can be obtained, is conformable and agreeable to the said map or plan referred to, in the before recited act, therefore,

Preamble.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the map or plan of the said borough of Wilmington, signed by order of the burgesses and

The map of  
Wilmington  
signed by Jo-  
seph Warner  
and Samuel  
Nichols.

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to be deemed  
the true map of  
the borough.

assistants of the said borough, by Joseph Warner and Samuel Nichols, Esquires, the present burgesses, with the seal of the said corporation affixed, and which is hereto annexed, shall hereafter be deemed and taken to be, the true map, plan or ground plat of the said borough, and that all the streets and squares, lanes and alleys of the said borough, shall be and remain as they are now laid out by the said map or plan, with such extensions and alterations as may hereafter be made, in virtue and by the authority of the before recited act.

*And whereas*, in and by the thirteenth section of the before recited act, it is further provided *that before any of the said streets so extended or laid out, shall be opened, the owner or owners of the ground over which the same shall be laid, shall be paid or tendered the value of the said ground*, to be ascertained in the manner therein directed : *And whereas* the value of the ground, through which a street is extended or laid out, is generally very much advanced, by opening a street through the same ; it appears more just and equitable, that the owner or owners of such ground, should be compensated in damages according to the real injury they may sustain, rather than by receiving the value of the said ground.

Before any street shall be opened, the owners of the ground shall be paid damages.

SECT. 2. *Be it therefore further enacted*, That from and after the passing of this act, before any of the said streets, so extended or laid out, by virtue of the said recited act, shall be opened, the owner or owners of the ground, over which the same shall be laid, shall be paid or tendered such damages as they shall respectively be entitled to have, to be adjudged of and determined by three impartial freeholders of the county in the same manner as is prescribed by the said recited act, for the ascertaining the value of such ground. *And whereas* the keeping of pumps and wells in good repair, will be of great use and service in extinguishing fires which may happen within the said borough, and many of the pumps and wells in the streets and alleys have been greatly neglected and suffered to lie long out of repair by their respective owners :

SECT. 3. *Be it therefore further enacted,* That the corporation of the said borough are hereby further empowered, when they shall think proper to agree with the owner or owners of all or any of such pump or pumps and wells, as are already fixed in the streets and alleys of the said borough, which pump or pumps and wells, after such agreement made with the owner or owners thereof, shall forever after become the property of and belong to the said corporation; to be maintained and kept in repair at the public charge. And the said corporation are further empowered and directed, to enquire into the condition, and take care of the repair of the several pumps and wells within the streets and alleys of the said borough; and if after due enquiry, it shall appear that any of the said pumps or wells have been out of repair for the space of three months next after notice thereof given, by one of the Burgesses to the owner or owners of such pump or well, then and in such case, every such pump or pumps and well or wells shall forever after become and be the property of the said corporation, to be maintained and repaired at the public charge.

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Corporation are empowered to agree with the owners of pumps, &c.

To enquire into the condition, & take care of the repair of the pumps.

Penalty on the owners of pumps who neglect to keep the same in repair.

SECT. 4. *And be it further enacted,* That it shall and may be lawful for the Burgesses and assistants of the said borough, and they are hereby authorized and required on complaint made, by any two or more inhabitants thereof, that any nuisance or nuisances have been erected or are continued within the said borough, which may prove injurious to the health of the inhabitants thereof, to view and examine the same; and if on such view and examination, it shall be adjudged by the said Burgesses and assistants, or a majority of them, that the matters and things so complained of are a nuisance or nuisances, whereby the health of the inhabitants of the said borough is or may be injured, then and in such case, it shall be lawful for the said burgesses, or either of them, and they are hereby required forthwith to issue a warrant under hand and seal, directed to any constable of the said borough, commanding him forthwith to notify the owner or occupier of the premises, whereon the same may be erected or continued, to abate and remove the same

Burgesses on complaint made of any nuisance, are authorized

to issue a warrant to Constable to notify owner thereof.

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Penalty for his  
neglecting to re-  
move the same.

within five days after such notice; and if the said owner or occupier shall not remove the same within the said time, then it shall and may be lawful for the said Burgesses, or either of them, to issue a warrant under hand and seal, directed to any constable of the borough, commanding him forthwith to abate and remove the same nuisance or nuisances, whereupon the constable, to whom the said warrant may be delivered, shall forthwith proceed to abate and remove the same, and the costs and charges of such abatement and removal, shall be ascertained, determined, and adjudged by the said burgesses and assistants, or a majority of them, and shall be levied and recovered from the said owner or occupier, by distress and sale of his or her goods and chattels, by warrant under hand and seal to be issued by the said burgesses, or either of them.

Burgesses on the  
application of  
five freeholders,  
are authorized

SECT. 5. *And be it further enacted,* That from and after the passing of this act, it shall and may be lawful for the burgesses and assistants of the said borough, and they are hereby authorized and empowered, when in their discretion, they shall deem it proper and right so to do, from time to time, on the application of any five resident freeholders of the said borough, to issue their precept to any suitable person or persons, authorizing him or them to cause the footways and gutters, of any street, lane, or alley of the said borough, as applied for, to be paved with bricks or stones, as the case may require, and to fix plank or curb stones, to prevent the same from being injured by carriages, agreeably to the true regulations of the streets, lanes and alleys of the said borough.

to cause the foot-  
ways and gut-  
ters to be paved

Provided the  
same be built on.

*Provided always,* That the greater part of the space required to be paved, shall be built upon and improved: *And provided also,* That all and every owner or owners shall have the privilege of paving their own fronts as aforesaid, so that they have it completed within two months after notice given by the person or persons authorized to pave as aforesaid, by writing under his or their hands: *And provided further,* That no person or persons shall be obliged to pave any footway to a greater breadth than four feet in front of any lot whereon a dwelling-house shall not be erected: *And*

Owners allowed  
to pave their  
own fronts,  
within two  
months after  
notice.

Width of the  
pavements.

*provided further*, That the said burgesses and assistants, when in their discretion, they shall deem fit and proper, may at any time revoke the authority given by virtue of any such precept or precepts as aforesaid, to any person or persons authorized as aforesaid.

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SECT. 6. *And be it further enacted*, That the person or persons authorized as aforesaid, shall, previous to his or their entering on the duties required by this act, make an estimate of the expences, and apply, by written notice, to the several owners of lots and buildings, within the space required to be paved for their respective proportions; and in case any owner or owners shall neglect or refuse to pay such amount within twenty days after notice as aforesaid, it shall and may be lawful for the person or persons authorized as aforesaid, to borrow the same, and the neglecting owner or owners shall be accountable to him or them for the amount so borrowed, with legal interest thereon, when, and as soon as the duties required of him, by this act, are performed.

Persons authorized as aforesaid shall make an estimate of the expences, & apply to the owners for their proportions.

Owners neglecting to pay their proportion, to be answerable for the same.

SECT. 7. *And be it further enacted*, That in case any grounds or buildings, belong to a minor or minors, or absent person or persons, then the same shall be recovered against any person or persons having the care of such grounds or buildings belonging to such minor or minors, or absent owner or owners; and the receipt of such person or persons authorized to pave as aforesaid, shall be good vouchers to all executors, administrators, guardians, trustees, or attornies, against their principal; and where any owner or owners of any grounds or buildings, executors, administrators, guardians, trustees or attornies, cannot be found; or in case any of them neglect to pave their own fronts, or to pave the proportion respectively allotted to them, then it shall and may be lawful for either of the burgesses of the said borough, or any justice of the peace resident in the said borough, to issue execution for the same, in the name of the person or persons authorized as aforesaid, to be levied on the grounds or buildings of such absent owner or owners, executors, administrators, trustees, guardians, or attornies;

Persons having the care of any ground belonging to minor, &c. shall be answerable.

The receipt of persons authorized to pave, shall be good vouchers to all executors, &c.

where an owner cannot be found, or neglect to pay,

the burgesses or a justice of the peace to issue execution for the same,

to be levied on the ground or buildings.

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and the person or persons so authorized as aforesaid, is, and are hereby authorized to sell the same at public auction, for the shortest space of time in which the rents and profits will satisfy the debt and costs.

Persons in arrear on settlement may be compelled to pay.

SECT. 8. *And be it further enacted*, That in case any owner or owners of any grounds or buildings, or the person or persons having the care of any grounds or buildings, as executors, administrators, guardians, trustees or attornies, shall be in arrear, on a final settlement of the accounts, and neglect or refuse to pay the same, it shall and may be lawful for the said person or persons authorized by the burgesses and assistants as aforesaid, to recover the same, with costs, as debts of the same amount are by law recoverable.

This act shall be deemed a public act.

SECT. 9. *And be it further enacted*, That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges and justices, and all persons whatsoever, without specially pleading the same.



C H A P. XIX.

1799

*An ACT, for the repair, and maintenance of the banks and sluices belonging to the tract of marsh called the Mill-Creek Meadows, and for other purposes.*

Private act.



C H A P. XX.

1799

*An ACT to complete the title to land bought or sold by State treasurer.*

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, in all cases where lands, tenements or hereditaments of any defaulting collector, and of his surety or sureties, or of any or either of them, have been heretofore, or shall hereafter be sold to the State treasurer, according to the provision of an act, entitled, *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*, passed June the fourth, one thousand seven hundred and eighty-nine, which said State treasurer hath heretofore, or shall hereafter die or be otherwise removed from his office, before any deed or deeds be executed by the proper officer for completing a title under such sale to the said lands, tenements or hereditaments; it shall and may be lawful for the Sheriff, or person having sold such lands, tenements or hereditaments, to execute such lawful deed or deeds, and to do such other lawful acts for the conveying and assuring the said lands, tenements, or hereditaments to the State treasurer for the time being, and to his successors, to and for the use of the State, as might or ought to have been executed, made or done to the State treasurer, to whom such lands, tenements or hereditaments have been, or hereafter may be, sold, in case he had not died or been otherwise removed from his office: And in case such Sheriff, or person having sold such lands, tenements, or hereditaments hath died, or hereafter shall die or be removed from his office, before any deed or deeds be executed for completing a title as aforesaid under such sale, then and in such case the provisions contained in the act, entitled, *An act for taking lands in execution for payment of debts*, shall extend to, and be in full force for the conveying and assuring such lands, tenements, and hereditaments to the State treasurer for the time being, and to his successors, to and for the use of the State, as fully and effectually, as if every regulation, power, provision, clause, matter, and thing had been herein inserted and re-enacted.

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Land of defaulting collectors and others sold to State treasurer.

See 2d vol. 945.

who dies before deed made,

it shall be made to his successor:

and provisions of the act, entitled "An act or extended, &c."

See 1st vol. 117.

SECT. 2. *And be it further enacted*, That if any State treasurer may, or hereafter shall have entered into

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State treasurer having made contract for sale of land, and dies, his successor may complete such contract.

any contract or agreement, with any person or persons, for the sale of any such lands, tenements or hereditaments, agreeably to the authority given to him by the first before mentioned act of the General Assembly, and hath heretofore, or shall hereafter die, or be otherwise removed from his office before any deed or deeds be made by him for the sale of any such lands, tenements or hereditaments, it shall and may be lawful for the State treasurer for the time being, with the approbation of the auditor of accounts, to complete such contract, by making and executing such lawful deed or deeds, and doing such other lawful acts for the conveying and assuring such lands, tenements, or hereditaments, and completing such contract as fully to all intents and purposes as the State treasurer who originally entered into any such contract or agreement for the sale of any such lands, tenements, or hereditaments might or could have done had not such State treasurer died, or been otherwise removed from his office: *Provided nevertheless,* That the consideration for the sale of such lands, tenements, and hereditaments, shall be paid to the State treasurer for the time being, before the execution of any such deed or deeds.



CHAP. XXI.

1799

*An additional supplement to the act, entitled, An act for the better regulation of the roads in the county of Sussex.*

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in general Assembly met, That the commissioners of the Levy court and Court of appeals of the said county, shall not direct any part of the road-tax to be paid in money, provided the taxables of the said county shall work out their road-tax, by the first day of August in every year: And such of the said taxa-

Taxables allowed to work out their road-tax, the first day of August.

blés, as shall not work out their road-tax by the said first day of August in every year, shall be obliged to pay the same in money.

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SECT. 2. *And be it further enacted by the authority aforesaid, That the first section of the act, entitled, A supplement to the act, entitled, An act for the better regulation of the roads in the county of Sussex, and every other part thereof; which is inconsistent with this act, shall be and is hereby repealed, made null and void.*

Part of former act repealed.

See 3d. vol. 20.

CHAP. XXII.

*An additional supplement to the act, entitled, An act against adultery and fornication.*

1799

SECTION 1. **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 any justice of the peace, within this State, as often as he may be informed of any female single person being pregnant and likely to become chargeable to the public, either upon his own view thereof, or on the information of such single woman, to cause her to be brought before him, for the purpose of discovering the name of the reputed father of such child; and the said justice, upon such discovery being made, by such female single person, is hereby required and directed, to issue his warrant to any constable, returnable forthwith; to bring such reputed father before him; and on his appearance, the said justice is required to cause him to enter into a recognizance with one or more surety or sureties in the sum of two hundred dollars each, conditioned that he be and appear before said justice within one month next after the birth of such child, for the purpose of complying with the true intent and meaning of an act of the General Assembly, entitled, *A supplement to the act, entitled, An act against adultery and fornication*, provided it appear at such time on the oath or affirm-

How a single woman being pregnant shall be proceeded against.

Proceedings against the reputed father.

See 3d vol. 1304.

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ation of the mother, that he is the father thereof; and on neglect or refusal of such reputed father to enter into said recognizance, the said Justice shall commit him to the custody of the Sheriff of the county, to be by him safely kept, until he shall give such security.

C H A P. XXIII.

1799

*An ACT to prevent swine running at large in the village of Laurel, in the county of Sussex.*

Swine shall not run at large within the limits here described.

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 day of April next, 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 Barelay Townsend's ship yard, formerly called Baldwin's ship yard, thence on a straight line to said Townsend's little mill, thence with the run of said mill-branch, till it intersects the waters of Broad-Creek, thence down the said creek to the place of beginning.

Penalty on persons suffering hogs to run at large within the aforesaid limits.

SECT. 2. *And be it enacted,* That from and after the first day of April next, upon complaint and information made by any person or persons, inhabitants of said village, before any Justice of the peace in and for said county, against any person or persons residing within the prescribed limits of the aforesaid village, or any person or persons whatsoever, having or suffering any hog or hogs, to run at large, within the aforesaid limits, that the said Justice on every such 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, the person or persons so offending, shall

forfeit and pay to the said Justice the sum of seven shillings and sixpence, to be paid by said Justice to the person or persons, who may lodge complaint or information before said Justice; the person or persons so offending, shall pay all costs accruing upon every such summons, to be recovered, together with the forfeitures, as debts under forty shillings are by law recoverable.

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1799

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 such  
may plead the  
general issue.

*Passed at Dover, January 11, 1799.*

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CHAP. XXIV.

*An ACT authorising the Treasurer of this State to appropriate any public money, to the payment of the claims therein mentioned, which have been allowed by the General Assembly, and for other purposes therein mentioned.*

1799

SECTION 1. **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 authorized and directed to pay unto the administrators, or either of them, of the estate of Gunning Bedford, deceased, the sum of two hundred and sixty-six dollars and sixty seven cents, unto the legal representatives of the estate of George Read, deceased, the sum of two hundred and fifteen dollars and ninety eight cents, and unto

State Treasurer  
to pay unto the  
administrators  
of G. Bedford,  
&c.

the legal representatives of the estate of Thomas M'Donough, deceased, the sum of fifty-nine dollars and forty-eight cents, out of such public money, as is or may hereafter be in the said Treasurer's hands.

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SECT. 2. *Whereas* it appears, from the Auditor's report to this General assembly, that there is due unto the estate of Peter Fretwell Wright, for his salary as Judge of the court of common pleas under the late constitution of this State, the sum of nine dollars and forty-seven cents, and that the said estate is indebted unto this State for monies received by him as Sheriff of the county of Sussex; *Be it therefore further enacted*, That the Auditor be and he is hereby empowered and directed to place to the credit of the account of the said Peter Fretwell Wright on the books of his office the said sum of nine dollars and forty seven cents.

Auditor authorized to credit the account of P. F. Wright.

*Passed at Dover, January 12, 1799.*

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CHAP. XXV.

*An ACT to confirm the title of lands heretofore purchased by aliens, who have since become naturalized, and for other purposes.*

1799

**B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That all gifts, grants, bargains, sales, conveyances, and devises of any lands, tenements and hereditaments, within this State, heretofore made to any person or persons, who at the time of making the same was or were an alien or aliens, and have since been legally naturalized according to the laws of this State or of the United States, shall be good and effectual and shall be construed and taken to be good and effectual, to vest in the grantee or grantees, bargainee or bargainees, devisee or devisees, such estate and interest, and as good a right and title in and to the same, as he or they could have taken by the same gift, grant, bargain, sale, conveyance or devise, if he or they had

been legally naturalized at the time of making the same, and all deeds and conveyances made of any lands, tenements, and hereditaments within this State, by any such alien or aliens who hath or have since been legally naturalized as aforesaid, shall be as good and effectual, and shall be construed and taken to be as good and effectual, to vest in the grantee or grantees, bargainee or bargainees, devisee or devisees, such estate, and as a good a right and title in and to the same lands, tenements or hereditaments, as such grantee, bargainee or devisee could have taken by the same, if the grantor, bargainor, or devisor, had been legally naturalized at the time of making such grant, bargain, sale, conveyance or devise, last mentioned.

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*Passed at Dover, January 16, 1799.*

CHAP. XXVI.

*An ACT granting a certain sum of money to George Read, as administrator of George Read, Esq. deceased.*

1799

**B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That in consideration of the services performed by George Read, Esq. late deceased, in his life, in revising the laws of this State for publication, pursuant to certain resolutions of the General assembly heretofore made, the treasurer of the State of Delaware be and he is authorized to pay, or cause to be paid, out of any monies, which may be in the treasury, not otherwise appropriated, the sum of nine hundred and forty six dollars and sixty-seven cents, to George Read as administrator of the estate of the said George Read, Esq. in full satisfaction for the services so performed as aforesaid.

Allowance to  
George Read,  
administrator of  
George Read  
deceased.

*Passed at Dover, January 19, 1799.*

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1799

## C H A P. XXVII.

*An ACT enjoining certain duties on the State Treasurer, and for other purposes therein mentioned.*

**W**HEREAS most of the accounts of the loan offices of the several counties of this State are settled, and the present establishment of the said loan offices unnecessarily expensive; therefore,

Duties of loan  
officers, trans-  
ferred to the  
State treasurer;

**SECTION 1.** *BE it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the powers now vested in, and the duties enjoined upon the trustees of loan offices in this State, shall be and are hereby transferred to and enjoined upon the State treasurer for the time being; who is hereby authorized, empowered, and required to demand, sue for, and recover all such monies as may yet remain due to each and every of the said loan offices, and to do every other act and deed as fully and effectually to all intents and purposes whatsoever, as any of the trustees of the said offices might have done immediately before the passing of this act by any of the laws of this State: And the said treasurer shall account with the auditor for all monies which may come into his hands by virtue of this act, at the same time and in the same manner, as is prescribed by the sixth section of the act, entitled, *An act for the better ordering, assessing, levying, and collecting of taxes, and making provision for the support of government for the year seventeen hundred and ninety-eight*, and shall discharge himself of the said money in the same manner as he was required to do before the passing of this act, when money was paid into his hands by any of the said trustees. And the said treasurer shall be allowed commissions for all monies which shall come into his hands, in pursuance of this act, and duly accounted for at the rate of ten dollars, for every hundred dollars, and no more.*

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his commissi-  
ons.

State Treasurer  
to give bond.

**SECT. 2.** *And be it further enacted, That the present State treasurer, and every other State treasurer hereafter to be appointed, before he enters upon the duties required of him by this act, shall become bound*

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 twenty thousand dollars, conditioned for the true and faithful performance of the duty and trust reposed in him by this act.

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SECT. 3. *And be it further enacted by the authority aforesaid,* That the trustees of the several loan offices in this State, are hereby required forthwith, to deliver over unto the said treasurer, all the books, mortgages, bonds, papers, and effects of every kind belonging to their respective offices.

Trustees to deliver all books, &c. to the State Treasurer.

*Passed at Dover, January 22, 1799.*

CHAP. XXVIII.

*An ACT to prevent trespasses being committed on the lands on the north east side of Lewis-Creek, called the Cape, in the county of Sussex.*

1799.

**W**HEREAS a grant was formerly made by the proprietaries of Pennsylvania to the inhabitants of the Town of Lewis and county of Sussex, of the lands and marsh called the Cape, which are liable to be pillaged and much injured, the timber of which is a defence against the sea, and if once destroyed, the navigation of said creek may cease; for remedy whereof,

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SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That after passing and publishing of this act, if any person or persons shall fall, cut, cart, or convey any green timber or wood, on or from said Cape, for any private use whatsoever, he or they shall be liable to be indicted and fined therefor in any sum not exceeding fifty dollars, in the discretion of the Justices of

Penalty on persons who destroy the timber.

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the Quarter sessions of the peace for the said county ; *Provided always nevertheless,* That it shall and may be lawful for the commissioners of the bridge across Lewis-Creek for the time being, to cut and make use of any timber on said Cape for the use of rebuilding and repairing said bridge and causeway, and for the keeper or keepers of the light-house at all times hereafter to have a privilege to cut and make use of as much timber on said Cape as will support him or them in firewood, fences, and repairs on said Cape for said light-house, and for no other purposes whatsoever.

Justice of the  
peace to issue  
his warrant  
against offen-  
ders.

SECT. 2. *And be it further enacted,* That if any Justice of the peace for the said county shall know of any such trespass being committed, or shall have before him lodged a complaint of any such trespass being committed, it shall be his duty, and he is hereby authorized, empowered, and required to issue his warrant for the arresting and bringing before him every such offender, and shall require of him, her or them, to enter into a recognizance with sufficient security for his, her, or their appearance before the next Court of Quarter sessions of the peace for the said county, and there to abide the determination of the said court ; and in default thereof, the said Justice shall commit such offender to the county gaol, there to abide until legally discharged.

*Passed at Dover, January 24, 1799.*

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CHAP. XXIX.

1799

*An ACT for allowing a compensation to the Recorder of deeds as Clerk of the board of property, for Sussex county.*

**B**E it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the recorder of deeds in the county of

Sussex, for every day that he shall attend the board of property in the said county, shall be allowed one dollar to be paid out of the monies arising from the land-offices.

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*Passed at Dover, January 25, 1799.*



C H A P. XXX.

*An ACT for rendering the acknowledgment of deeds more easy.*

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, it shall and may be lawful for the chancellor of this State, and he is hereby authorized and empowered to take the acknowledgment of all bargains and sales, deeds and conveyances of lands, tenements and hereditaments, within this State, in the same manner, and to the same effect, as the same heretofore might or could be done by any justice of the Supreme court or Court of common pleas, whereupon the same shall be recorded, and the recorder shall certify thereon under his hand and seal of his office, the day and year he recorded the same, and the name or number of the book and page wherein the same was recorded.

Chancellor empowered to take acknowledgment of deeds, &c.

SECT. 2. *And be it enacted,* That from and after the passing of this act, it shall and may be lawful for the acknowledgment and the proof of the execution of all bargains and sales, deeds and conveyances of lands, tenements and hereditaments, within this State, to be taken and made in the Supreme court sitting in any of the counties of this State, in the same manner, and to the same effect, as might or could heretofore be done in the Court of common pleas : *Whereupon* the clerk of the said Supreme court, un-

and also the Supreme court.

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Clerk shall certify the said acknowledgment.

der his hand and the seal of his office, shall certify the said acknowledgment or proof upon the said bargain and sale, deed or conveyance, as aforesaid, with the day and year when the same was made and by whom, and thereupon the said bargain, sale, deed or conveyance as aforesaid shall be recorded, and the recorder shall certify thereon under his hand and the seal of his office, the day and year he recorded the same, and the name and number of the book and page wherein the same is recorded.

*Passed at Dover, January 25, 1799.*

Two justices of the peace sitting together, authorized to take the acknowledgment of deeds, 4th vol. 666.

C H A P. XXXI.

1799

*An ACT for the payment of the wages of the electors heretofore and hereafter to be appointed to choose a President and vice-president of the United States.*

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the electors appointed by the General Assembly of this State, in the month of November in the year of our Lord, one Thousand seven hundred and ninety-six, for the purpose of choosing a president and vice-president of the United States; and the electors hereafter to be appointed for the purpose aforesaid, agreeably to the constitution of the United States, shall be entitled to the same allowance of mileage and daily wages, when travelling to, remaining at, and returning from the place of election, as is by law allowed to the members of the General Assembly of this State, and the same shall be paid by the treasurer of this State, on warrants signed by all such of the electors as shall attend at such election.

Electors of president and vice-president appointed in November 1796;

and those hereafter to be appointed:

Their allowance.

Allowance to members of Assembly, 4th vol. 50.

*Passed at Dover, January 25, 1799.*

## C H A P. XXXII.

C H A P.  
XXXII.  
1799

*An ACT to revive the proceedings of the commissioners of the land-office in Kent county, and for other purposes.*

**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, or of any one of them, at the days appointed by them for holding their terms agreeably to the powers to them given by the acts of the General Assembly of this State :

Preamble.

*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, or any one of them, shall be, and the same 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; and the recorder of deeds in each county in case of the non-attendance of the commissioners aforesaid, or of any one of them, is hereby authorized and empowered 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 the said commissioners or any one of them were present.

Revival of proceedings.

Recorder of deeds empowered to adjourn.

*Passed at Dover, January 25, 1799.*

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## C H A P. XXXIII.

*An ACT for supplying the loss of records in particular cases.*

Preamble.

**W**HEREAS in the year of our Lord one thousand seven hundred and seventy-seven, during the late war, the enemy then invading this State, seized and carried away many of the records for the county of New-Castle, which have not been recovered, and the mischiefs arising from such loss, ought as reasonably and justly as may be to be remedied :

Method to be taken for the establishing any copy of an original record lost.

*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 present to the judges of the Supreme court, any instrument of writing purporting to be a copy of a patent, deed, will, letters testamentary or of administration, or account admitted in the Orphans court, or any proceeding of a Court of record in that county; and shall by an application in writing request the judges aforesaid to confirm and establish such instrument as a true copy respectively of such patent, deed, will, letters testamentary or of administration account or proceeding, it shall and may be lawful for them, to make enquiry, and by all lawful ways to examine whether the said instrument is a true copy of an original, lost as aforesaid, and if upon such enquiry and examination, it shall satisfactorily appear to them, that the instrument exhibited as aforesaid, is a true copy of an original lost as aforesaid, they shall confirm and establish the same accordingly by a writing under their hands and seals, therein ordering the same to be lodged in the register's or recorder's office in that county, as they shall judge most suitable, where it shall be forthwith recorded in one of the books of such office, and safely kept among the other records, and the copies thus confirmed and established, and the entries thereof in the books aforesaid, are hereby declared to be public records of this State.*

*Provided always,* That before any enquiry and examination shall be made as aforesaid, the person applying as aforesaid shall publish once each week for six weeks in some news-paper within this State, and also in some news-paper in the city of Philadelphia, an advertisement fully stating the nature of his application, mentioning the time and place when and where the Judges are to make the enquiry and examination aforesaid, thus giving notice to all persons who may suppose themselves to be interested in the premises, to appear before the Judges aforesaid, and make their objections, if any they have to make, why the instrument aforesaid should not be confirmed and established as aforesaid.

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Proviso.

*Passed at Dover, January 29, 1799.*

C H A P. XXXIV.

*An ACT directing the time of service of the Auditor of accounts hereafter to be appointed, and for other purposes.*

1799

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That every Auditor of accounts hereafter to be appointed, shall hold the said office of auditor for the term of five years, to be computed from the date of such appointment, and from thence to the end of the next session of the General assembly, if so long he shall behave himself well in the said office.

Auditor to hold the office five years.

This section repealed, 4th vol. 582.

SECT. 2. *And whereas* the time appointed for the auditor to attend annually at the county-towns of this State, for the purpose of settling the accounts of the county treasurers as treasurers of the poor, by the second section of the act of assembly, entitled, *An act for extending the powers of the Auditor of public accounts to the settlement of the county, road, and poor taxes,*

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To attend at the  
county towns  
in the month of  
October annual-  
ly.

\* In the spring  
term of the  
Court of com-  
mon pleas 3d vol.  
139.

County Treasurers, their du-  
ty.

Secretary to  
make quarterly  
returns to the  
Auditor, &c.

Clerk of the  
Quarter Ses-  
sions, his duty.

&c. *within the State*, is found to be inconvenient: *Be it therefore enacted*, That instead of the month of February in the said section mentioned, it shall and may be lawful for the Auditor, and he is hereby required and directed to attend in the month of October\* annual-ly, after the passing of this act, at the respective county towns of this State, *to wit*; New-Castle, Dover and George-Town, and then and there do and perform the several duties enjoined upon him in and by the said re-cited section, and in the same manner as is therein di-rected.

SECT. 3. *And be it further enacted*, That the several county treasurers and treasurers of the poor within this State, shall after the passing of this act render their annual accounts to the auditor in dollars and cents, and shall state in their said accounts of the receipts of money, the time, the persons, the sums, and on what account received, and in their accounts of payments shall also state the time when, the person to whom, and the sum paid, and the county treasurers shall also state in their said accounts, the time when any allowance (for which they claim credit) was made by the Levy court.

SECT. 4. *And be it further enacted*, That from and after the passing of this act, the secretary of State shall make quarterly returns to the auditor, of all monies received by him, for and on account of the State, and shall pay the same over to the State treasurer; and shall in the month of December in every year appear in the auditor's office, and then and there lay a general account, stating all his transactions for the year before the auditor, who shall proceed forthwith to adjust the same; and the said secretary shall discharge himself of all monies which shall come to his hands, in pursuance of his office.

SECT. 5. *And be it further enacted*, That the clerk of the court of Quarter sessions, in each of the coun-ties in this State, shall in one month after the rising of the court in the spring term, make a return of all tavern licences granted by the court in the respective counties, and transmit the same to the auditor's office.

SECT. 6 *And be it further enacted*, That the Governor of the State for the time being, shall cause the Secretary to make a list of all marriage licences which shall be signed by him, which list shall be numbered and signed by the Governor, countersigned by the Secretary, and by him transmitted to the Auditor's office.

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Secretary to return a list of marriage licences to the Auditor.

SECT. 7. *And be it further enacted*, That the Secretary of State shall in three months after the passing of this act make a regular list of all the marriage licences that are or may be in his possession, or that he may have distributed throughout the State, and are not disposed of, which list he shall return into the Auditor's office within the time herein before recited.

SECT. 8. *And be it further enacted*, That the Recorder of deeds in each county of this State be, and he is hereby required and directed to make a list of all receipts received by him from the State treasurer, or that he may hereafter receive, for monies paid to him on account of vacant lands, which list shall specify therein the date and name of the person or persons paying the same, and the amount of the sum paid.

Recorder of deeds, his duty.

SECT. 9. *And be it further enacted*, That so much of the act, entitled, *An act to enjoin certain duties to be performed by the Secretary of State, and for other purposes*, as is hereby altered or amended, be, and the same is hereby repealed, made null and void.

Part of former act repealed,

2d vol. 1064.

*Passed at Dover, January 30, 1799.*

CHAP.  
XXXV.  
1799

## C H A P. XXXV.

*An ACT making provision for the support of government, for the year One Thousand Seven Hundred and Ninety-nine, and for other purposes.*

12,000 Dollars  
to be raised and  
paid into the  
treasury.

Each county's  
proportion.

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 and in the manner directed by an act of Assembly, entitled, *An act for the better ordering, assessing, levying, and collecting of taxes, and making provision for the support of government, for the year of our Lord One Thousand Seven Hundred and Ninety-eight*, 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 Sussex, the sum of three thousand four hundred and twenty-eight dollars and fifty-eight cents.

An additional  
sum to be laid  
on New-Castle  
county.

SECT. 2. *Whereas* the Levy court of the county of New-Castle was required by the act, entitled, *An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government for the year of our Lord One Thousand Seven Hundred and Ninety-eight*, to lay a sum sufficient to raise the sum of four thousand five hundred and seventy-one dollars and forty two cents, clear of delinquencies and commissions, the same being the quota of the said county, of the tax imposed by the said act, and which the said Levy court, notwithstanding the said act, did only lay the sum of two thousand four hundred and fifty-four dollars and fifty-eight cents, including delinquencies and commissions: *Be it therefore enacted*, That there shall be assessed and levied, in the said county of New-Castle, in addition to the amount of the quota of the said county of the aforesaid sum of twelve thousand dollars, a sum sufficient to com-

plete, including the sum that was laid by the said court at their meeting in May last, the amount of the said county's quota of the tax imposed by the afore-recited act, clear of delinquencies and commissions.

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SECT. 3. *And be it enacted,* That the aforesaid sums, together with all sums of money which now are, or may hereafter come into the treasury of this State, (except such sums of money, as may be received from the land or loan offices of this State, or from marriage or tavern licences, not appropriated to the payment of the salaries of the chancellor and judges,) shall be appropriated and applied to and in the following manner, *that is to say;* so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Supreme court and Court of common pleas, Secretary, Auditor of accounts, and Attorney general, up to the first day of January, which will be in the year of our Lord, one Thousand eight hundred; 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 applied to the payment of any sums of money due to the citizens of this State, for which provision shall hereafter be made by law.

Appropriation

for the payment  
of salaries;

for the expences  
of the General  
Assembly, &c.

for the payment  
of debts due to  
citizens.

*Passed at Dover, January 30, 1799.*

CH A P.  
XXXV.  
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C H A P. XXXV.

*An ACT making provision for the support of government, for the year One Thousand Seven Hundred and Ninety-nine, and for other purposes.*

12,000 Dollars  
to be raised and  
paid into the  
treasury.

Each county's  
proportion.

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 and in the manner directed by an act of Assembly, entitled, *An act for the better ordering, assessing, levying, and collecting of taxes, and making provision for the support of government, for the year of our Lord One Thousand Seven Hundred and Ninety-eight*, 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 Sussex, the sum of three thousand four hundred and twenty-eight dollars and fifty-eight cents.

An additional  
sum to be paid  
on New-Castle  
county.

SECT. 2. *Whereas* the Levy court of the county of New-Castle was required by the act, entitled, *An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government for the year of our Lord One Thousand Seven Hundred and Ninety-eight*, to lay a sum sufficient to raise the sum of four thousand five hundred and seventy-one dollars and forty two cents, clear of delinquencies and commissions, the same being the quota of the said county, of the tax imposed by the said act, and which the said Levy court, notwithstanding the said act, did only lay the sum of two thousand four hundred and fifty-four dollars and fifty-eight cents, including delinquencies and commissions: *Be it therefore enacted*, That there shall be assessed and levied, in the said county of New-Castle, in addition to the amount of the quota of the said county of the aforesaid sum of twelve thousand dollars, a sum sufficient to com-

plete, including the sum that was laid by the said court at their meeting in May last, the amount of the said county's quota of the tax imposed by the afore-recited act, clear of delinquencies and commissions.

C H A P.  
XXXV.  
1799

SECT. 3. *And be it enacted,* That the aforesaid sums, together with all sums of money which now are, or may hereafter come into the treasury of this State, (except such sums of money, as may be received from the land or loan offices of this State, or from marriage or tavern licences, not appropriated to the payment of the salaries of the chancellor and judges,) shall be appropriated and applied to and in the following manner, *that is to say;* so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due to the Governor, Chancellor, Judges of the Supreme court and Court of common pleas, Secretary, Auditor of accounts, and Attorney general, up to the first day of January, which will be in the year of our Lord, one Thousand eight hundred; 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 applied to the payment of any sums of money due to the citizens of this State, for which provision shall hereafter be made by law.

Appropriation

for the payment  
of salaries;

for the expences  
of the General  
Assembly, &c.

for the payment  
of debts due to  
citizens.

*Passed at Dover, January 30, 1799.*

CHAP.  
XXXVI.  
1799

## C H A P. XXXVI.

*A ACT to establish the manner of choosing a Senator or Senators to represent this State, in the Senate of the United States.*

Senators to be chosen by the joint ballot of both houses.

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, the Senator or Senators, to be chosen by the Legislature of this State, agreeably to the constitution of the United States, to represent this State in the Senate of the United States, shall be chosen by joint ballot of the Senate and House of Representatives of this State convened together for that purpose.

Speaker of Senate to have a casting vote.

SECT. 2. *And be it further enacted by the authority aforesaid,* That whenever hereafter the Senate and House of Representatives shall so as aforesaid meet for the purpose of choosing a Senator or Senators to represent this State in the Senate of the United States, and an equal division of ballots shall appear for any two or more persons who shall be the highest in number of votes, that the speaker of the Senate shall have an additional casting vote.

Proviso.

SECT. 3. *Provided nevertheless, and be it enacted,* That in case the speaker of the Senate shall be one of the persons ballotted for and equal in the highest number of votes to any other person or persons, that the speaker of the House of Representatives shall have such additional casting vote, and should the said speaker be also ballotted for and equal in the highest number of votes, that then both Houses shall proceed to ballot for a suitable person who shall be a member of either House as chairman, who shall have the said additional casting vote.

*Passed at Dover, January 30, 1799.*

## C H A P. XXXVII.

C H A P.  
XXXVII.  
1799

*An ACT requiring foreigners to give security in suits prosecuted by them in certain cases, 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 after the passing of this act, any person who now is or hereafter shall be imprisoned for debt, or in any civil suit within any of the counties of this State, at the suit of any person or persons who do not reside within this State, may apply to the justices of the court from which the process issued, in term time, or to any one of the justices of the said court in vacation, setting forth the cause of his or her imprisonment, and the name of the plaintiff or plaintiffs at whose suit he or she is imprisoned, together with the place of residence of such plaintiff or plaintiffs, and upon such application it shall be lawful for the justices of the said court in term time, or for any one justice thereof in vacation, to make an order requiring the plaintiff or plaintiffs in the suit, to enter into a recognizance in the name of the treasurer of the county within which the defendant may be imprisoned within twenty days from the date of such order, with one sufficient surety at the least, to indemnify the county of and from all costs and charges that may arise by reason of such imprisonment, either for the maintenance or by the sickness of the person so imprisoned, or of his or her family, which said recognizance shall be taken by the clerk of the said court in such sum as the said justices or justice thereof may order.

Plaintiff to enter into a recognizance to indemnify the county.

SECT. 2. *And be it further enacted,* That if the plaintiff or plaintiffs, in such suit or suits, shall after ten days notice of such order being given unto him or them, or to his or their attorney where such plaintiff or plaintiffs cannot be found, refuse or neglect to comply with such order, it shall and may be lawful for the justices of the said court in term time, or for

Defendant to be discharged on common bail in case of refusal.

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any one justice thereof in vacation, to discharge the defendant or defendants so applying from imprisonment, he or they first filing common bail in the said suit or suits.

General issue.

SECT. 3. *And be it further enacted*, That if any suit or action shall be commenced against any person or persons for any thing done in pursuance of this act, the defendant or defendants in any such suit or action, may plead the general issue, and give this act in evidence at any trial to be had thereon.

*Passed at Dover, January 30, 1799.*

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C H A P. XXXVIII.

1799

*An ACT to enable the land-holders of Rehoboth-neck to erect one or more gates on the public roads on the south side of the road leading from the town of Lewis to Burton's Mill, in the county of Sussex.*

*Passed January 31, 1799.—Private act.*

—\*—  
C H A P. XXXIX.

1799

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

Preamble.

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

*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, in all criminal prosecutions, where it shall appear to the court before whom the prosecutions are depending, that no white person or persons compe-

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

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Free blacks and mulattoes allowed to give testimony in criminal cases.

Proviso.

*Passed at Dover, February 1, 1799.*

CH A P. XL.

*An ACT for the relief of John Vining, Andrew Barratt, and James Morris, sureties of Thomas Carlisle.*

1799

*Passed February 1, 1799—Private act.*

CH A P. XLI.

*A supplement to the act, entitled, An act for raising the sum of twelve thousand dollars by way of lottery, for the erecting piers in the river Delaware, opposite the town of New-Castle.*

1799

*Passed February 1, 1799.—Private act.*

L

CHAP.  
XLII.  
1799

## C H A P. XLII.

*An ACT to establish an Uniform Militia throughout this State.*

Preamble.

Repealed and  
supplied, vol. 4  
158.

**W**HEREAS a well regulated militia is the natural defence of every free State, and as the laws now existing are found to require material alterations; it is thought most advisable to revise the whole system, rather than to amend them by supplementary laws: Therefore,

Former acts  
repealed.

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 the laws heretofore made for the government and regulation of the Militia, and are hereby repealed: *Provided nevertheless,* That all arrangements heretofore made of the militia, and all acts done, and all commissions issued, by virtue of the said laws, hereby repealed, which are not inconsistent with the provisions of this act, shall be and remain in force; and all fines, forfeitures, and penalties incurred under the said laws, shall be sued for, prosecuted and recovered, in the same manner as if the said laws were not repealed.

All acts done by  
virtue of said  
laws, to remain  
in force.

Who shall be  
enrolled, and by  
whom.

SECT. 2. *Be it further enacted,* That each and every free able-bodied white male citizen of this State, or any of the United States, residing in this State, who is, or shall be, of the age of eighteen years, and under the age of forty-five years, except as hereinafter 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; and it shall be the duty of every such captain or commanding officer of a company, at all times hereafter to enrol every such citizen as aforesaid, and also those who shall from time to time arrive at the age of eighteen years, and not excepted by this act, that have or shall come to reside within the bounds of his company, and shall notify such citizens by a proper non-commissioned officer of his compa-

Notification of  
the enrolment.

ny, 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, shall prove his age, to the satisfaction of the commanding officer of the company within whose bounds he may reside.

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SECT. 3. *And be it further enacted,* That the Vice-president of the United States, the officers judicial and executive of the government of the United States, the members of both houses of Congress, and their respective officers, the members of both houses of the general Assembly of this State, all custom-house officers and their clerks, judges of the Supreme court, and Court of common pleas, chancellor, attorney-general, auditor of accounts, secretary and treasurer of the State, Sheriffs, gaolers and keepers of work-houses, 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 ferry-men 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 school-masters having twenty scholars, shall be exempted from military duty, and no other persons.

Persons exempted from military duty.

SECT. 4. *And be it further enacted,* That the militia of this State shall form one division, and shall be arranged into brigades, regiments, battalions and companies, in manner and form following; the State to make one division, and each county to consist of one brigade, and each brigade to consist of not less than two or more than eight regiments, each regiment to consist of two companies, and each battalion to consist of five companies, one of which shall be light infantry, grenadiers or riflemen, to be formed of volunteers from their respective regiments, and each company to consist of not more than sixty-four privates, and not less than forty, or as near as may be, having regard to their local situation. There shall be to each brigade at least one company of artillery, and one or

Arrangement of the militia.

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more troops of horse, as the brigadier may think proper, provided they do not exceed one company of each to a regiment, or more than an eleventh part of the infantry which shall be formed of volunteers from their respective brigades.

How the militia shall be armed.

So much of this section as is between crotchets was repealed by 3d vol. 90.

Who shall be exempted from furnishing arms.

How the officers shall be armed.

[SECT. 5. *And be it further enacted*, That in order that the militia may be well armed, equipped and accoutred, every citizen whose assessment shall amount to the sum of five hundred dollars, that has been, or hereafter shall be enrolled and notified thereof, except as hereinbefore excepted, and all young men under the age of twenty-one years, enrolled agreeably to the second section of this act, shall be exempted from furnishing the necessary arms and accoutrements, and from all militia-duties and fines during such minority, except in cases of rebellion or any actual invasion of this State, shall, within a year after the passing of this act, provide himself with a good musket, a sufficient bayonet and belt, two spare flints, and cartouch box to contain twenty-four cartridges suited to the bore of his gun, or with a good rifle and shot pouch, and in case of neglect, shall be considered and returned among the absentees:] *Provided however*, That every non-commissioned officer and private, who now possesses, or who shall possess, before the expiration of the said year, a musket or firelock, shall be obliged to appear on duty with such musket or firelock, whether his assessment be under or above five hundred dollars, under the penalty for neglect, of being considered and returned among the absentees: And after the expiration of the said year, every non-commissioned officer or private who may not have received any public arms, and whose assessment shall not amount to five hundred dollars, but who shall possess a musket or firelock, shall be obliged to appear on duty with such musket or firelock, or be considered and returned as an absentee: and the commissioned officers of the infantry shall be armed with a sword or hanger, and espartoon: and those of the artillery with a sword or hanger, a fusee, bayonet and belt, and cartridge box to contain twelve cartridges; the commissioned officers of the troops of horse shall

furnish themselves with good horses of at least fourteen and an half hands high, and shall be armed with a sabre and pair of pistols, the holsters of which shall be covered with bearskin caps; each light horseman or dragoon shall furnish himself with a good horse at least fourteen and an half hands 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, light infantry, grenadiers and horse shall be uniformly clothed in regimentals at their own expence, the colour and fashion to be recommended by the brigadier commanding the brigade to which they shall belong. But the officers and non-commissioned officers and privates of every troop or company of voluntary militia hereafter to be raised, shall be obliged to wear the uniform prescribed by the brigadier, or be considered as not belonging to such company; and all officers hereafter to be commissioned shall likewise uniform themselves in the manner directed by the major-general; every militia-man shall appear so armed and accoutred, when called out to exercise, or into service, (here it is considered that the public find knapsacks and ammunition) and every man so enrolled as aforesaid, and providing himself with arms, accoutrements, &c. shall hold the same exempt from all suits, distress, executions, or sales for debt or payment of taxes: Each battalion shall be provided with a stand of colours by the commanding officer of the same, bearing the United States coat of arms, which standard shall be borne by the eldest ensign present, and each company, with a drum and fife or bugle horn, by the commissioned officers of the company, each regiment shall have one drum-major and one fife-major, whose business it shall be to attend on battalion and regimental reviews, under the direction of the lieutenant colonels and majors of each regiment; and it shall be the duty of the major of each battalion to cause to be established a school for music in the central parts of each battalion of his regiment, under the direction of the commanding officers of the same, at which place and time, by previous notice given by the command-

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Artillery, &c. to be uniformly clad at their own expence.

Shall appear armed on days of exercise.

Arms exempted from distresses.

What colours, and by whom furnished.

A school for music to be established.

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ing officer of each battalion, the drum and fife majors shall attend, to instruct any and every drummer and fifer of the several companies; the commanding officers of which, are hereby authorized and enjoined to forward one or more scholar or scholars belonging to their respective companies, to be taught and instructed in the principles of martial music: The commanding officers of companies are hereby enjoined to send those only whom they have good reasons to believe will continue to reside in their companies or districts: The schools to be held for three months, beginning from the first day of May next, and three days of each week in the central parts of the several battalions; the hours and time of attendance to be fixed by the majors or commanding officers of battalions: If no suitable persons can be found capable of teaching music in the bounds of the several regiments, the commanding officers of the same may obtain them wherever in their power, their board and expences of teaching to be paid out of the fines of the respective battalions. Learners of music for the troops of cavalry, to be procured by their respective commanding officers, which expence shall also be paid out of the fines of the brigade to which such troops shall belong: *Provided however,* That if the brigadier and a majority of the field officers of any brigade shall be of opinion, that one school to a regiment or brigade be sufficient, they are hereby authorized and empowered to direct accordingly: *And provided further,* That nothing herein contained shall be obligatory on the commanding officers of regiments in any brigade, unless the brigadier and a majority of the field officers in such brigade, shall recommend the establishment of the said schools.

How the militia shall be officered.

SECT. 6. *And be it further enacted,* That the militia shall be officered as follows: To a division, one major-general, and two aids-de-camp, to be out of the line of captains, with the rank of majors; to each brigade, one brigadier general, with one brigade inspector, to serve as brigade major, and to be out of the line of subalterns with the rank of major; to each regiment, one lieutenant colonel commandant; and to each battalion one major; to each company of in-

fantry (including light infantry, grenadiers and riflemen) one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer or bugler; there shall be a regimental staff, to consist of one adjutant to be out of the line of subalterns, and one quarter-master, to rank as lieutenants, one pay-master, one surgeon, and one surgeon's mate, and one sergeant major; each company of artillery shall consist of one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer, and thirty-two privates or matrosses, or as near as may be; each troop of cavalry shall consist of one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter, and not less than thirty-two privates, or as near as may be; there shall be one quarter-master general for the State.

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SECT. 7. *And be it further enacted,* That the governor shall, after the passing of this act, appoint and commission all the officers of the militia, having all possible regard to the existing grades, whose places may have become vacant by death, resignation or otherwise, *to wit,* the major general, brigadiers, quarter master general, lieutenants colonels, majors, captains, lieutenants, ensigns and cornets; that the major general shall appoint his own aids-de-camp; that the field officers of each regiment shall appoint their respective regimental staffs; and that each captain shall appoint his sergeants, one of which, to be appointed clerk of the company; and that all commissioned officers appointed previous to the passing of this act, shall hold their commissions for the term therein specified, unless for neglect, refusal, or breach of military duty, the commission should be forfeited. That all those hereafter to be appointed, shall be commissioned for seven years, their respective grades to be decided by the date of their commission; 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, or battalion, company or detachment, and if they refuse to draw, the commanding officer shall

Governor to commission all officers whose places have become vacant.

Of their commissions and rank.

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draw for them ; which lot shall be marked on each commission by the colonel or commanding officer in whose presence it shall be drawn, and forever excluded the controversy of the parties ; and whenever the governor shall re-commission any officer, he shall cause to be noted on the new commission, the date of the old commission, provided the new appointment be of the same rank as the former commission ; and in all matters relating to grade, the commission shall be considered as bearing the date of the former commission, provided it be as aforesaid, for a new office of the same rank with the old.

How the companies shall be classed.

SECT. 8. *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 thereof, by setting up at least three advertisements in the most public places in his district, ten days before such day of meeting, 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 captain or commanding officer 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, transmitting forthwith a copy thereof, with a list of his commissioned officers, and the date of their respective commissions and non-commissioned officers prefixed, to the colonel or commanding officer of his regiment, who shall enter the same in a book by him to be provided for that purpose ; and the captain or

The captain shall form a roll of the classes, & transmit a copy to the Colonel.

commanding officer of each company of artillery, troop of horse, grenadiers, light infantry or riflemen, shall in like manner return a copy of his roll to the brigadier, 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 citizens between the ages aforesaid, who on the next preceding twelve months have removed to, and are then residing in that sub-division, or therein have attained the age of eighteen years, except as herein before excepted; and every militia-man migrating or removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militia-man shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to enrol him in the class specified in the said certificate.

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SECT. 9. *And be it further enacted,* That when there are two or more full troops of horse in each brigade, they shall be formed into a battalion, and each battalion shall be entitled to a major, adjutant and quarter-master, and they shall meet in battalion at least once in every year, at such time and place as shall be ordered by the brigadier. And when the artillery in each brigade, shall form two or more full companies, they shall be formed into a battalion, and each battalion shall be entitled to a major, adjutant and quarter-master; and each company of artillery shall be provided, by the State, with good field-pieces, with carriages and apparatus; and the commanding officer of each company of artillery shall be accountable for the careful preservation of the pieces and apparatus: And any company of artillery most convenient to the place of regimental review appointed by this act, may be ordered to attend the same at the discretion of the brigadier.

Two or more troops of horse in a brigade to be formed into a battalion.

Artillery to be formed into a battalion, and to be provided with field pieces.

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draw for them ; which lot shall be marked on each commission by the colonel or commanding officer in whose presence it shall be drawn, and forever excluded the controversy of the parties ; and whenever the governor shall re-commission any officer, he shall cause to be noted on the new commission, the date of the old commission, provided the new appointment be of the same rank as the former commission ; and in all matters relating to grade, the commission shall be considered as bearing the date of the former commission, provided it be as aforesaid, for a new office of the same rank with the old.

How the companies shall be classed.

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The captain shall form a roll of the classes, & transmit a copy to the Colonel.

commanding officer of each company of artillery, troop of horse, grenadiers, light infantry or riflemen, shall in like manner return a copy of his roll to the brigadier, 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 citizens between the ages aforesaid, who on the next preceding twelve months have removed to, and are then residing in that sub-division, or therein have attained the age of eighteen years, except as herein before excepted; and every militia-man migrating or removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militia-man shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to enrol him in the class specified in the said certificate.

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SECT. 9. *And be it further enacted,* That when there are two or more full troops of horse in each brigade, they shall be formed into a battalion, and each battalion shall be entitled to a major, adjutant and quarter-master, and they shall meet in battalion at least once in every year, at such time and place as shall be ordered by the brigadier. And when the artillery in each brigade, shall form two or more full companies, they shall be formed into a battalion, and each battalion shall be entitled to a major, adjutant and quarter-master; and each company of artillery shall be provided, by the State, with good field-pieces, with carriages and apparatus; and the commanding officer of each company of artillery shall be accountable for the careful preservation of the pieces and apparatus: And any company of artillery most convenient to the place of regimental review appointed by this act, may be ordered to attend the same at the discretion of the brigadier.

Two or more troops of horse in a brigade to be formed into a battalion.

Artillery to be formed into a battalion, and to be provided with field pieces.

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Who shall have power to call the Militia into service.

SECT. 10 *And be it further enacted*, That when it may be necessary to use any portion of the militia for public defence, it shall be in the power of the commander in chief, the major-general, or brigadier, according to the emergency and nature of the service, to call out any company or companies of artillery, troop of horse, light infantry, infantry or riflemen, or any part thereof; and the service so performed by them, shall be deemed and taken as a part of their tour of duty. And whenever any number of battalion companies are drafted for service, it shall be the duty of the adjutant-general to call out and proportion the number of artillery-men, horse-men, light infantry or riflemen, necessary for the same, according to military usage.

No officer of cavalry, &c. shall enrol so many men out of the bounds of any battalion company, as will reduce it to less than forty men.

Corps of cavalry, &c. containing less than twenty privates shall be disbanded.

SECT. 11. *And be it further enacted*, That no officer of cavalry, artillery, light infantry or riflemen, shall enrol in their company, so many men out of the bounds of any battalion-company as will reduce the said battalion-company to a less number than forty effective men, and if any of the said corps so to be raised by voluntary enrolments, shall not in the course of one year after the appointment of their officers, raise twenty privates, or shall be reduced under that number, and shall remain in that situation for six months thereafter, then such corps shall be deemed disbanded, and the men which belonged to such corps shall be enrolled in the battalion-company, within the bounds of which, the individuals thereof shall respectively reside, and whenever any of the said corps heretofore raised shall not contain twenty privates for the space of six months, they shall be disbanded, and the men enrolled in like manner; and if any non-commissioned officer or private of any volunteer corps, shall neglect for the term of three months, to provide himself with the uniform of the company to which he belongs, he shall be considered as discharged from said voluntary corps, and shall be enrolled in the battalion-company within the district of which he resides by the captain of such company.

SECT. 12. *And be it further enacted,* That to the end the militia when called into service by classes shall be properly officered, the following order is hereby directed and enjoined to be observed, *that is to say*; for the first draft, the captains, lieutenants, and ensigns holding the oldest commissions in each regiment; for the second draft, the captain, lieutenants, and ensigns holding commissions of the next oldest date; and so on until the whole number of classes have performed an equal tour of duty; the field officers of the division, and of every brigade, in this State, shall be divided in like manner, provided, that not more than one commissioned officer be drawn from any one company, nor a greater number of field officers from any regiment or brigade than the commander in chief may limit (respect being always had in like manner to the seniority of the commissions of such field officers) and each class to be considered as a detachment from different companies liable to serve three months, and no more, and to be relieved by the next class 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, major-general or brigadiers, from employing and calling out part of any class or any company or companies, regiment or regiments, without respect to rule whenever the exigency is too sudden to allow the assembling of the militia, which compose the particular classes, and the service of those so called out shall be a part of their tour of duty; and the pay of the militia when called into 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.

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Drafts of the Militia how officered, and called into service by classes.

In case of emergency, the rule not to be regarded.

When pay shall commence and end.

SECT. 13. *And be it further enacted,* That when the militia, or any detachment thereof, are called into service, the pay and rations of the officers, non-commissioned officers and privates, shall be the same as established by the general government of the United States.

Pay of the Militia.

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The rules of  
discipline:

Deviations from  
said rules.

The men shall  
not be kept un-  
der arms more  
than five hours.

Persons disa-  
bled shall be  
supported by  
the public.

Horses to be ap-  
praised:

and if killed to  
be paid for.

SECT. 14. *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 of 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 regulation of an act of Congress, entitled, *An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States, or by some other unavoidable circumstances*; and it shall be the duty of every commanding officer at every muster day, whether by brigade, regiment, battalion, or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline; but the captains, or commanding officers of companies or troops, on company-days, shall not keep the men under arms longer than five hours, during which time it shall be the duty of the said commanding officers to have as many of the evolutions prescribed in the said rules of discipline performed, as the nature of the case will admit.

SECT. 15. *And be it further enacted,* That if any person, whether officer or soldier, belonging to the militia of this State called out into the service of this State, be wounded or disabled while in said service, he shall be taken care of, and provided for at the public expence; and if any horse shall be taken into service of the militia, either in troop, artillery, or waggons or otherwise, such horse or horses, shall by the brigade inspector, with two freeholders, be appraised immediately before the time of going into actual service, and the said brigade inspector shall enter the same in a book; and in case such horse or horses shall be killed, disabled, die or taken by the enemy, the owner or owners shall be paid the full value of such horse; provided the said loss has not happened in consequence of the neglect or improper conduct of the owner of the said horse, or of his servant.

SECT. 16. *And be it further 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, September, October, 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, within the bounds of each battalion, as the major thereof shall direct; and in regiments as follows: the first regiment on the first Monday in June 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 every day in the week, (Saturdays and Sundays excepted,) until the whole number of regiments shall have mustered and exercised in the aforesaid manner. *Provided nevertheless*, That it shall be the duty of the major, to give fifteen days notice, before the meeting of any battalion to the officers commanding companies; and it shall be the duty of the commanding officers of companies, to give notice ten days before the days of mustering, by at least three advertisements in the most public places in their respective districts, giving information of the time and place of muster, either in companies, battalions, or regiments.

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When to be exercised in companies,

in battalions,

and in regiments.

This section repealed in 3d vol. 170.

Notice to be given by officers of the days of mustering.

SECT. 17. *And be it further enacted*, that if any captain or commanding officer of a company shall neglect or refuse to call out his company agreeably to the directions of this act, he shall abide the decision of a court-martial who may cashier him if they see proper, and if any non-commissioned officer or private not having a reasonable excuse shall neglect or refuse when the roll is called over to answer to his name, or if answering to his name, shall not go into the ranks and there perform his duty, shall be noted on the roll with the absentees of said companies and be laid before a court-martial to be appointed for that purpose, who shall fine such person in any sum not exceeding two dollars; and as soon as the duty of the day is concluded, the captain or commanding officer shall cause the roll to be called, and every person at that time absent, without the commanding officers

Penalty on captain neglecting to call out his company:

On privates who refuse to perform duty.

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consent, shall be noted and returned among the absentees.

Captain to keep  
an account of  
all fines :

and transmit an  
account thereof  
to the commis-  
sary;

[So much as is  
between crotch-  
ets, repealed in  
3d vol. 170.]

and a duplicate  
to the brigadier  
general,

to be recorded ;

to be transmit-  
ted to the audi-  
tor.

Penalty for not  
transmitting ac-  
count of fines.

Unless excused  
by the field of-  
ficers.

SECT. 18. *And be it enacted,* That the captain or commanding officer of each of the companies or troops composing the militia of this State, shall enter in a book, to be by him for that purpose provided, an account of all fines, imposed on the officers, non-commissioned officers, and privates, of his company or troop ; and shall cause to be transmitted, in the month of January or February in every year but the present, [and in the month of July in this and every year,] a fair account of all fines, with his name subscribed, to the commissary of the brigade to which such officer may belong ; and a duplicate thereof he shall transmit at the same time to the brigadier general, and the said commissary and brigadier, when they receive the said lists, shall indorse on them the time when they received the same, and they shall both cause the amount of each list of fines, with the date when they were received, to be recorded in books for that purpose to be provided ; and in the month of November in every year, the brigadier shall cause to be transmitted to the auditor of accounts all such lists of fines by him received. And every captain or commanding officer, omitting, refusing or neglecting to transmit the said lists in manner aforesaid, shall for every such neglect or refusal, be fined thirty dollars, which fine may be sued for and recovered by the commissary, before any justice of the peace, with costs, who is hereby required to give judgment for the same, whereupon the amount of such judgment may be levied and recovered, by any collector appointed by the said commissary, in the manner that other fines are directed to be recovered by the twenty-first section of this act. *Provided however,* That if he shall obtain from the field officers of his regiment, or any two of them, a certificate in writing, testifying their opinion that such officer has given them a satisfactory excuse for not transmitting the said lists, he shall be excused from the payment of such fine, and shall transmit to the commissary the said certifi-

cate, so attested, within one month after the omission to transmit such lists of fines, then the said officer shall be excused from the payment of the said fine.

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SECT. 19. *And be it further enacted,* That there shall be a commissary of military stores in each of the counties of this State, whose 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 or purchased to be branded on the but of the stock, with the words, *State of Delaware*, and shall equally portion the muskets so collected or purchased, with the accoutrements amongst the different captains or commanding officers of infantry companies throughout the county; each captain or commanding officer as aforesaid entering into a bond to the said commissary, in a penalty equal to double the value of the arms and accoutrements, with his subaltern officers security thereto, conditioned for the safe keeping of said arms and accoutrements, but not for the wear and tear thereof; which arms and accoutrements, on field and company days, the said captain or commanding officer shall deliver to such privates in their respective companies as are deemed not able to equip themselves; and every 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 place, as the commanding officer of the respective companies shall appoint for the safe keeping of all such arms and accoutrements.

Commissary to be appointed for each county;

his duty.

Public arms to be appointed among the companies;

bond to be given for their safe keeping;

to whom they shall be delivered,

and how preserved.

SECT. 20. *And be it further 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 and paying for colours, drums, fifes, muskets, with bores sufficient for balls of the eighteenth part of a pound, bayonets, cartridge boxes, to contain twenty-four cartridges, and for belts, also for paying musicians, as the field officers or a majority of them may direct: Provided that the payments made on account of orders drawn by the field officers, of any regiment, shall never ex-

Appropriation of fines.

Caliber of arms to be purchased.

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consent, shall be noted and returned among the absentees.

Captain to keep  
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Penalty for not  
transmitting ac-  
count of fines.

Unless excused  
by the field of-  
ficers.

SECT. 18. *And be it enacted,* That the captain or commanding officer of each of the companies or troops composing the militia of this State, shall enter in a book, to be by him for that purpose provided, an account of all fines, imposed on the officers, non-commissioned officers, and privates, of his company or troop ; and shall cause to be transmitted, in the month of January or February in every year but the present, [and in the month of July in this and every year,] a fair account of all fines, with his name subscribed, to the commissary of the brigade to which such officer may belong ; and a duplicate thereof he shall transmit at the same time to the brigadier general, and the said commissary and brigadier, when they receive the said lists, shall indorse on them the time when they received the same, and they shall both cause the amount of each list of fines, with the date when they were received, to be recorded in books for that purpose to be provided ; and in the month of November in every year, the brigadier shall cause to be transmitted to the auditor of accounts all such lists of fines by him received. And every captain or commanding officer, omitting, refusing or neglecting to transmit the said lists in manner aforesaid, shall for every such neglect or refusal, be fined thirty dollars, which fine may be sued for and recovered by the commissary, before any justice of the peace, with costs, who is hereby required to give judgment for the same, whereupon the amount of such judgment may be levied and recovered, by any collector appointed by the said commissary, in the manner that other fines are directed to be recovered by the twenty-first section of this act. *Provided however,* That if he shall obtain from the field officers of his regiment, or any two of them, a certificate in writing, testifying their opinion that such officer has given them a satisfactory excuse for not transmitting the said lists, he shall be excused from the payment of such fine, and shall transmit to the commissary the said certifi-

cate, so attested, within one month after the omission to transmit such lists of fines, then the said officer shall be excused from the payment of the said fine.

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SECT. 19. *And be it further enacted,* That there shall be a commissary of military stores in each of the counties of this State, whose 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 or purchased to be branded on the but of the stock, with the words, *State of Delaware*, and shall equally portion the muskets so collected or purchased, with the accoutrements amongst the different captains or commanding officers of infantry companies throughout the county; each captain or commanding officer as aforesaid entering into a bond to the said commissary, in a penalty equal to double the value of the arms and accoutrements, with his subaltern officers security thereto, conditioned for the safe keeping of said arms and accoutrements, but not for the wear and tear thereof; which arms and accoutrements, on field and company days, the said captain or commanding officer shall deliver to such privates in their respective companies as are deemed not able to equip themselves; and every 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 place, as the commanding officer of the respective companies shall appoint for the safe keeping of all such arms and accoutrements.

Commissary to be appointed for each county;

his duty.

Public arms to be appointed among the companies;

bond to be given for their safe keeping:

to whom they shall be delivered,

and how preserved.

SECT. 20. *And be it further 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 and paying for colours, drums, fifes, muskets, with bores sufficient for balls of the eighteenth part of a pound, bayonets, cartridge boxes, to contain twenty-four cartridges, and for belts, also for paying musicians, as the field officers or a majority of them may direct: Provided that the payments made on account of orders drawn by the field officers, of any regiment, shall never ex-

Appropriation of fines.

Caliber of arms to be purchased.

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ceed the amount of money received for fines, from any such regiment; and provided, that no second order drawn shall be paid, until an exact account of the disbursements of the money last paid, with proper vouchers be rendered the said commissary: And the captains or commanding officers of all troops of horse, and captains or commanding officers of artillery, shall have power to draw orders on the said commissary, for the payment of their respective instruments of musick and their musicians; which order or orders shall be countersigned by the brigadier.

Commissaries  
shall give bond;

shall collect  
fines once a  
year;

authorised to  
appoint collec-  
tors.

Collector recei-  
ving a larger  
sum, than the  
fine due, to re-  
turn the over-  
plus.

SECT. 21. *And be it enacted*, That every military commissary, that has been or shall be appointed, before he enters upon the duties of his office, shall give bond, in the name of the State, with one or more sureties, to be approved of by the brigadier general, in the sum of two thousand dollars, conditioned for the faithful performance of the duties of his office; which bond the brigadier shall immediately forward to the auditor; and it shall be the duty of the commissary once in every year, and not oftener, to have the fines collected which have been imposed within the brigade to which he belongs, and the accounts of which have been transmitted him in the manner herein prescribed, and for this purpose he is hereby authorized and empowered, to appoint such, and as many collectors as he may think proper; and each collector, shall be by him furnished with a list of all fines, to be collected within the district, for which such collector may be assigned; which list shall be signed by the commissary; and there shall be annexed to each list, a warrant from the said commissary, which he is hereby authorized and empowered to issue, authorizing such collector, after having given ten days notice, by at least three advertisements, set up in the most public places in his collection-district, 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 with constable's cost, 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 collector shall in any case levy for, or receive a larger sum than the amount of the fine actually due, and of constable's costs, or in case of sale being made, for the recovery thereof, shall not within ten days after such sale, return the overplus, if any, to the person whose property may be sold, the party aggrieved is hereby authorized and empowered to sue for, and recover before any Justice of the peace from the said commissary or his collector, ten dollars, with costs of suit, in addition to the sum which the said party may have paid over and above the fine actually due.

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Penalty for neglect.

SECT. 22. *And be it enacted*, That if any collector appointed by the commissary shall neglect or refuse to pay over the money which he may have received for fines unto the commissary whenever thereunto by him required, after retaining the amount of the commissions or compensation, which the said commissary may have contracted to allow the said collector, then the said commissary is hereby authorized and empowered, to sue for and recover the same, with costs, before any Justice of the peace, who is hereby required to issue execution without stay against such collector, in favour of the commissary for the sum recovered, empowering and requiring any lawful constable to levy therefor with costs, in the like manner with debts under forty shillings.

Penalty on Collector, for neglecting to pay over to the Commissary, the fines by him collected.

SECT. 23. *And be it enacted*, That the commissary shall annually appear before and settle with the Auditor, in the month of December; when he shall produce to him the list of fines, transmitted him by the returning officers, and a fair account of his transactions as commissary; and the said auditor shall charge the said commissary with the amount of each list of fines, with the fine of every officer, who has neglected to return his lists, as directed by this act, and with all other money which he may have received, and then shall credit him with all monies expended by him in pursuance of the directions of this act, if pro-

Commissary shall settle annually with the Auditor.

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His compen-  
sation.

Penalty for ne-  
glect.

per vouchers for such expenditures are exhibited, with the amount of all orders drawn upon, and paid by him, by the field officers; provided the money paid to the orders of the field officers of any one regiment does not exceed the nett money arising from fines within the district of such regiment; and provided it shall appear, that no second order was paid by him until the money paid upon the former order had been regularly accounted for with vouchers; and further, the auditor shall credit the said commissary with the amount of all fines, on returning officers, the payment of which it shall appear from the certificate of the field officer, as herein before directed, have been excused; with the amount of all lists of delinquencies passed by the field officers, or a major part of them, of the regiment wherein the said fines have been imposed; *Provided however*, That the said field officers do declare, in a certificate to be attached to such list of delinquencies, that they believe neither the commissary, or any of his collectors, have been guilty of neglect with regard to the said delinquencies; and the auditor shall further credit the said commissary, with the sum of twenty dollars for every hundred dollars, which he shall collect, in compensation for the trouble of the said commissary, and his collectors, in collecting the fines; it being intended that the commissary shall make his own bargain with the collectors, and be responsible to them for the compensation he may agree to give them for their trouble: And if the said commissary shall neglect or refuse to appear and settle as aforesaid, or after settlement, shall neglect or refuse for the space of one month, after such settlement, to pay over unto the State treasurer the balance due on the said settlement, he not having therefor an excuse sufficient in the opinion of the commander in chief, he shall not be entitled to the commissions allowed him by this act; and the auditor shall immediately give notice to the governor of such neglect or refusal, in order that he may commission some other person to be commissary in his place; and the auditor shall cause a suit forthwith to be instituted against the said commissary, upon his bond, in which suit there shall be recovered, besides cost of suit,

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the whole amount of the lists of fines, which have been returned to the brigadier, and of such other lists, as can be proved to have been returned to the said commissary, as well as the amount of all other monies received by him, and of the fines incurred by officers, neglecting to make regular returns, deducting only therefrom the lists of delinquencies attested in the manner required by this act, and the amount of those fines on the returning officers, the payment of which may have been excused in the manner herein before directed ; and of such payments and expenditures as he shall prove that he has made conformable to this act. And the field officers who attest any list of delinquencies, shall forthwith forward to the auditor the amount and date of the list so passed, and the State treasurer, whenever any payments are made to him by the commissary, is hereby required immediately to transmit to the auditor the amount and date of such payments.

Field officers to forward to the Auditor, a list of delinquencies.

Treasurer to forward the amount of payments.

SECT. 24. *And be it further enacted,* That when any class or classes, or parts of classes of the militia, shall be called to perform any tour of duty, the adjutant general shall give the orders to the brigade majors, which orders shall be given by the brigade major to the captain or commanding officers of the several companies in his brigade, who shall, 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 stead, or pay a sum of money not exceeding forty dollars, which shall be applied by the captain or commanding officer of the company to which the person belongs, so neglecting or refusing to perform his tour of duty, towards procuring a substitute as aforesaid, which sum shall be recovered in the same manner as fines and forfeitures are recovered by this act, unless excused by a court-martial.

How the Militia when called into service shall be notified.

Penalty on privates, for not performing a tour of duty,

unless excused by a court martial.

SECT. 25. *And be it further enacted,* That if any

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Penalty on officers for not performing a tour of duty.

commissioned officer shall refuse or neglect to perform his tour of duty, when called on, he shall forfeit his commission, unless excused by a court-martial; also all other military duties, that may be required of him, so as to conform to the requisition of this State, or the Executive of the United States, he neglecting or refusing, shall abide the determination of a court-martial, according to the articles of war established by the General Assembly of this State.

Governor, &c. to review the Militia.

SECT. 26. *And be it further enacted,* That the Governor may review the militia of the State at his pleasure, the major general shall review at least one brigade once in every year, the brigadier general shall review the regiment in his brigade every year.

The adjutant general,

his duty.

Officers to make returns, agreeable to forms of the adjutant general,

to be laid before the Governor.

SECT. 27. *And be it further enacted,* That there shall be 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 relative to carrying into execution, and perfecting the systems of military discipline, established by this act; to furnish blank forms of different returns that may be required; and to explain 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 under their command, reporting the actual situation of their arms, accoutrements, &c. and every other thing, which relates to the general advancement of order and discipline; all which several officers of brigades, regiments, battalions and companies, are required to make agreeable to the forms and direction of the adjutant general, so that the adjutant general may be duly furnished therewith; from which returns he shall make proper extracts, and lay before the Governor or commander in chief of the State, to be by him laid before the General Assembly of the State, the number of effective men in each brigade, state of the militia, magazines and military stores, &c. and the said adjutant shall transmit a duplicate of the same to the Presi-

dent of the United States; and every officer refusing to make such returns in due time, shall forfeit his commission, unless excused by a court-martial.

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SECT. 28. *And be it further enacted,* That every non-commissioned officer or private, who shall neglect to keep himself armed and equipped, or shall on a muster day, or at any other time of examination or exercise, appear unprovided or unequipped, except as before excepted, shall pay a fine not exceeding two dollars, nor less than one, at the discretion of a court-martial: And that every person belonging to the militia, unable to arm and equip himself in manner aforesaid, and who has received arms and accoutrements from his officer, and shall destroy or embezzle such equipments, or any part thereof, he shall upon conviction before some justice of the peace, be adjudged to replace the article or articles by him so embezzled or destroyed, and pay the costs arising against him, or give security for the payment thereof, or be committed to the county gaol to replace or pay for said articles so embezzled or destroyed, within the space of twenty days; and if he shall not perform the same within the time directed, the justice shall order him to be bound out to service, or labour, for such time as will pay the full amount of such articles, as by him were embezzled or destroyed.

Penalty on privates who neglect to keep themselves equipped.

Penalty on persons destroying the public arms and accoutrements.

SECT. 29. *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, if not excused by a court-martial, shall be fined, 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, one dollar; and if any commissioned, non-commissioned officer, or private, shall neglect or refuse to attend at the time and place appointed to

Penalty on persons obliged to find arms, for non-attendance at the place of exercise,

on field days.

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The officer  
highest in rank  
attending, to  
make returns  
to commissary.

exercise in regiments, those who are obliged to find arms and accoutrements, with arms and accoutrements in good order, and not being excused by a court-martial, he shall be fined, if a colonel ten dollars, if a major six dollars, and if a captain three dollars, if a subaltern two dollaas, and if a non-commissioned officer or private one dollar and fifty cents; and the return of all fines incurred at a battalion or regimental day by field officers, shall be made by the highest officer in rank attending, to the commissary in the same months in every year as is prescribed by this act, for returning company-fines, and under the same penalty as is herein provided, of irregular returns of company-fines, and to be sued for in like manner, and to be chargeable to the commissary by the auditor on settlement as hereinbefore provided, with regard to commanding officers of companies.

Penalty on persons who be-  
have disorderly  
while on duty.

SECT. 30. *And be it further enacted,* That any commanding officer, non-commissioned officer, and private of militia, who shall be disorderly or disobedient, or guilty of unmilitary conduct on a muster or training day, or at any other time when on duty, if a commissioned officer, shall be put under arrest by the commanding-officer, or tried by a court-martial and may be cashiered; if a non-commissioned officer or private behaves disorderly, or is guilty of unmilitary conduct, he or they shall be confined during the time of said muster or training, at the discretion of his officers, and shall be fined not exceeding three dollars, nor less than one dollar, at the discretion of a court-martial.

Court-martials  
to be appointed,  
&c.

SECT. 31. *And be it further enacted,* That the Governor or commander in chief shall appoint court-martials for the trials of all officers, above the rank of captain. That the major-general or the commandants of brigades shall appoint court-martials, for the trials of captains and all officers under that rank, agreeable to the rules established by the Congress of the United States, and it shall be the duty of every officer, who shall appoint a court-martial, to

approve or disapprove of every sentence of such court martial by them appointed, and the officer who shall appoint a court-martial, shall at the same time appoint a judge advocate, whose duty it shall be impartially to state the evidence, both for and against the officer or other person, under trial, take accurate minutes of the evidence and all proceedings of the court, all of which he shall transmit, with the judgment of the court thereon under seal, to the officer whose duty it is to approve or disapprove of such judgment; every officer put under an arrest or suspended from command, shall have a copy of the charges exhibited against him, ten days before the sitting of said court, and in case any officer, for the trial of whom a court-martial shall be appointed, shall neglect to appear unless in case of his sickness or unavoidable accidents, which he shall make appear to the satisfaction of said court, and make his defence, he shall be deemed by said court, guilty of the charge and sentenced accordingly. All court-martials shall be carried on in day-time, and when the members shall be required to give their votes on a question of decision, they shall begin with the youngest in commission first. All persons shall be holden to appear to give evidence before a court-martial under the same penalties for neglect, as are by law provided for witnesses in other cases, when summoned by a justice of the peace; and if any subaltern or private, shall refuse or neglect to serve on a court-martial, when duly noticed thereof, he shall be fined, if a subaltern two dollars, and if a private one dollar, to be returned and recovered as other company-fines, unless excused by the commanding officer of the company.

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Judge advocate,  
his duty.

Officer put  
under arrest to  
have a copy of  
the charges a-  
gainst him, &c.

Penalty on per-  
sons who ne-  
glect to attend  
as witnesses;

or refuse to  
serve on a court  
martial.

SECT. 32. *And be it further enacted,* That all court-martials, for the trial of non-commissioned officers and privates, shall be appointed by the captain or commanding officer of the company, which shall consist of one subaltern and four privates, the subaltern to be president thereof; and at such court-martial, no

Court-martials  
for the trial of  
privates.

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person shall be excused unless it is made appear to the satisfaction of the said court, by the testimony of a disinterested witness, that he was prevented from attending and doing duty by sickness of himself, family, or other unavoidable circumstances, of such a nature as to require his personal attention.

SECT. 33. WHEREAS obedience to the laws, is the first duty of every man in a free government, and those laws, which put the means of defence and protection into the hands of the citizens themselves, require more particularly the aid and support of those, who value true liberty; and whereas the assembling of bodies of armed men in volunteer corps, independent companies, or under any other name, who do not acknowledge the legal military authority, and refuse to submit to the same, is dangerous to the liberties of the people, and calculated to overturn the militia establishment of the State: Therefore, *Be it enacted*, That if any person or persons within this State, shall raise, embody or enrol, any man or number of men, in any volunteer corps, independent company, or under any other name, or for any purpose whatsoever, which is not sanctioned by the laws of this State, or of the United States, he or they so raising, embodying, or enrolling, and the person or persons so raised, embodied, or enroled, shall be deemed and taken to be guilty of a high misdemeanor, and shall be liable to be prosecuted, and punished for the same by indictment, or information before any Court of record within this State: And on conviction therefor, shall be sentenced to pay a fine not exceeding one hundred dollars, and to be imprisoned not exceeding three months, at the discretion of the court; and the fine or fines so imposed, shall be paid into the hands of the military commissary of the county where the offence was committed, to be applied in the purchase of arms, for the use of the established militia.

Penalty on persons, who shall meet in volunteer companies.

Commissioned officers to be called out, twice a year, to be trained;

SECT. 34. *And be it further enacted*, That the commissioned officers of every regiment shall be called out twice a year, in the months of May and September annually, by order of the commanding officer of

each regiment through the medium of the adjutant of the same, to be by him trained and exercised, agreeable to the rules herein laid down, under the inspection of the field officers of the respective regiments, the time of meeting to be fixed by the colonels of the several regiments; and the place to be their usual regimental parade-ground; and it shall and may be lawful for the said adjutant or exercising officer, to incorporate the officers thus assembled, into one company, and put them through all the various evolutions of military tactics as laid down and established in Baron Steuben's military discipline; and the said exercising officer may detain them on duty in the field, any time not exceeding six hours, provided they are not kept above three hours on duty, at any one time without allowing them a proper time to refresh themselves: Those who neglect to attend, or attending, refuse to be exercised in the manner herein pointed out, shall be fined in any sum not exceeding five dollars, at the discretion of a regimental court-martial.

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to be incorporated into one company.

Penalty for non-attendance.

SECT. 35. *And be it further enacted,* That in case any part or classes of the militia of this State shall be called into actual service, that it shall not be lawful for the commanding officer of the same, or any other whatever, to call, send, or order them upon water to oppose any ship or vessel armed with cannon, except in the particular case of acting as marines on board of one armed vessel against that of another; and then only under the most pressing emergency and unavoidable necessity.

The Militia not to be ordered on water,

except in cases of emergency.

SECT. 36. *And be it further enacted,* That after the passing and publishing of this act, that the secretary of State shall furnish each brigadier general, or commanding officer of brigade, of the several counties, with a sufficient number of copies of this act, to enable him to distribute a copy to every commanding officer of regiment, battalion and company, in his brigade, which he is hereby requested to forward to said officers, who are hereby required and enjoined, without delay, to procure for themselves an exact copy of the late edition of Baron Steuben's military discipline.

Secretary to furnish the Brigadier generals with a number of copies of this law.

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Persons holding  
any bond or se-  
curity,

required to give  
up the same to  
the persons au-  
thorized to sue  
for the fines.

Person remov-  
ing, to give up  
the records to  
his successor.

SECT. 37. *And be it further enacted,* That all persons authorized and required by this act, to take, receive, or hold any bond as surety for the collection of fines, or any other purposes specified in this act, with a view that justice may be obtained, and the penalty, if forfeited, recovered, they are hereby required and enjoined upon the application of the proper person authorized and empowered to sue for and recover the same, to give up said bonds or other instruments of writing under the same penalty which they contain, to be recovered as other fines and forfeitures are; and all persons authorized to keep any book or record, relative to the military transactions of this State, are required upon removal from office by the decision of a court-martial, moving out of the county or otherwise, to give up undefaced the said records to his successor in office; and in case of his death, his executors or administrators, upon the application of his successors, shall give up to him all such records.

*And be it enacted by the authority aforesaid,* That the following rules and articles be, and they hereby are established and declared to be, in force for governing all troops of this State, stationed in forts and garrisons within the same, and also the militia or any part thereof when called into actual service:

Articles of war.

ARTICLE 1. WHATSOEVER officer or soldier shall presume to use traitorous or disrespectful words against the authority of the United States, in Congress assembled, or the Legislature of this State, if a commissioned officer, he shall be cashiered, if a non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted upon him by the sentence of a court-martial.

ART. 2. ANY officer or soldier, who shall begin, excite, cause, or join in mutiny or sediton in the troop, company or regiment to which he belongs, or in any other troop or company in the service of this State, or in any party, post or detachment, or guard on any pretence whatsoever, shall suffer such punishment as shall be inflicted by a court-martial.

ART. 3. ANY officer, non-commissioned officer or soldier, who being present at any mutiny or sedition, doth not use his utmost endeavours to suppress the same, or coming to the knowledge of any intended mutiny, doth not without delay give information thereof to his commanding officer, shall be punished by the sentence of a court-martial, according to the nature of the offence.

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Articles of war.

ART. 4. ANY officer or soldier, who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful command of his superior officer, shall suffer such punishment as shall be according to the nature of his offence inflicted on him, by the sentence of a court-martial.

ART. 5. WHATSOEVER officer or soldier shall be convicted of having advised or persuaded any other officer or soldier to desert, shall suffer such punishment as shall be inflicted by a court-martial.

ART. 6. ANY non-commissioned officer or soldier who shall desert, or without leave from his commanding officer, absent himself from the troop or company to which he belongs, or from any detachment of the same, shall upon the conviction thereof suffer such punishment as shall be inflicted by the sentence of a court-martial.

ART. 7. ALL officers, of what condition soever, shall have power to quell or part any frays and disorders, though the persons concerned should belong to another regiment, company or troop, and either to order officers into arrest, or non-commissioned officers or soldiers, to be put under guard, until their proper superior officers shall be acquainted therewith; and whoever shall refuse to obey such officers, though of an inferior rank, or shall draw his sword upon him, shall be punished at the discretion of a general court-martial.

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Articles of war.

ART. 8. EVERY officer commanding in quarters, garrison, or on a march, shall keep good order, and to the utmost of his power redress all such abuses or disorders, as may be committed by any officer or soldier under his command; and if on complaint made to him of officers or soldiers, beating or otherwise ill treating any person, or of committing any kind of riots to the disquieting of the good citizens of this, or of any of the United States, he shall refuse or omit to see justice done on the offender or offenders, and reparation made to the parties injured, so far as the offender or offenders pay shall enable him or them; he shall on proof thereof be punished by a general court-martial, as if he himself had committed the crimes or disorders complained of.

ART. 9. IF any officer shall think himself to be wronged by his colonel or commanding officer of the regiment, and shall upon due application made to him, be refused to be redressed, he may complain to the general or commander in chief of the forces in service, in order to obtain justice, who shall examine into the complaint, and see that justice be done.

ART. 10. IF any inferior officer or soldier shall think himself wronged, by his captain or other officer commanding the troop or company to which he belongs, he may complain thereof to the commanding officer of the regiment, who shall summon a regimental court-martial for the doing justice to the complainant, from which regimental court-martial, either party, if he thinks himself aggrieved, may appeal to a general court-martial. But if upon a second hearing, the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of the said general court-martial.

ART. 11. WHATSOEVER non-commissioned officer or soldier, shall be convicted at a court-martial of having sold, designedly, or through neglect wasted the ammunition delivered out to him, to be employed in the service of this State, shall, if a non-commissioned officer, be reduced to the ranks; and

if a soldier, shall suffer such punishment as shall be inflicted upon him by a court-martial.

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Articles of war.

ART. 12. ALL non-commissioned officers and soldiers, who shall be found one mile from the camp, without leave in writing from the commanding officer, shall suffer such punishment as shall be inflicted on them by the sentence of a court-martial.

ART. 13. NO officer or soldier shall be out of his quarters or camp, without leave of his commanding officer, upon penalty of being punished according to the nature of the offence, by the sentence of a court-martial.

ART. 14. EVERY non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the retreat, in default of which he shall be punished according to the nature of the offence, by the sentence of a court-martial.

ART. 15. NO officer, non-commissioned officer or soldier, shall fail to repair, at the time fixed, to the place of parade or exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness or some other evident necessity; nor shall go from the said place of rendezvous, or from the guard without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence, by the sentence of a court-martial.

ART. 16. WHATSOEVER commissioned officer shall be found drunk on his guard, party, or other duty under arms, shall be cashiered for it; and any non-commissioned officer or soldier, so offending, shall suffer such punishment as shall be inflicted on him by the sentence of a court-martial.

ART. 17. WHATSOEVER sentinel shall be found sleeping on his post, shall suffer death, or shall leave it before he shall be regularly relieved, shall suffer

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such punishment as shall be inflicted upon him by a court-martial.

Articles of war.

ART. 18. ANY person belonging to the forces employed in the service of this State, who by discharging fire-arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison or quarters, shall suffer such punishment as shall be ordered by the sentence of a general court-martial.

ART. 19. NO officer or soldier shall do violence, or offer any insult, or abuse any person who shall bring provisions or other necessaries to the camp, garrison or quarters of the forces of this State, on pain of suffering such punishment, as a court-martial shall direct.

ART. 20. WHATSOEVER officer or soldier shall abandon any post committed to his charge, or shall speak words inducing others to do the like, in time of an engagement, shall suffer death or such other punishment as shall be inflicted by the sentence of a general court-martial.

ART. 21. ANY person belonging to the forces in the service of this State, who shall make the watch-word known to any person, not entitled to receive it, according to the rules and discipline of war, or shall presume to give the parade or watch-word different from what he received, shall suffer death, or such other punishment, as shall be ordered by the sentence of a general court-martial.

ART. 22. WHOSOEVER belonging to the forces in the service of this State shall relieve the enemy with money, victuals or ammunition, or shall knowingly harbour or protect an enemy, shall suffer such punishment as by the sentence of a court-martial shall be inflicted.

ART. 23. IF any officer or soldier shall leave his post or colours, to go in search of plunder, he shall

upon conviction thereof before a general court-martial, suffer such punishment as by the sentence of the said court-martial shall be inflicted.

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ART. 24. IF any commander of any garrison, fortress or post, shall be compelled by the officers or soldiers under his command to give up to the enemy, or to abandon it, the commissioned officers, non-commissioned officers or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment, as shall be inflicted upon them by the sentence of a court-martial. Articles of war.

ART. 25. ALL sutlers and retainers to the camp, and all persons serving with the troops of this State, in the field, shall be subject to orders according to the rules and discipline of war.

ART. 26. A general court-martial shall not consist of less than thirteen commissioned officers, and the president of such court-martial shall not be the commander in chief, nor commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a field-officer.

ART. 27. EVERY regimental court-martial shall be composed of five members, all commissioned officers, who are to chuse one of their members as president, not under the rank of a captain.

ART. 28. IN any court-martial, not less than two-thirds of the members must agree in every sentence for inflicting corporal punishment, otherwise the person charged shall be acquitted.

ART. 29. ALL persons called to give evidence in any cause before a court-martial, who shall refuse to give evidence, shall be punished for such refusal at the discretion of such court-martial.

ART. 30. NO sentence of a court martial shall be put in execution, until after report shall be made to

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the commanding officer, when the court-martial shall be held, and his orders be issued for carrying such sentence into execution.

Articles of war.

ART. 31. NO officer commanding a guard, or provost martial, shall refuse to receive or keep any prisoner committed to his charge, by any officer belonging to the forces of this State, which officer shall, at the time of commitment, deliver an account in writing signed by himself of the crime with which the person is charged.

ART. 32. WHATSOEVER commissioned officer shall be convicted before a general court-martial of behaving in a scandalous or infamous manner, such as is unbecoming the character of an officer, and a gentleman, shall be discharged from the service.

ART. 33. ALL officers, conductors, gunners, matrosses, drivers, or any other persons whatsoever, receiving pay or hire in the artillery service of this State, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by court-martials in like manner with other officers and soldiers.

ART. 34. NO person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles; nor shall more than thirty-nine stripes be inflicted on any offender, for any one offence.

ART. 35. ALL crimes not capital, and all disorders and neglects which officers and soldiers may be guilty of to the prejudice of good order and military discipline, though not mentioned in the foregoing articles, are to be taken cognisance of by a general or regimental court-martial, according to the

OF DELAWARE.

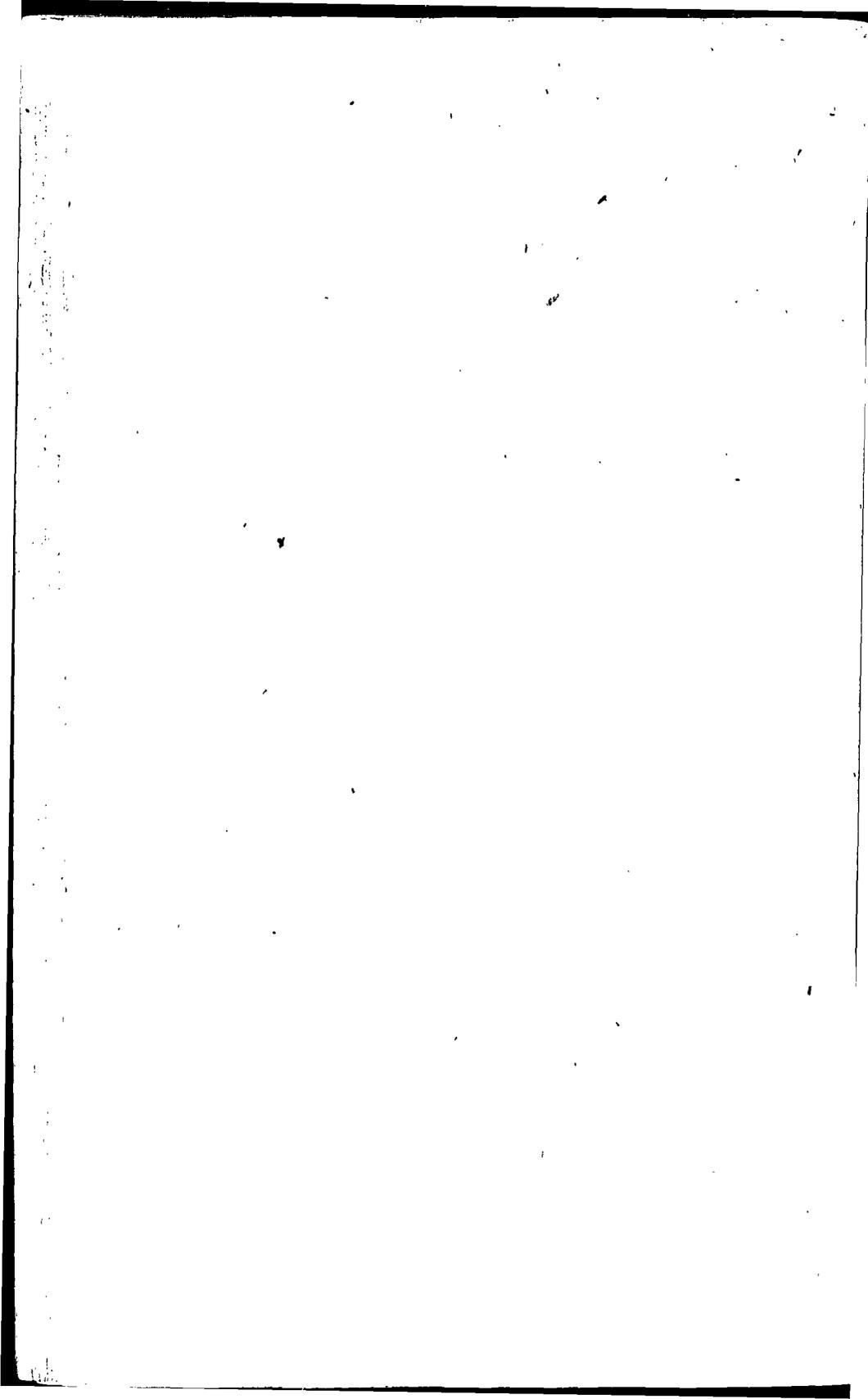
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nature and degree of the offence, and be punished at their discretion.

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*Passed at Dover, February 1, 1799.*

This act repealed by Chap. 4, Sect. 43, 4th vol. p. 158.



C H A P. XLIII.

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*An Act making provision for the support of government for the year One thousand eight hundred.*

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 ten thousand five hundred dollars shall be raised and paid into the treasury of this State, within the time, and in the manner, directed by an act of the general Assembly, entitled, "An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government, for the year of our Lord, One thousand seven hundred and ninety-eight," passed the twenty-fourth day of January in the said year; and shall be assessed and levied in the several counties in 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.

Ten thousand five hundred dollars to be raised and paid into the treasury.

Each county's proportion.

SECT. 2. *And be it enacted,* That the aforesaid sums of money shall be appropriated, and applied to and in the following manner; that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due; and to become due to the Governor, Chancellor, Judges of the Supreme court, Judges of the Court of common pleas, Attorney General, Secretary and Auditor of accounts, up to the first day of January, which will be in the year of our Lord, One thousand eight hundred and one; and so much thereof as may be necessary, shall be applied to the payment of the

Appropriation,

For the payment of salaries, &c.

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For the pay-  
ment of  
debts due to  
Citizens.

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 applied to the payment of any sums of money due to the citizens of this State, for which provision shall hereafter be made by law.

*Passed at Dover, January 15, 1800.*

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C H A P. XLIV.

*An ACT to authorise the owners and possessors of the Swamp and low grounds, commonly called and known by the name of the Black Swamp, situated (partly) in the Forest of Murderkill and Million Hundreds, in the County of Kent and State of Delaware, to cut a ditch, or drain through the same.*

Private act.

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C H A P. XLV.

*An ACT to authorise the owners and possessors of the Marsh or low ground commonly called and known by the name of Colbreath's Marsh, situate in the Forest of Murderkill Hundred, in Kent County, to cut a ditch or drain through the same.*

*Passed at Dover, January 18, 1800—Private act.*

## C H A P. XLVI.

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*An ACT to authorise the owners and possessors of the marsh and low grounds commonly called and known by the name of the Tapahannah Marsh, situate in the Forest of Murderkill Hundred, in Kent county, to cut a ditch or drain through the same.*

*Passed at Dover, January 18, 1800—Private act.*

## C H A P. XLVII.

*An ACT to enable Joseph Nock to erect a mill-dam on the State Road leading from Dover to Duck-Creek Cross-Roads, and for the condemnation of certain pieces of ground near Worrell's Bridge, for a scite for a water grist-mill.*

*Passed January 21, 1800—Private act.*

## C H A P. XLVIII.

*A further supplement to the act, entitled, "An act to prevent infectious diseases being brought into this State, and for other purposes."*

2d vol. 1354.  
3d vol. 121.

SECTION I. **B**E it enacted by the Senate and House of Representatives, of the State of Delaware, in General Assembly met, That so much of the first section of the said act as relates to all vessels being stopped, detained, and not suffered

Vessels not bound to Wilmington, may pass to their places of destination.

to approach nearer to the borough of Wilmington than the mouth of Christiana Creek, shall be considered as applying only to vessels bound to the port of Wilmington, and that all vessels bound further up the creek than Wilmington, shall not be stopped or interrupted, but may pass freely to their respective places of destination.

Proviso.

SECT. 2. *Provided nevertheless, and be it further enacted,* That no person or persons be landed or put on shore, or suffered to be landed or put on shore, nor any goods, wares or merchandize, be landed or unladen, or suffered or permitted so to be, from on board any ship or vessel, nearer the borough of Wilmington than the distance of one mile, nor shall any such ship or vessel come to anchor within one mile of the said borough, except in case of stress of weather, or other unavoidable accident.

Penalty on masters of vessels for contravening these regulations.

SECT. 3. *Be it further enacted,* That if any master or commander, owner or consignee of any such ship or vessel as is in the preceding section mentioned, or any person or persons on board the same, shall contravene or violate any of the regulations of this act, he, she or they so offending, shall be subject to the same fines and penalties as are established and provided in the act, entitled, "A supplement to the act, entitled, an act to prevent infectious diseases being brought into this State, and for other purposes;" which said fines and penalties shall be recovered in the same manner, and appropriated in the same way, as is directed by the said act.

Penalty on persons travelling

SECT. 4. *And be it enacted,* That from and after the passing of this act, if any person or persons travelling on foot from any infectious place, dur-

ing the existence of any proclamation, by the burgesses of the borough of Wilmington; or by any persons duly authorized by law to make such proclamation for any town or district, within this State, forbidding the entrance therein of such person or persons as aforesaid, shall come within the limits of the said borough, town or place, contrary to such proclamation as aforesaid, and the regulations established by virtue of the same, he, she or they, so offending, shall forfeit the sum of forty dollars, to be recovered in the same manner, and appropriated in the same way, as is directed by the act, entitled, "A supplement to the act, entitled, An act to prevent infectious diseases being brought into this State, and for other purposes."

on foot, for contravening these regulations.

*Passed at Dover, January 21, 1800.*

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C H A P. XLIX.

*An ACT to establish and regulate a public ferry over Christiana creek, at the village of Newport, in New-Castle county.*

**W**HEREAS public convenience and the better accommodation of individuals, require that a public ferry should be established under due and proper regulations, over Christiana creek, at the village of Newport, in New-Castle county :

Preamble.

*SECT. 1. Be it enacted by the Senate and House of Representatives, of the State of Delaware, in General Assembly met, That William Armor, John Crow and William Aull, be, and they are hereby*

Commissioners appointed to erect wharves, &c.

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appointed commissioners for the purposes herein-after mentioned; and they, or any two of them, are hereby authorized and required, immediately after the publication of this act, and as soon as the None-such bank on Christiana creek, shall be completed, and the tide waters thereof effectually stopped out, to make, or cause to be made and erected; a substantial and sufficient wharf, and landing-place, on each side of Christiana creek aforesaid, where a public road communicates with and leads from the said creek to the state road passing through that village, and on the opposite side of the said creek, where the public road from New-Castle to Newport runs to and touches the same creek; and to keep and maintain the same in good repair, suitable for footmen, horses, cattle, carriages and goods, 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.

and to rent the  
ferry.

Lessees to give  
bond.

Condition  
thereof.

SECT. 2. *And be it further enacted,* That as soon as the said wharves and landing places 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 conditions thereto annexed, *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 the said Christiana creek, at and opposite to the said village of Newport,*

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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SECT. 3. And be it further enacted, That the costs 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 levied 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 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 repairing, 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 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 four cents; for every led horse, ox, cow or heifer, two cents; for every foot passenger 2 cents; for every sheep and hog, one cent; for a coach

Rates of ferriage.

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or other four wheel carriage, and pair of horses, and passengers, eighteen cents; for a chair, or sulkey, horse and riders, ten cents; for a cart, one horse and driver, laden or unladen, ten cents; for a waggon laden or unladen, two horses and driver, eighteen cents: and for every other horse in a cart or waggon, or other carriage, two cents.

Rates may  
be commuted  
for an  
annual sum,

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, for the sum of four 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 deduction, if any, shall be made from the annual payment herein before specified.

to be determined by the commissioners.

Penalty for  
extortion.

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 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 further enacted,* That the before mentioned commissioners, or a majority of them, shall appoint one substantial freeholder, and Thomas Duff, of the village of Newport, his executors or administrators, shall appoint one other substantial freeholder; and those two, so appointed, shall choose a third, who are required and directed to go on the premises, view and ascertain a reasonable compensation to be made to said Thomas Duff, for expenditures heretofore made at the wharves or landing places, now to be made or erected.

Compensation  
to Thomas Duff,  
how to be ascer-  
tained.

SECT. 8. *And be it further enacted,* That the said freeholders are required and directed to make their return in writing to the court of Common pleas, to be held for the county of New-Castle; and when confirmed by said court, the same shall be provided for, and paid by the county, in the same manner as is directed for the payment of the costs and charges of erecting and maintaining the wharves and landing-places, as before directed to be provided for by this act.

*Passed at Dover, January 21, 1800.*

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C H A P. L.

*An ACT to authorise the State Treasurer to pay certain sums of money to the several persons therein named.*

SECTION. 1. **B**E IT ENACTED *by the Senate and House of Representatives of the State of Delaware, in general assembly met,* That the treasurer of the said State, be, and he is hereby authorised to pay, out of any monies

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which may be in the treasury, not otherwise appropriated, the following sums of money to the several persons herein after named, to wit, to the legal representatives of James Adams, late of the borough of Wilmington, printer, deceased, the sum of fifty-eight dollars and eighty cents; to George Read, attorney at law, ten dollars, to Peter Brynberg, the sum of five dollars and twenty cents; and to Samuel and John Adams, the sum of one dollar and seventeen cents.

*Passed at Dover, January 22, 1800.*

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C H A P. LI.

*A further supplement to the act, entitled, "An ACT to enable the owners and possessors of the Meadows, Marsh and Cripple, laying upon Nonsuch and Mill-Creeks, and adjoining Lewden's Island, in the Hundred and County of New-Castle, on Delaware, to embank and drain the same, to keep the outside banks and dams in good repair forever, and to raise a fund for the doing thereof.*

*Passed at Dover, January 23, 1800.—Private act.*

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C H A P. LII.

*An ACT to provide for the payment of the surplus of taxes granted for the support of government to the respective counties, and for other purposes.*

Preamble.

**W**H E R E A S in assessing and levying the taxes granted for the support of government, the Levy-courts of the respective counties, for

the purpose of covering the commissions and delinquencies, and raising the sums granted, clear of all charges of collection, are obliged to assess and ascertain a larger sum per centum, upon the whole rates of the counties, than each county's net proportion of such taxes would require, were no errors or delinquencies to happen, whereby it often is the case from the delinquencies eventually not being so large as the sums allowed therefor, that there is a surplus of such taxes, which according to the existing regulations, is paid into the treasury of this state.

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SEC. 1. *Be it therefore enacted by the Senate and House of Representatives, of the State of Delaware, in General Assembly met,* That the surplus of the taxes granted by an act, entitled, "An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government for the year of our Lord, One thousand seven hundred and ninety-eight;" and by an act, entitled, "An act, making provision for the support of government for the year One thousand seven hundred and ninety-nine, and for other purposes;" and also an act, entitled, "An act making provision for the support of government for the year One thousand eight hundred;" and of all taxes hereafter to be granted for the support of government, if any such surplus there is, or shall be, after paying the quota of the counties, shall be paid by the State treasurer to the treasurer of the county in which such surplus shall happen; who shall apply and dispose of the same to and for the use of the county, in such manner as the commissioners of the Levy court and Court of appeals may order and direct.

Surplus of the Taxes,

to be paid by the State Treasurer to the County Treasurer,

for the use of the respective counties.

SEC. 2. *And whereas* there is a surplus of the tax granted by an act, entitled, "An act making

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which may be in the treasury, not otherwise appropriated, the following sums of money to the several persons herein after named, to wit; to the legal representatives of James Adams, late of the borough of Wilmington, printer, deceased, the sum of fifty-eight dollars and eighty cents; to George Read, attorney at law, ten dollars, to Peter Brynberg, the sum of five dollars and twenty cents; and to Samuel and John Adams, the sum of one dollar and seven-tenths cents.

*Passed at Dover, January 22, 1800.*



C H A P. LI.

*A further supplement to the act, entitled, "An ACT to enable the owners and possessors of the Meadows, Marsh and Cripple, laying upon Non-such and Mill-Creeks, and adjoining Lewden's Island, in the Hundred and County of New-Castle, on Delaware, to embank and drain the same, to keep the outside banks and dams in good repair forever, and to raise a fund for the doing thereof.*

*Passed at Dover, January 23, 1800.—Private act.*



C H A P. LII.

*An ACT to provide for the payment of the surplus of taxes granted for the support of government to the respective counties, and for other purposes.*

Preamble.

**W**HEREAS in assessing and levying the taxes granted for the support of government, the Levy-courts of the respective counties, for

the purpose of covering the commissions and delinquencies, and raising the sums granted, clear of all charges of collection, are obliged to assess and ascertain a larger sum per centum, upon the whole rates of the counties, than each county's net proportion of such taxes would require, were no errors or delinquencies to happen, whereby it often is the case from the delinquencies eventually not being so large as the sums allowed therefor, that there is a surplus of such taxes, which according to the existing regulations, is paid into the treasury of this state.

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1800

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives, of the State of Delaware, in General Assembly met,* That the surplus of the taxes granted by an act, entitled, "An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government for the year of our Lord, One thousand seven hundred and ninety-eight;" and by an act, entitled, "An act, making provision for the support of government for the year One thousand seven hundred and ninety-nine, and for other purposes;" and also an act, entitled, "An act making provision for the support of government for the year One thousand eight hundred;" and of all taxes hereafter to be granted for the support of government, if any such surplus there is, or shall be, after paying the quota of the counties, shall be paid by the State treasurer to the treasurer of the county in which such surplus shall happen; who shall apply and dispose of the same to and for the use of the county, in such manner as the commissioners of the Levy court and Court of appeals may order and direct.

Surplus of the  
Taxes,

to be paid by  
the State Treas-  
urer to the  
County Treasura-  
er,

for the use of  
the respective  
counties.

SEC. 2. *And whereas* there is a surplus of the tax granted by an act, entitled, "An act making

Surplus of tax in  
the several  
counties,

remitted ac-  
cording to their  
respective pro-  
portions.

provision for the support of government for the year of our Lord, One thousand seven hundred and ninety-seven," in the county of New-Castle, of the sum of seven hundred twenty-five dollars and sixty-seven cents; in the county of Kent, of forty seven dollars and fifty-seven cents; and in the county of Sussex, the sum of two hundred ninety-two dollars, and seventy-eight cents: *Be it therefore, enacted,* That there shall be, and is hereby remitted to the county of New-Castle, the sum of seven hundred twenty-five dollars and sixty-seven cents; to the county of Kent, the sum of forty-seven dollars and fifty-seven cents; and to the county of Sussex, the sum of two hundred ninety-two dollars and seventy-eight cents, of the said counties' respective proportions of the sum of ten thousand five hundred dollars, granted by an act, entitled, "An act making provision for the support of government for the year One thousand eight hundred."

Commissions to  
County Treasu-  
rer.

SEC. 3. *And be it enacted,* That the commissions of the county treasurers respectively, on all such surplusages paid to them by the State treasurer, shall be at the rate of one dollar and fifty cents for every hundred dollars, and no more.

Clerks of the  
Peace to return  
to the Auditor  
an account of  
each hundred's  
proportion of  
the Taxes.

SEC. 4. *And be it further enacted,* That the clerks of the peace in each county, are hereby required and enjoined, to return to the auditor of accounts, on or before the first day of June in every year, an exact account in writing, of each hundred's proportion of county rates, levies and taxes, laid, assessed and granted at the then next preceding Levy court, for the maintenance of the poor, for repairing, amending, supporting and erecting bridges, causeways and roads, and for other county purposes, under several and distinct

heads; and also each hundred's proportion of the tax granted by the act, entitled, "An act for the support of government for the year One thousand eight hundred;" and of all other taxes which may be hereafter granted for the support of government, under another head, with the names of the collectors appointed for the collection of the said taxes in the several hundreds; and also an exact account in writing, of the amount of all errors and delinquencies allowed to the collectors in the respective hundreds, by the Levy courts in each county; which said returns shall be made *ex officio*.

Returns to be made *ex officio*.

*Passed at Dover, January 24, 1800.*

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C H A P. LIII.

*An ACT to confirm the title of a certain tract, or parcel of land, situate in Brandywine hundred, in the county of New-Castle, in Samuel M. Clinck, his heirs and assigns.*

*Passed at Dover, January 24, 1800—Private act.*

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C H A P. LIV.

*A supplement to an act, entitled, "An act to establish an uniform militia throughout this State."*

Repealed 4th vol. 158.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the captain or commanding officer of each of the

Captain, in case no fines are imposed

shall transmit  
an account  
thereof

to the commis-  
sary and briga-  
dier general,

to be recorded.

companies or troops composing the militia of this State, shall, and is hereby required, in case no fines shall be imposed on the officers, non-commissioned officers and privates of his company or troop, make report in writing, at the times mentioned in the eighteenth section of the act, entitled, "An act to establish a uniform militia throughout this State," to the commissary of the brigade to which such officer may belong, that no such fines have been imposed; and a duplicate thereof he shall transmit, at the same time, to the brigadier-general; and the said commissary and brigadier shall endorse the said reports, and record them in the same manner as is directed to be done with the account of fines transmitted according to the said section.

Penalty for ne-  
glect.

AND every captain or commanding officer, omitting, refusing or neglecting to make such reports, shall be liable to the same fine for every such neglect or refusal, to be recovered in the same manner, and may be excused, as by the said act is directed.

Collector of the  
tax may be ap-  
pointed to col-  
lect the fines.

When to be ap-  
pointed.

SECT. 2. *And be it enacted,* That it shall and may be lawful for the military commissary, in each county, to appoint any one or more of the collectors of the county rates and levies, or any other person or persons, at his election, collector or collectors of such fines as may be imposed on the officers, non-commissioned officers and privates; and in case of the appointment of any collector of the county-rates and levies, to be collector of such fines, the same shall be made after the first Tuesday of February, and before the first Tuesday of March annually, and every such collector of county rates and levies, so appointed, shall take upon himself the duty of collecting such fines; and shall,

before he enters on his office, give bond, with one or more good and sufficient freeholders, jointly and severally, in the sum of eight hundred dollars lawful money of the United States of America, together with a warrant of attorney, thereto annexed, for confessing judgment for the said penalty, in the name of the said commissary, to be taken and approved of by the commissioners of the Levy court and Court of appeal, at their meeting in March annually, conditioned for the faithful performance of his duty, in collecting the militia fines in his hundred, and paying over the same to the said commissary, according to the true intent and meaning of the said act, to which this is a supplement; and in case of their, or any of their refusal or neglect to give such bond and warrant of attorney, he or they respectively shall forfeit and pay to the said commissary, the sum of eighty dollars, to be sued for and recovered before any justice of the peace, in the same manner, as for the recovery of debts not exceeding twelve pounds, and shall not be the collector of such fines. And every such appointment of a collector of the county-rates and levies, to collect such fines, shall be made and delivered to the collector, under the hand and seal of the said commissary, at the time of his appointment; and a certificate thereof shall be delivered or transmitted by the said commissary to the commissioners of the Levy court and Court of appeal, on or before the first Tuesday in March annually; and every such collector of county-rates and levies so appointed to collect the said fines, shall be allowed commissions on all such monies which shall come into his hands, and be duly accounted for at the rate of twelve dollars for every hundred dollars: which said commissions shall be deducted and taken out of the commissions to be credited to the said com-

To give bond  
with security,

to be approved  
of by the Levy  
court.

Penalty on col-  
lector for ne-  
glecting to give  
bond.

Appointment of  
a collector to be  
made under  
hand and seal,

and certified to  
the Levy court.

His compensa-  
tion.

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Not obliged to collect from persons residing out of his hundred.

Answerable for delinquent collectors.

Auditor to keep regular entries of the transactions of the Commissaries,

to report annually to the Legislature.

Oath of the members of a Court Martial,

by whom administered.

missary, according to the directions of the before-mentioned act. *Provided nevertheless*, That no such collector of county rates and levies shall be required or obliged to collect any fines from any person or persons residing out of his hundred at the time of the delivery of the list of fines and warrant of the commissary: *And also provided*, That the remedy given against the collectors of fines, by the twenty-second section of the act to which this is a supplement, shall be and remain, notwithstanding the giving bond with surety as aforesaid. And the said commissary shall be answerable for any loss which may happen from the insufficiency of any collector, or his surety, to pay the monies by them collected respectively by virtue of this act, or of the act to which it is a supplement.

SECT. 3. *And be it further enacted*, That the auditor be, and he is hereby directed to procure, at the expence of the State, a good and sufficient book, in which he shall make regular and fair entries of the transactions of the several military commissaries, and that he shall make a report of the same, together with all fines returned, to the legislature, at their annual sitting in January in every year.

SECT. 4. *And be it enacted*, That every member of a court-martial hereafter to be appointed for the trial of any officer or private, in pursuance of the act to which this is a supplement, shall, before he proceeds to discharge the duties of a member of the said court, take the following oath or affirmation, to wit, that he will faithfully and impartially perform the duties of a member of the said court-martial, without favour or partiality; which said oath or affirmation shall be administered by any justice of the peace, or by the president of the said court-mar

tial; any thing in the said act to which this is a supplement, to the contrary in any wise notwithstanding.

CHAP.  
LV.  
1800

*Passed at Dover, January 25, 1800.*

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CHAP. LV.

*An ACT appropriating public money to the payment of certain claims.*

SEC. 1 **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 to Samuel and John Adams, for printing marriage and tavern licences, and blank commissions, twenty dollars; to Peter Brynberg, for paper, printing, and ruling blanks for returns to be made by militia officers, ten dollars and fifty cents; to John Clarke, for a ledger furnished for the treasury office, nine dollars; to David Hall, late prothonotary of the court of Common pleas, for fees on public suits, one hundred and six dollars and sixty-seven cents; to the children of the late colonel John Haslet, for half pay and interest, one thousand four hundred and forty-one dollars and nine cents, equally to be divided between them and their legal representatives; to Abraham Ridgely, the secretary, for a press and screw, for the use of the secretary's office, forty dollars; and to William Black, for printing marriage licences and bonds, the sum of thirty-two dollars, out of such money as is, or hereafter may be in the treasury, not otherwise appropriated.

Allowance to  
S. and J. Adams,  
to Peter Bryn-  
berg,  
to John Clarke,  
to David Hall,  
to John Haslet's  
Heirs,  
to A. Ridgely.  
to William,  
Black,

*Passed at Dover, January 25, 1800.*

CHAP.  
LVI  
1800

CHAP. LVI.

*An ACT authorising the State Treasurer to appropriate certain public money to the payment of the claim of James Booth, Esquire.*

Allowance to  
James Booth,  
Esq.

SECTION. 1. **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 James Booth, Esquire, the sum of eleven hundred and fifteen dollars, for his services in contracting for the paper, printing and binding of the laws of this State, and in correcting the proof-sheets of the same, and making an index thereto, and for money by him advanced for the use of this State, to be paid out of such public money as may hereafter come into the said treasurer's hands, and not otherwise appropriated.

*Passed at Dover, January 25, 1800.*

CHAP. LVII.

*An ACT respecting the funds of this State.*

Money in the  
Treasury appro-  
priated to the  
purchase of  
Stock.

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 fifteen thousand dollars, now in the treasury of this State, and all monies arising from the loan-offices, as the same shall from time to time be received, shall be, and are hereby appropriated to the purchase of stock of the United States, bearing an interest of eight per centum per

annum ; or of such stock as bears an interest of three per centum per annum. And the State treasurer is hereby authorised and required to purchase, for the use of the State, on the lowest and best terms to be obtained with said monies, from time to time, as may be most advantageous to the State, the said stock, bearing an interest of eight per centum per annum, or the stock bearing an interest of three per centum per annum ; and the stock, when so purchased, shall be entered by him 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, of whom bought, and the price paid for the same. And the State-treasurer is hereby directed to return to the auditor, in his quarterly settlements with him, an account of such purchases of stock, with a specification thereof, as before mentioned.

C H A P.  
LVII.  
1800

Stock purchas-  
ed to be enter-  
ed on the Trea-  
sury Book.

Treasurer to re-  
turn an account  
to the Auditor.

SECT. 2. *And be it enacted,* That the interest arising on the said stock, and the dividends which shall hereafter be made on the shares of the bank of Delaware, belonging to the State, which have been subscribed, agreeably to the fifth section of the act of assembly, entitled, "A supplement to an act, entitled, "an act to create a fund to establish schools in this State," shall be, and is hereby appropriated to the payment of the salaries to become due to the governor, the chancellor, the judges of the Supreme court, and the judges of the Court of common pleas.

Appropriation  
of the interest  
arising on said  
stock, &c.

SECT. 3. *And be it enacted,* That the act, entitled, "An act to provide for the arming the quota of the militia of this State, required, by an act of the congress of the United States," shall be, and is hereby repealed, made null and void.

Repealing of the  
act providing  
for the arming  
of the Militia.

## CHAP.

## LVI.

1800

## C H A P. LVI.

*An ACT authorising the State Treasurer to appropriate certain public money to the payment of the claim of James Booth, Esquire.*

Allowance to  
James Booth,  
Esq.

SECTION. 1. **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 James Booth, Esquire, the sum of eleven hundred and fifteen dollars, for his services in contracting for the paper, printing and binding of the laws of this State, and in correcting the proof-sheets of the same, and making an index thereto, and for money by him advanced for the use of this State, to be paid out of such public money as may hereafter come into the said treasurer's hands, and not otherwise appropriated.

*Passed at Dover, January 25, 1800.*

## C H A P. LVII.

*An ACT respecting the funds of this State.*

Money in the  
Treasury appro-  
priated to the  
purchase of  
Stock.

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 fifteen thousand dollars, now in the treasury of this State, and all monies arising from the loan-offices, as the same shall from time to time be received, shall be, and are hereby appropriated to the purchase of stock of the United States, bearing an interest of eight per centum per

annum ; or of such stock as bears an interest of three per centum per annum. And the State treasurer is hereby authorised and required to purchase, for the use of the State, on the lowest and best terms to be obtained with said monies, from time to time, as may be most advantageous to the State, the said stock, bearing an interest of eight per centum per annum, or the stock bearing an interest of three per centum per annum ; and the stock, when so purchased, shall be entered by him 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, of whom bought, and the price paid for the same. And the State-treasurer is hereby directed to return to the auditor, in his quarterly settlements with him, an account of such purchases of stock, with a specification thereof, as before mentioned.

C H A P.  
LVII.  
1800

Stock purchas-  
ed to be enter-  
ed on the Trea-  
sury Book.

Treasurer to re-  
turn an account  
to the Auditor.

SECT. 2. *And be it enacted,* That the interest arising on the said stock, and the dividends which shall hereafter be made on the shares of the bank of Delaware, belonging to the State, which have been subscribed, agreeably to the fifth section of the act of assembly, entitled, "A supplement to an act, entitled, "an act to create a fund to establish schools in this State," shall be, and is hereby appropriated to the payment of the salaries to become due to the governor, the chancellor, the judges of the Supreme court, and the judges of the Court of common pleas.

Appropriation  
of the interest  
arising on said  
stock, &c.

SECT. 3. *And be it enacted,* That the act, entitled, "An act to provide for the arming the quota of the militia of this State, required, by an act of the congress of the United States," shall be, and is hereby repealed, made null and void.

Repealing of the  
act providing  
for the arming  
of the Militia.

Commissions to  
the Treasurer  
on monies  
received for  
marriage licen-  
ces, &c.

SECT. 4. *And be it enacted,* That the commissions of the State-treasurer upon all monies received and duly accounted for, arising from marriage and tavern licences, dividends on bank stock, interest arising on the stock of the United States, and all monies arising from the sale of vacant lands, and from arrearage taxes, other than such as may be due from collectors appointed by any State-treasurer, and for which such State-treasurer may be answerable, and duly accounted for, shall be at the rate of one dollar and fifty cents for every hundred dollars, and no more. And in case of the death, removal, resignation or expiration of office of any State-treasurer, the succeeding treasurer, upon monies which shall hereafter be received by him, from all and every collector of taxes appointed by his predecessor, and for whom such predecessor is answerable, according to the existing laws of the State, shall retain in his hands, at the rate of three dollars for every hundred dollars so by him received, whereof he shall pay to his predecessor who appointed such collector or collectors, or to his executors or administrators, at the rate of one dollar and fifty cents for every hundred dollars so received, and upon his duly accounting for all such money, he shall have the residue of the said three dollars for his own commission thereon, and no more: And for any balance which may be in the treasury, or which shall be paid to him by his predecessor, or by the executors, or administrators of such predecessor, he shall have no commissions, but the same shall be received and accounted for, as by the laws of this State, are or may be directed, *ex officio*. And for all monies which shall hereafter be paid to any State-treasurer by any collector or collectors appointed by him, and for whom he is, or may be answerable, according to the existing laws, or ac-

ording to any future act of assembly; and duly accounted for, he shall be allowed commissions at the rate of three dollars for every hundred dollars, and no more. And that so much of every act of Assembly as is hereby altered or supplied, shall be, and is hereby repealed, made null and void.

C H A P.

LVII

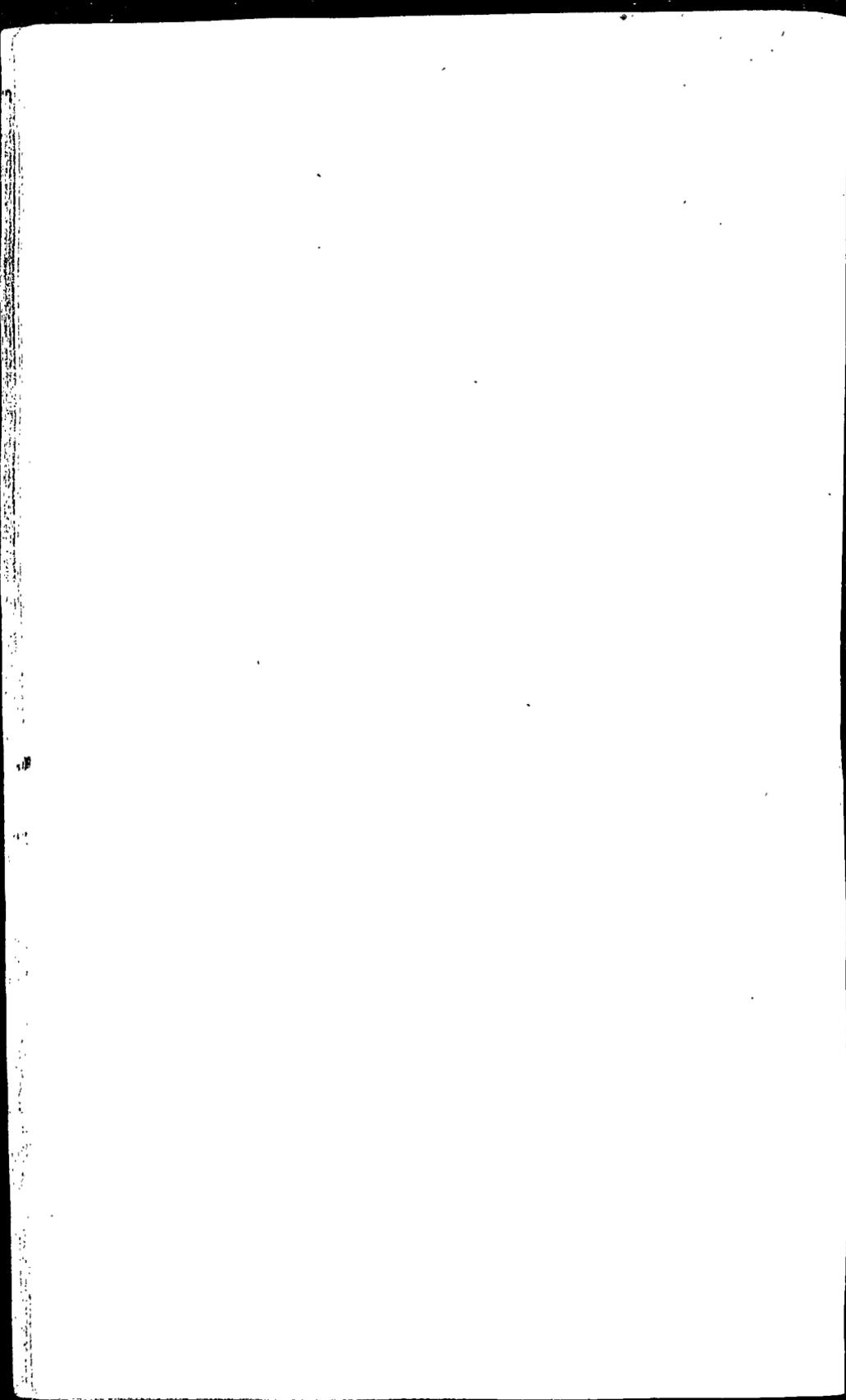
1800

Part of former acts repealed.

SECT. 5. *And be it enacted,* That instead of the month of October, it shall and may be lawful for the auditor, and he is hereby required and directed to attend at the respective county-towns in this State, at the times appointed for the sitting of the Court of common pleas in the spring, annually, and then and there do and perform the several duties enjoined upon him by the second section of the act, entitled, "An act extending the powers of the auditor of public accounts to the settlement of the county, road and poor taxes, &c. within the State," in the same manner as is therein directed.

Auditor to attend at the county towns in the spring annually.

*Passed at Dover, January 25, 1800.*



## C H A P. LVIII.

CHAP.  
LVIII.  
1800

*An ACT for the appointment of electors for the election of a president and vice-president of the United States.*

SECTION 1. **W**HEREAS it is ordained by Preamble. the constitution of the United States of America, that 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 entitled in the congress; *And whereas* by an act of the congress of the United States, entitled, "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," *It is enacted*, That, except in case of an election of a president and vice-president of the United States, prior to the ordinary period as therein after specified, electors shall be appointed in each State, for the election of a president and vice-president of the United States, within thirty-four days preceding the first Wednesday in December, One thousand seven hundred and ninety-two, and within thirty-four days preceding the first Wednesday in December, in every fourth year succeeding the last election; which electors shall be equal to the number of senators and representatives to which the several States may by law be entitled at the time when the president and vice-president thus to be chosen, should come into office. **AND WHEREAS** no provision hath been made for the appointment of electors by this State, for the choosing a president

CHAP.  
LVIII.  
1800

The legislature  
to appoint elec-  
tors every 4th  
year.

and vice-president of the United States, on the first Wednesday in December next, agreeably to the said constitution and act of the congress: *Be it therefore enacted, by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the Legislature of this State, at this present session of the general Assembly, appoint three electors, for the election of a president and vice-president of the United States, to be made on the first Wednesday in December next; and that the Legislature of this State shall, within thirty-four days preceding the first Wednesday in December, in the year of our Lord, One thousand eight hundred and four, and within thirty-four days preceding the first Wednesday in December in every fourth year succeeding the year One thousand eight hundred and four, appoint electors for choosing a president and vice-president of the United States; which said electors so to be appointed, in the year One thousand eight hundred and four, and in every fourth succeeding year thereafter, shall be equal to the number of senators and representatives to which this State may by law be entitled at the time when the president and vice-president thus to be chosen, should come into office.

Electors to be  
chosen by the  
joint ballot of  
the senate and  
house of repre-  
sentatives.

SECT. 2. *And be it enacted,* That the electors to be appointed at this present session of the general Assembly, and afterwards, shall be chosen by the joint ballot of the senate and house of representatives convened together for that purpose; and that if an equal division of ballots shall appear for any two or more persons not being elected by a majority of votes, the speaker of the senate shall have an additional casting vote; and that in case the speaker of the senate shall be one of the persons balloted for, and equal in number of votes to

any other person or persons, not being elected as aforesaid, then the speaker of the house of representatives shall have such additional casting vote; and in case the speaker of the house of representatives shall be also balloted for, and equal in number of votes to any other person or persons not being elected as aforesaid, then both houses shall proceed to ballot for a suitable person, who shall be a member of either house as chairman, who shall have the said additional casting vote.

SECT. 3. *And be it enacted,* That the electors who shall be appointed by the legislature of this State, at this present session of the general Assembly, shall meet at the town of Dover, on the first Wednesday in December next, and they, or such of them as shall so attend, shall there give their votes for the election of a president and vice-president of the United States; and that the electors who may be appointed in the year One thousand eight hundred and four, and in every fourth year succeeding that year as aforesaid, shall meet at the town of Dover, on the first Wednesday in December next succeeding their appointments, and there give their votes for the election of a president and vice-president of the United States; and the same allowance of mileage and daily wages when travelling to, remaining at, and returning from the place aforesaid, shall be paid to them, and to each of them, as is by law allowed and paid to members of the general Assembly of this State, the same to be paid by the treasurer of this State, on warrant, signed by the electors, and entered in the books of the auditor; out of any money not otherwise appropriated.

Electors to meet  
at the town of  
Dover.

Their allow-  
ance.

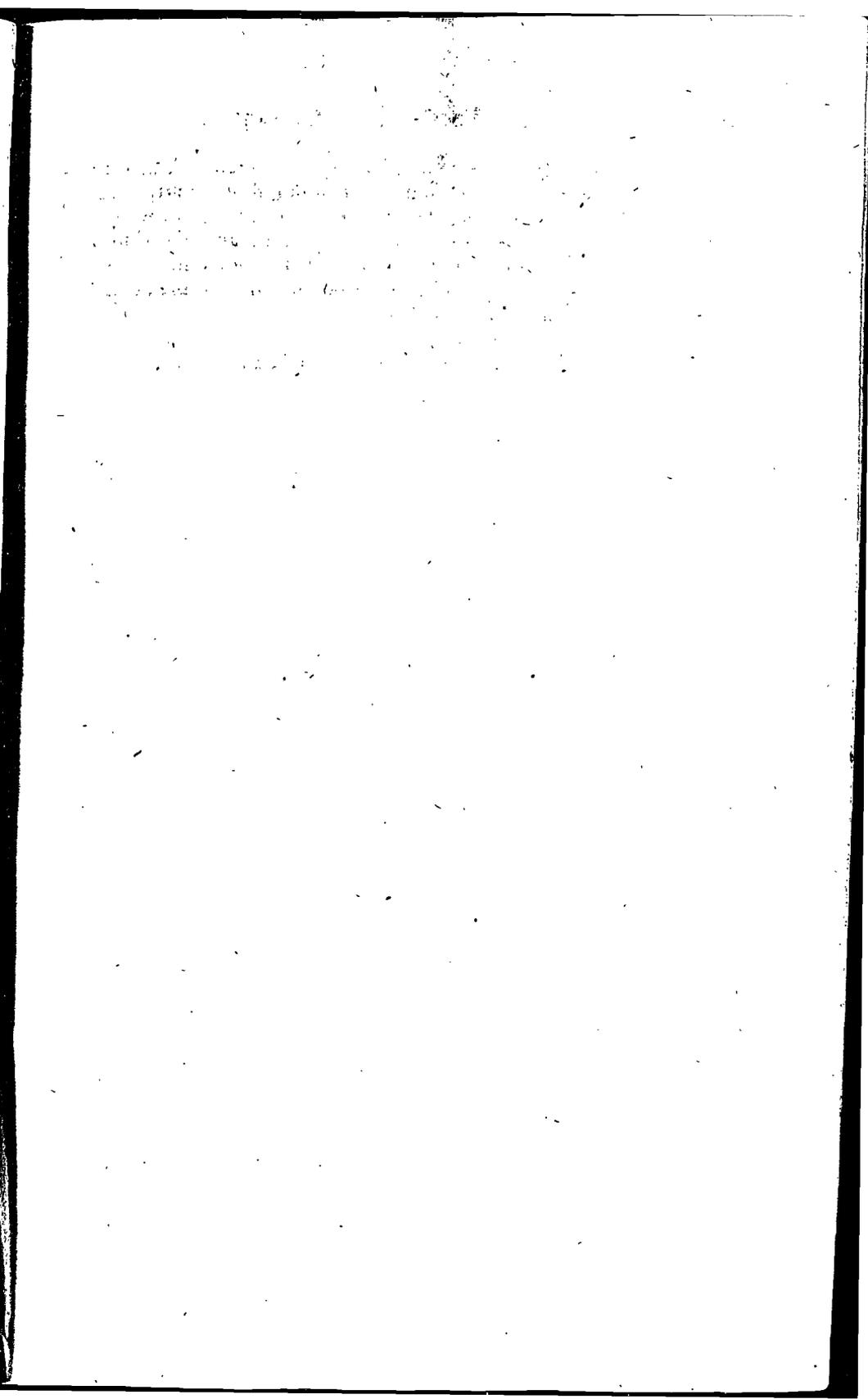
SECT. 4. *And be it enacted,* That the general Assembly of this State shall meet at the town of Do-

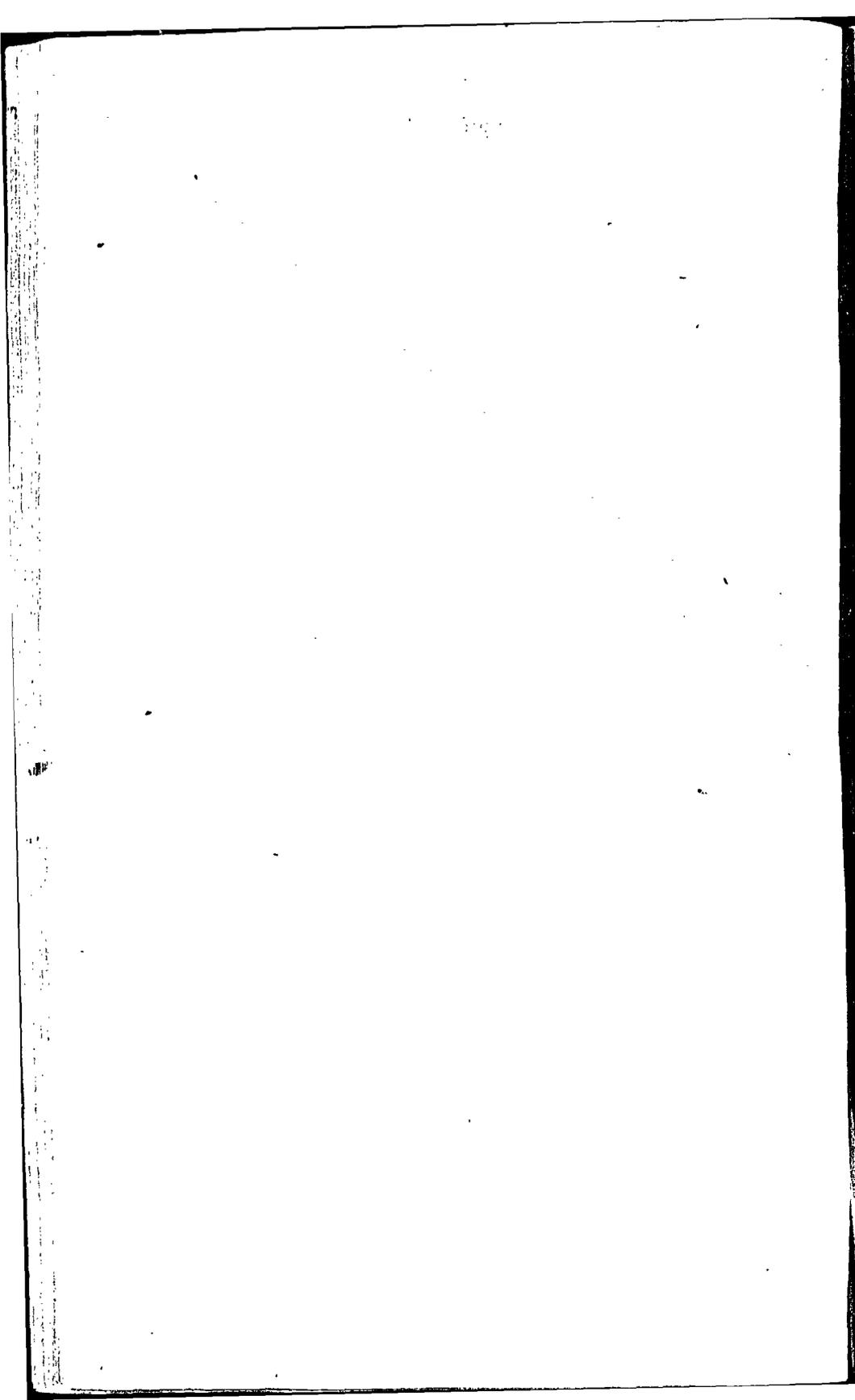
Legislature to  
meet every 4th

year to appoint electors.

ver, on the second Monday in November, in the year One thousand eight hundred and four, and on the second Monday in November, in every fourth year succeeding the year One thousand eight hundred and four, for the purpose of appointing electors of a president and vice-president of the United States.

*Passed at Dover, November 5, 1800.*





CHAP.  
LIX.  
1801

## C H A P. LIX.

*An ACT to render assessors and collectors ineligible to the offices of commissioner of the Levy court and Court of appeal, county treasurer, treasurer of the poor, inspector, coroner and Sheriff.*

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That no assessor or collector of county rates and levies, of the road taxes, and of the poor taxes, nor collector of any State tax, shall, during the time for which he shall have been elected or appointed, be elected, nominated or appointed, commissioner of the Levy court and Court of appeal, county treasurer, treasurer of the poor, inspector, Coroner or Sheriff, and shall not be capable of exercising any power as a member of the Levy court and Court of appeal, nor of performing or doing the duties of county treasurer, treasurer of the poor, inspector, Coroner or Sheriff, nor of being elected or appointed to, or holding any one or more of the said offices, at the same time that he is elected or appointed assessor or collector, or that he holds either of the last mentioned offices.

No assessor or collector shall be appointed commissioner of the Levy court, &c.

SECT. 2. *And be it enacted,* That no person who hath served, or been elected or appointed collector as aforesaid, shall be eligible or capable of being elected or appointed a Commissioner of the Levy Court and court of appeal, county treasurer, treasurer of the poor, inspector, Coroner or Sheriff, until he shall have made a final settlement of his accounts, and fully paid and discharged all mo-

A collector shall not be a member of the Levy court, &c. until he has made a settlement of his accounts.

C H A P.  
LX.  
1801

nies which, according to the duties of his office, he ought to have collected and paid over; and if any such assessor or collector shall be elected, nominated or appointed, contrary to this act, every such election, nomination or appointment, shall be absolutely void and of no effect.

*Passed at Dover, January 15, 1801.*



C H A P. LX.

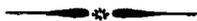
*An ACT authorising the appointment of an additional number of justices of the peace for the county of New-Castle.*

Number may be increased to sixteen.

5th vol. 109.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, Two thirds of the members of each house consenting to, and approving thereof, that the number of justices of the peace for the county of New-Castle, may at any time hereafter be enlarged, provided that there be not more than sixteen persons in the commission of justices of the peace in the said county at the same time.

*Passed at Dover, January 16, 1801.*



C H A P. LXI.

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

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 ten thousand five hundred dollars shall be raised and paid into the treasury of this State, within the time, and in the manner directed by an act of the general assembly, entitled, "An act for the better ordering, assessing, levying, and collecting of taxes, and making provision for the support of government for the year of our Lord, one thousand seven hundred and ninety-eight," passed the twenty-fourth day of January, in the year last aforesaid, 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.

10,500 dollars to be raised and paid into the treasury.

Each county's proportion.

SECT. 2. *And be it enacted,* That the aforesaid sums of money shall be appropriated and applied to, and in the following manner; that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due, and to become due to the governor, chancellor, judges of the Supreme court, judges of the Court of common pleas, attorney general, secretary and auditor of accounts, up to the first day of January, which will be in the year of our Lord, one thousand eight hundred and two: 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 applied to the payment of any sums of money due to the citi-

Appropriation

For the payment of Salaries, &c.

For the payment of

C H A P.  
LX.  
1801

nies which, according to the duties of his office, he ought to have collected and paid over; and if any such assessor or collector shall be elected, nominated or appointed, contrary to this act, every such election, nomination or appointment, shall be absolutely void and of no effect.

*Passed at Dover, January 15, 1801.*

C H A P. LX.

*An ACT authorising the appointment of an additional number of justices of the peace for the county of New-Castle.*

Number may be increased to sixteen.

5th vol. 109.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, Two thirds of the members of each house consenting to, and approving thereof, that the number of justices of the peace for the county of New-Castle, may at any time hereafter be enlarged, provided that there be not more than sixteen persons in the commission of justices of the peace in the said county at the same time.

*Passed at Dover, January 16, 1801.*

C H A P. LXI.

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

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 ten thousand five hundred dollars shall be raised and paid into the treasury of this State, within the time, and in the manner directed by an act of the general assembly, entitled, "An act for the better ordering, assessing, levying, and collecting of taxes, and making provision for the support of government for the year of our Lord, one thousand seven hundred and ninety-eight," passed the twenty-fourth day of January, in the year last aforesaid, 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.

10,500 dollars to be raised and paid into the treasury.

Each county's proportion.

SECT. 2. *And be it enacted,* That the aforesaid sums of money shall be appropriated and applied to, and in the following manner; that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due, and to become due to the governor, chancellor, judges of the Supreme court, judges of the Court of common pleas, attorney general, secretary and auditor of accounts, up to the first day of January, which will be in the year of our Lord, one thousand eight hundred and two: 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 applied to the payment of any sums of money due to the citi-

Appropriation

For the payment of Salaries, &c.

For the payment of

debts due to  
Citizens.

zens of this State, for which provision shall be hereafter made by law.

*Passed at Dover, 21st January, 1801.*

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C H A P. LXII.

*An ACT to vest in Jane Kelly, widow of William Kelly, late of Pencader hundred, in the county of New-Castle, State of Delaware, deceased, certain lands and premises, late the property of the said William Kelly, deceased, which by reason of alienage in the intestate, have escheated to the State of Delaware.*

*Passed at Dover, 21st January, 1801.—Private act.*

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C H A P. LXIII.

1 vol. 135.

*An ACT to repeal such parts of the acts of the General Assembly, as require that the names of the prosecutors should be endorsed on any indictment or presentment.*

Part of a former  
Act repealed.

SECTION. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That so much of an act of the general assembly, entitled, "An act for bailing prisoners, and about imprisonment," that no person or persons shall be obliged to answer to any indictment or presentment, unless the prosecutor's name be endorsed thereon; and so much of all and every other acts of the general assembly, as directs that the name or names of the prosecutor or prosecutors shall be en-

dorsed on any indictment before the person or persons indicted, shall be obliged to answer or plead to such indictment, shall be, and is hereby repealed, made null and void.

SECT. 2. *Provided nevertheless, and be it enacted,* That in all cases of indictments already found, and which are now depending, the person or persons indicted, shall have the same right to require the name of the prosecutor or prosecutors, to be endorsed thereon, as before the passing of this act. Proviso.

*Passed at Dover, January 23, 1801.*

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C H A P. LXIV.

*An act to prevent swine running at large in George-Town.*

**W**HEREAS the inhabitants of George-Town, in Sussex county, have heretofore received and suffered great spoil and damage in their several inclosures, from swine, by reason of their running at large within the limits of the said town; for prevention whereof in future: Preamble.  
2. vol. 1218.

SECT. 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 aforesaid,* That from and after the first day of March next, no inhabitant or inhabitants of the said town; or other person or persons whatsoever, shall suffer or permit any of their hogs or swine to run at large within the limits or bounds of the said town; and if any person or persons shall Swine not to run at large within the bounds of George-Town.

C H A P.  
 LXIV.  
 1801

Penalty. keep or suffer any of their hogs or swine to run at large after the said first day of March, within the bounds or limits aforesaid, the owner or owners of all such hogs or swine, shall forfeit the same, for the use and benefit of the person hereinafter mentioned.

May be killed  
 by any person.

Gaoler's duty :

Penalty for neglect.

SECT. 2. *And be it enacted by the authority aforesaid,* That it shall and may be lawful to and for the keeper of the public gaol of the county aforesaid, and to and for any other person or persons whatsoever, to shoot and kill all such hogs or swine, so permitted or suffered to run at large as aforesaid, within the limits of the town aforesaid ; and the said keeper of the gaol is hereby expressly enjoined to shoot or kill all such hogs or swine so permitted or suffered to run at large as aforesaid ; and in case he neglects or refuses to do the same, he shall forfeit and pay the sum of two dollars, to be recovered by any person or persons suing for the same, before any justice of the peace for the county aforesaid, and in such manner as debts under forty shillings are recoverable, by the laws of this government.

Gaoler may receive the hogs killed for his own use.

In case of suit, general issue may be pleaded, and this act given in evidence.

SECT. 3. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the keeper of the public gaol aforesaid, to take and receive to his own proper use and benefit, all such hogs or swine, that may or shall be shot or killed as aforesaid, in pursuance of this act. And if any suit or action shall be commenced, brought or prosecuted against the keeper of the public gaol aforesaid, or against any other person or persons whatsoever, for any act or thing by him, her or them done or performed, 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 in the trial thereof, to give this present act in evidence, whereof all justices of the several courts of law, and other persons whatsoever, within this government, are hereby strictly required to take notice, and govern themselves accordingly.

CHAP.  
LXV.  
1801

SECT. 4. *And be it further enacted by the authority aforesaid,* That an act of the general Assembly of this government, entitled, "An act to prevent swine running at large in George-town," shall be, and is hereby repealed, and declared to be null and void.

Former act repealed.

*Passed at Dover, January 23, 1801.*

This act repealed, 3d vol. 215.

CHAP. LXV.

*An ACT for establishing and regulating a ferry over the river Delaware, at the town of New-Castle.*

*Passed at Dover, 21st Jan. 1801—Private act.*

CHAP. LXVI.

*An additional Supplement to an act, entitled, "An act for removing the seat of justice from Lewis, to a more central part of Sussex county, and for other purposes."*

See 2d vol. 1002, 1022.

SECTION 1. **W**HEREAS by the said act, to which this is a supplement, Robert Houston, Rhoads Shankland, George Mitchell, William Moore and John Collins, Es.

Preamble.

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quires, were appointed commissioners to sell, and execute deeds, for the conveyance of the lots in George-town; three of which commissioners are since dead, without executing conveyances for many of the lots sold by them, and no provision being made for the re-appointment of commissioners, in case of death, resignation, removal or inability to serve in said capacity.

B. Harris, Dr.  
J. Robertson,  
and W. Russell  
appointed com-  
missioners.

SECT. 1. *Be it therefore enacted, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That* Benton Harris, doctor James Robertson and William Russel, be, and are hereby nominated and appointed commissioners, in the place and stead of Robert Houston, Willam Moore and George Mitchell, Esquires, 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, their successor and successors, or a majority of them, are hereby authorised, required and empowered to sell all the lots in the town aforesaid, which remain unsold by the commissioners appointed as aforesaid, and to execute a deed or deeds, for the conveyance of all those lots that have heretofore been sold by the commissioners appointed by the act to which this is a supplement.

How vacancies  
shall be sup-  
plied.

SECT. 2. *Be it further enacted, That* when 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 Levy court for the county of Sussex, to nominate and appoint a suitable person or

persons, to serve as commissioners for the purpose aforesaid.

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SECT. 3. *Be it further enacted by the authority aforesaid,* That the following alleys and lanes in George-town, to wit, South Alley, from Market-street to Laurel-street; South Lane, from Market street to Laurel-street; Cooper's Alley, from Front-street, as far as the town land extends; Cherry Lane, from Market to Cooper's Alley; Cooper's Alley, from acre lot number one, to the south side of lot number two hundred and thirty-three, and two hundred and thirty-six; Strawberry Alley, from Bedford-street, north one hundred and twenty feet, to the line that divides lots number forty-one and forty-four, are deemed, and are hereby held to be stopped up and done away, and that the said alleys and lanes stopped up and done away as aforesaid, shall be divided equally between the adjoining lot and land holders.

Certain lanes  
and alleys stop-  
ped up.

*Passed at Dover, January 23, 1801.*

—♦♦♦♦—  
C H A P. LXVII.

*A Supplement to an act to authorise the owners and possessors of the marsh and low ground, commonly called and known by the name of Marshy-hope, in Mispillion hundred, and county of Kent, to cut a ditch or drain through the same.*

*Passed at Dover, January 23, 1801—Private act.*

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LXVIII.  
1801

## C H A P. LXVIII.

*An ACT to repeal an act, entitled, "An act to prevent Swine running at large in the village of Frederica.*

Former act re-  
pealed.

**B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the act, entitled, "An act to prevent swine running at large in the village of Frederica," passed the ninth day of February, seventeen hundred and ninety-six, be, and it is hereby declared to be repealed, made null and void.

*Passed at Dover, January 24, 1801.*

## C H A P. LXIX.

*An ACT to vest in William Wood, and Elizabeth his wife, their heirs and assigns, a certain tract or parcel of land, situate in Brandywine Hundred, in the county of New-Castle, agreeably to the tenor of certain articles of agreement executed between the said William and a certain Samuel M<sup>r</sup> Bride, since deceased.*

*Passed at Dover, Jan. 24, 1801—Private act.*

## C H A P. LXX.

*An ACT to vacate and discontinue the street called Water-street, in the borough of Wilmington, from Market-street westwardly to the line of the said borough, and for other purposes.*

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 the burgesses, assistant burgesses of the borough of Wilmington, to shut up, and cause to be vacated and discontinued, the street called Water-street, in the said borough, from Market-street westwardly, to the line of the said borough: *Provided nevertheless, and it is hereby enacted,* That before the said street is so shut up, vacated and discontinued, that the owner or owners of the lots, tenements or improvements, fronting on said street, so to be shut up, vacated and discontinued, so far as the said street is now opened and extended, shall be paid the amount of the damages which he, she or they, may sustain thereby; which damages shall be ascertained by three impartial freeholders, of the county of New-Castle, not of the said borough, who shall be summoned by the Sheriff of the said county, in pursuance of a warrant under the hands and seals of the said burgesses, who are hereby authorised to issue the same; and to which warrant the said Sheriff is hereby ordered and required to pay due observance; and the said freeholders, or any two of them, shall make their inquisition and report, on the premises, on their respective oaths or affirmations, (to be administered by the said Sheriff) to the burgesses aforesaid, who shall cause the same to be entered by the town clerk, upon the books or minutes of said borough; and the sum or sums mentioned in such inquisition and report, shall be assessed and raised, as other monies are by law directed to be assessed and raised, for the use of the said borough: *Provided nevertheless,* That it shall and may be lawful for the burgesses aforesaid, to agree, compound and compromise with the respective persons who may be aggrieved and suffer damage by the shutting up, vacating and discontinuing, the aforesaid street, for such sum or

Part of Water street to be shut up,

Sec. 4. vol. 8.

Provided the owners of lots on said street are paid damages.

How said damages shall be assessed.

Burgesses may compromise with the owners

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sums of money, or other equivalent, for the damages aforesaid, as they the said burgesses, and the parties agrieved and suffering damage as aforesaid, shall determine to be a reasonable compensation in the premises; and such agreement, composition or compromise and determination, being entered on the books or minutes, by the town clerk, and signed by the party or parties agrieved or endamaged, as aforesaid, shall be equally valid and binding on the parties, as an inquisition and report of freeholders, appointed as aforesaid, might or could be, any thing herein before to the contrary notwithstanding.

The ground where Water street now runs, shall be sold for the use of the Borough.

A receipt signed by the Treasurer and town clerk

SECT. 2. *And it is further enacted by the authority aforesaid,* That the ground whereon Water-street aforesaid now runs, so far as the same is open, and extended from Market-street aforesaid, westwardly, shall be sold, or otherwise disposed of, by the said burgesses, in such manner, and to and for such uses and purposes, as the said burgesses shall order and direct, for the benefit and advantage of the said borough; and in case the said burgesses should sell the said ground, or any part thereof, a receipt signed by the treasurer of the said borough, and countersigned by the town clerk, and entered in the public books or minutes of said borough, for the sum or sums of money for which the same may have been sold by the burgesses aforesaid, or by their order, mentioning and specifying therein, the premises, to such person or persons, as shall have purchased, and paid the amount of the purchase money, shall transfer the property in the ground so sold, to such purchaser or purchasers, in fee; and such receipt, or the entry thereof, as aforesaid, or a copy of such entry, which shall be deemed and taken to be a

record, shall be sufficient evidence at all times, to prove the title in such purchaser, or purchasers, their heirs and assigns in the premises.

shall be evidence to prove the title.

**SECT. 3.** AND WHEREAS by an ordinance of the freemen, resident inhabitants of the borough of Wilmington, in general town meeting illegally called and met, entitled, "An ordinance to establish the regulation of the ascents and descents of the streets, lanes and alleys, within the borough of Wilmington, and for other purposes," reciting, that whereas by an act of the general assembly of the state of Delaware, passed in the year 1799, entitled, "An act for the better regulation of the borough of Wilmington," amongst other things it is *Provided*, "That it shall and may be lawful for the burgesses and assistants of the said borough, and they are hereby authorised and empowered, when in their discretion they shall deem it proper and right, so to do, from time to time, on application of any five resident freeholders of the said borough, to issue their precept, to any suitable person or persons, authorising him or them to cause the footways and gutters of any street, lane or alley, of the said borough, as applied for, to be paved with bricks or stones, as the case may require, and to fix plank or curbstones, to prevent the same from being injured by carriages, agreeably to the true regulation of the streets, lanes and alleys of the said borough. AND WHEREAS no regulation of the streets, lanes and alleys of the said borough, hath as yet been established, showing the ascents and descents of the said streets, lanes and alleys, and the relative situation thereof one with another, whereby the provisions in the aforesaid recited act cannot be legally performed or complied with. AND WHEREAS the regulators of the streets, &c. for the

' time being, have exhibited a ground plan of the  
 ' said borough, noting the degrees of ascent and  
 ' descent of the several streets, lanes and alleys,  
 ' and the relative situation of each of them; which  
 ' plan and regulation being examined, and mature-  
 ' ly considered, by the present burgesses and assist-  
 ' ants, and by them approved, *It was ordained,*  
 ' that from and after the passing of this ordinance,  
 ' the aforesaid regulation of the streets, &c. begin-  
 ' ning at a large stone in the centre of Market and  
 ' Chesnut-streets, and from thence to the centre of  
 ' the several streets, &c. where they cross each other  
 ' at right angles, shewing the degrees of elevation  
 ' and descent of the several streets, &c. and their  
 ' relative situation to each other, a plan whereof,  
 ' together with explanatory notes of the particular  
 ' ascents and descents of the several streets, &c.  
 ' from the said large stone in Market and Chesnut-  
 ' streets, is deposited in the archives of this bo-  
 ' rough; and a copy of the aforesaid explanatory  
 ' notes is attached to this ordinance; the same shall  
 ' be, and is hereby declared to be the true regula-  
 ' tion of the streets, lanes and alleys of the borough  
 ' of Wilmington, and at all times hereafter shall be  
 ' deemed and taken as such.

AND WHEREAS *it was further ordained by the*  
 ' authority before recited, ' That the footways and  
 ' pavements of the several streets, lanes and alleys  
 ' within this borough shall be, when paved, of the  
 ' following width from the true range and extreme  
 ' limits of each street to the outside of the curb,  
 ' that is to say, King street, from the south side of  
 ' Second street, Wood street and Water street shall  
 ' have their pavements of the width of six feet, and  
 ' no more; and all those streets, lanes and alleys  
 ' which are forty-nine feet in width, shall have  
 ' their pavements twelve feet wide and no more;

and all those streets, lanes and alleys which are of greater width than forty-nine feet shall have their pavements twelve feet and nine inches wide and no more, except High-street from Market to Pasture-street, the pavement whereof shall be twelve feet wide and no more, in order to accommodate the market-house, whenever it may be necessary to extend it; and all footways and pavements twelve feet wide and upwards, shall ascend from the curb stones to the true line for building, at the ratio of half an inch to each foot and no more.

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*And it was further ordained by the authority before recited,* 'That the bottom of the gutters in all the streets, lanes and alleys within the borough, of forty-nine and a half feet wide and under, shall be ten inches below the centre of said streets, lanes and alleys; and that the bottom of the gutters in all the streets, lanes and alleys within the said borough, which exceed forty-nine feet and six inches in width, shall be twelve inches below the centre of said streets, &c. and no more, *provided* that this rule be not considered to be rigidly observed in the several streets running eastwardly and westwardly which are necessarily, by the plan of regulation, higher on one side than the other, but that the regulators for the time being be enjoined to conform to it as nearly as circumstances may admit.'

*And it was further ordained by the authority before recited,* 'That the curbs of wood or stone, placed to support the edges of footways or pavements from the gutters, and to protect the same from carriages, &c. in the several streets leading from Chesnut-street to High-street shall

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‘ be of the height of eight inches from the bot-  
‘ tom of the gutter; and in the same streets from  
‘ High-street to Water-street, the curbs shall be  
‘ of the height of ten inches from the bottom of  
‘ the gutter and no more; and all the streets  
‘ running at right angles and crossing the afore-  
‘ said streets leading from Chesnut to Water  
‘ street, shall have their curbs elevated six inches  
‘ above the bottom of the gutter and no more.’

*And it was further ordained by the authority  
before recited,* ‘ That no stoop or step to ascend  
‘ into any buildings now erected or hereafter to  
‘ be erected adjoining any of the streets, lanes or  
‘ alleys of this borough, nor any doors or other  
‘ inlets into cellars now erected or hereafter to be  
‘ erected, shall extend further from the front or  
‘ line of building and erecting houses than three  
‘ feet and three inches on Water-street, Wood-  
‘ street and King-street, to the south side of  
‘ Second-street, and in all the other streets, lanes  
‘ and alleys within the borough, the said steps,  
‘ porches, cellar doors, or other inlets to the re-  
‘ spective buildings thereon erected or hereafter  
‘ to be erected, shall not extend on the pavement  
‘ from the true line for building further than four  
‘ feet.’

*Be it therefore enacted by the authority afore-  
said,* That so much of the said ordinance as here-  
in recited, shall be and remain unalterable; and  
that it shall not be lawful for the burgesses and  
assistants of the said borough to repeal the said  
ordinance; and that the said regulations of the  
streets, lanes and alleys of the said borough shall  
not be subject to any alteration by any future sur-  
veyors or regulators, any thing in any act of

assembly to the contrary in any wise notwithstanding.

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*Passed at Dover, January 24, 1801.*

C H A P. LXXI.

*An additional supplement to the act, entitled, 'An act for raising the sum of twelve thousand dollars by way of lottery, for the erecting piers in the harbour of the town of New-Castle.*

*Passed at Dover, January 24, 1801--Private act.*

C H A P. LXXII.

*An act to authorise the owners and possessors of the swamps and low grounds situate in the head waters of Chester river, in the forest of Duck-creek hundred, in Kent county, to cut a ditch or drain through the same.*

*No date—Private act.*

C H A P. LXXIII.

*An act to authorise Susan F. Mitchell, executrix of George Mitohell, esquire, deceased, to sell and convey certain land to William Polk the younger.*

*Passed at Dover, January 27, 1801—Private act.*

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LXXIV.

1801

CHAP. LXXIV.

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

Passed at Dover, Jan. 27, 1801—Private act.

CHAP. LXXV.

*An ACT to authorise the owners and possessors of the marsh or low ground, commonly called and known by the name of Fishing-creek Marsh and Cripple, situate in Mispillion Hundred, in Kent county, to ditch, drain and bank the same.*

Passed at Dover, Jan. 27, 1801—Private act.

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Repealed 4th  
vol. 158.

*An additional supplement to the act, entitled, 'An act to establish an uniform militia throughout this State.'*

When to be exercised in companies; and in regiments.

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 militia of this State shall be exercised in companies on the first Tuesday in the month of April in every year; and in regiments as follows: the first regiment, on the first Monday in June 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 every day in the week (Saturdays and Sundays excepted) until the whole number of regiments shall have mustered and exercised in the aforesaid manner: *Provided nevertheless*, that it shall be the duty of the commanding officers of companies to give notice ten days before the days of meeting, by at least three advertisements giving information of the time and place of muster either in companies or regiments.

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SECT. 2. *And be it further enacted*, That all court martials for the trial of non-commissioned officers and privates shall be appointed by the captain or commanding officer of the company, which shall consist of one subaltern and four privates, the subaltern to be president thereof, and at such court martial no person shall be excused unless it is made appear to the satisfaction of the said court, by the testimony of a disinterested witness upon oath or affirmation to be administered by the president of the said court martial, that he was incapable of attending and doing duty by sickness of himself.

Court martials  
for the trial of  
non-commissioned  
officers  
and privates,  
how appointed,

SECT. 3. *And be it enacted*, That whatever balances now are, or may hereafter be in the hands of the commissaries of the respective brigades, upon settlement of their accounts with the auditor, shall be applied to the appropriations contained in the twentieth section of the act to which this is an additional supplement, and after all the aforesaid claims shall be discharged and paid, the balance, if any there be, in the hands of the said commissaries, shall be paid over to the State treasurer, as is directed by the act aforesaid.

Appropriation  
of fines.

Part of former  
act repealed.

See pages 93 &  
103 of this book.

SECT. 4. *And be it further enacted*, That the sections sixteen and thirty-two and thirty-four, and so much of the eighteenth section as requires the captain or commanding officers of each of the companies or troops composing the militia of this State, to transmit in the month of July in every year, accounts of fines, to the commissary of the brigade; and so much of the fifth section as requires every citizen assessed at five hundred dollars and upwards, to provide himself with arms and accoutrements, and all other parts of the act to which this is an additional supplement, inconsistent with the provisions herein contained, be, and they are hereby repealed, made null and void.

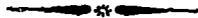
*Passed at Dover, January 28, 1801.*



#### C H A P. LXXVII.

*An ACT to vest the title of certain lands therein mentioned in Charles Cahoon, and the heirs of William Cahoon and Thomas Cahoon.*

*Passed at Dover, Jan. 28, 1801—Private act.*



#### C H A P. LXXVIII.

*An ACT to incorporate a company for the purpose of cutting and making a canal between the Chesapeake Bay, and Bay or River Delaware, or the waters thereof.*

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall be lawful to open books for receiving and

Subscription  
books to be  
opened

entering subscriptions to the amount of five hundred thousand dollars, in shares of two hundred dollars each share, for the cutting said canal and perfecting the navigation thereof, under the management of Joseph Tatnal, at Wilmington, Archibald Alexander, at New-Castle, Joseph Israel, at Christiana-bridge, William Cooch, at Pencader Hundred, Thomas Fitzgerald, at Port Penn, and Robert Maxwell, at Middletown, in the county of *New-Castle*; James Henry and Ebenezer Blackiston, junior, at Duck-creek Cross Roads, James Sykes, at Dover, Peter Caverly, at Milford, in the county of *Kent*; and Outerbridge Horsey, at Georgetown, and Caleb Rodney, at Lewis, and Jesse Green, at Concord, in the county of *Sussex*; and under the management of such persons, and at such times and places in Maryland and Pennsylvania, as is or shall be appointed by acts of the Legislature of those States; that the said books shall be opened on the first day of March, eighteen hundred and two, and shall continue open for this purpose until the first day of March, eighteen hundred and three, and on the first day of May thereafter, there shall be a general meeting of the subscribers at the town of Wilmington, in the State of Delaware, of which meeting notice shall be given by the said managers, or any four of them, in some of the Maryland, Delaware and Pennsylvania newspapers, at least thirty days before the said meeting; *Provided*, that if the same time of receiving subscriptions and of meeting should not be appointed by all the said States, then there shall be a meeting by the subscribers, at the time by them appointed at the place aforesaid, notice whereof to be given as aforesaid, and the subscriptions made at the times and places appointed by the said States respectively, shall then be received, and such meeting may and shall be con-

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by Joseph Tatnal, &c.

On the first day of March, 1802.

Subscribers to meet in Wilmington, on notice given by the managers.

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Managers shall lay before the subscribers the books kept by them.

A list of the subscribers shall be returned to the Supreme court of Delaware, &c.

How an overplus in the capital shall be reduced.

tinued from day to day till the business is finished; and the acting managers at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice the books by them respectively kept, containing the state of the said subscriptions, and if one half of the capital sum aforesaid, should upon examination appear not to have been subscribed, then the said managers at the said meeting are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said managers, or any four or more of them, under their hands, to the general Court for the Eastern and Western shores of Maryland, and to the Supreme court of the States of Delaware and Pennsylvania, to be there kept and recorded; and in case more than five hundred thousand dollars shall be subscribed, then the sum shall be reduced to that sum by the said managers or a majority of them, by beginning at and striking off a share from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the capital of five hundred thousand dollars, or until a share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums to determine the numbers in which such subscribers shall stand on a list to be made for striking off as aforesaid, and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the said rule until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share, and if there still be an excess, then lots to be drawn to determine the subscribers who are to be excluded, to reduce the subscriptions to

the capital aforesaid, which striking off shall be certified in the list aforesaid, and no person shall subscribe less than one whole share; *Provided*, That unless two hundred and fifty thousand dollars of the said capital shall be subscribed as aforesaid, all subscriptions made in consequence of this act shall be void, and in case two hundred and fifty thousand dollars, and less than the whole said capital shall be subscribed as aforesaid, then the president and directors appointed as hereinafter mentioned, are hereby empowered and directed to take and receive the subscriptions which shall be first offered, in whole shares as aforesaid, until the deficiency shall be made up, a certificate of which additional subscriptions shall be made, under the hands of the president and directors for the time being, or of a majority of them, and returned to and recorded in the courts herein before mentioned.

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Unless half the capital is subscribed, all subscriptions shall be void.

SECT. 2. *And be it enacted*, That in case one half of the said capital, or a greater sum shall be subscribed as aforesaid, the said subscribers and their heirs and assigns, from the time of their said first meeting, shall be and they are hereby declared to be incorporated by the name of the *Chesapeake and Delaware Canal Company*, and may have perpetual succession, and sue and be sued as such, and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and nine directors, for conducting, directing and completing said canal, and managing the business of the said company, for and during such time not exceeding five years, as the said subscribers, or a majority of them shall think proper, and every subscriber shall be allowed one

Incorporation of the company.

Style of the corporation.

Empowered to elect a president and directors.

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vote for every share not exceeding five shares, and one vote for every three shares above ten held by him or her in the said company; and any stockholder by writing under his or her hand and seal, executed in the presence of two witnesses, may depute any other member or stock holder to vote and act as his or her proxy at any general meeting.

Powers of the  
president & di-  
rectors,

to elect officers.

SECT. 3. *And be it enacted,* That the said president and directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of the said company to cut such canals, and erect such locks, and perform such other works as they shall judge necessary for opening, improving and extending the navigation between the bay of Chesapeake and the river Delaware, or the waters of Chesapeake and the said river or bay of Delaware, and carrying on the same from place to place, and from time to time, and upon such terms and in such manner as they shall think fit, and out of the money arising from the subscriptions and tolls, and other aids hereinafter given to pay for the same, and to repair and keep in order the said canals, locks and other works necessary thereto, and to defray all incidental charges, and also to appoint a treasurer, clerk and such other officers, toll gatherers, managers and servants, as they shall judge requisite, and to agree for, and settle their respective wages or allowances, and settle, pass and sign their accounts, and also to make and establish rules of proceedings, and to transact all other business and concerns of the said company, in and during the intervals between the general meetings of the same, and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall by a general meeting of the subscribers be deter-

mined; *Provided always*, That the treasurer shall give bond, in such penalty and with such security as the said president and directors, or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him; and that the allowance to be made to him for his services, shall not exceed five dollars in the hundred for the disbursements by him made, and that no officer in the said company shall have any vote in the settlement or passing his own account.

Treasurer shall give bond.

His allowance.

SECT. 4. *And be it enacted*, That the said president and directors, or a majority of them, shall have full power and authority, from time to time as money shall be wanted, to make and sign orders for that purpose, and direct at what time and in what proportion, the proprietors shall advance and pay the sums subscribed, which orders shall be advertised at least three months in some of the Maryland, Delaware and Pennsylvania newspapers: and they are hereby authorized and empowered to demand and receive of the several proprietors from time to time the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order, the said works until the sums subscribed shall be fully paid, and to order the said sums to be deposited in the hands of the treasurer to be by him disbursed and paid out, as the said president and directors or a majority of them shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the time of payment so ordered and advertised as aforesaid, then the share or shares of the said proprietor, and all monies thereon paid, shall be forfeited to the company, and shall be sold by them to any person willing to purchase for such price as can be obtained there-

President and Directors empowered to draw on the proprietors.

Treasurer to receive and pay the same.

Penalty for neglect.

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Proviso.

for, and the said purchaser or purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor; *Provided*, that in case of the death of any stockholder, the neglect or refusal of his executor, administrator, or legatee, to make the payment that may be required as aforesaid, shall not have the effect to forfeit immediately the said share or shares held by the said stockholder in his life time, but the said executor, administrator or legatee, shall have one whole year next after the said death to make the payment required.

Continuance of  
officers.

SECT. 5. *And to continue the succession* of the said president and directors, and to keep up the same number; *Be it enacted*, That from time to time, upon the expiration of the said term for which the said president and directors were appointed, the proprietors of the said company, at the next general meeting, shall either continue the said president and directors, or any of them, or chuse others in their stead, and in case of the death, removal, resignation or incapacity of the president or any of the said directors, may and shall in manner aforesaid, elect any other person or persons, to be president and directors in the room of him or them, so dying, removing or resigning, or becoming incapable, and may at any of their general meetings remove the president, or any of the directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

Officers to take  
an oath for the  
due execution  
of his office.

SECT. 6. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

SECT. 7. *And be it enacted,* That the presence of proprietors having five hundred shares at the least shall be necessary to constitute a general meeting, and there be a general meeting of proprietors, on the first Monday of June in every year, at such convenient place as shall be from time to time appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend on that day, may adjourn such meeting from time to time till a general meeting of proprietors shall be had, which may be continued from day to day until the business of the company is finished, at which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings, and in finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the said company's books; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors or a majority of them shall judge necessary, for repairs and contingent charges, an equal dividend of all the net profits arising from the tolls hereby granted, shall be ordered and made to and among all the proprietors of the said company in proportion to their several shares.

Proprietors holding 500 shares, necessary to form a general meeting.

Time of meeting.

President, &c. shall render accounts of their proceedings.

SECT. 8. *And be it enacted,* That for and in consideration of the expences the said stockholders will be at, not only in cutting the said canal, and other works, for opening the said navigation, but in maintaining and keeping the same in repair, the said canal works, with all their profits under the limitations aforesaid, shall be and the same are hereby vested in the said corporation forever; subject nevertheless to the condition hereafter

Profits vested in the corporation.

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mentioned; and that it shall and may be lawful for the said president and directors, after the said canal shall be made navigable, to demand and receive the following tolls at such place or places in the canal as they may hereafter direct; *provided* that the whole toll received shall not amount to more than the rates fixed by this Act; *that is to say* :

	<i>Dols. Cts.</i>
Rates of toll.	
Every Pipe of Wine or French Brandy	1 25
Every Hogshead of Wine or Rum, or other Spirits	1 0
Every Hogshead of Tobacco	1 0
Every Hogshead of Beer, Cider, Rice or Molasses	0 75
Every Barrel	0 25
And all other Casks or Kegs in proportion according } to the Quantity and Quality of their contents. }	
For Casks of Linseed Oil, same as Spirits	
Every Bushel of Wheat, Peas, Beans or Flaxseed	0 4
Every Bushel of Indian Corn or other Grain or Salt	0 2
Every Barrel of Pork, Beef or Fish	0 30
Every Barrel of Flour	0 20
Every Ton of Hemp, Flax, Potash, Bar or } manufactured Iron }	2 0
Every Ton of Pig Iron or Castings	1 0
Every Ton of Copper, Lead or other Ore, other } than Iron Ore }	1 0
Every Ton of Stone or Iron Ore	0 50
Every Chaldron of Coals	0 37
Every Hundred Pipe or hogshead Staves, or Pipe } or Hogshead Heading }	0 10
Every Hundred Barrel Staves, or Barrel Heading	0 6
Every Thousand Shingles two feet long or more	0 75
Every Thousand Shingles less than two feet long	0 50
Every Hundred Cubic Feet of Plank or Scantling	0 75
Every Hundred Cubic Feet of other Timber	0 40
Every Gross Hundred Weight of all other Com- } modities or Packages }	0 10

And for all other commodities the same proportion, agreeably to the articles herein enumerated.

And every boat or vessel which has not commodities on board, to pay the sum of four dollars,

shall pay so much as, with the commodities on board will yield the sum aforesaid.

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And every empty boat or vessel four dollars, except an empty boat or vessel returning, whose load has already paid the tolls affixed, in which case she shall repass toll free, *Provided* such boat or vessel shall return within thirty days after paying said tolls.

SECT. 9. *And be it enacted*, That in case of refusal or neglect to pay the toll at the time of offering to pass through the said canal, and previous to the vessel passing through the same, the collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass without paying the said toll, then the said collectors may seize such vessel where ever found, and sell the same at auction for ready money, which so far as is necessary, shall be applied towards paying said toll, and all expences of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having the direction of such vessel shall be liable for such toll if the same is not paid by the sale of such vessel as aforesaid; *Provided*, that the said proprietors or a majority of them, holding at least five hundred shares, shall have full power and authority at any general meeting to lessen the said tolls, or any of them; *Provided also*, That the same rate of tolls shall be paid on articles passing from Chesapeake to Delaware, as upon those paid from Delaware to Chesapeake.

Penalty on persons refusing to pay toll.

Proprietors may lessen the tolls.

Proviso.

SECT. 10. *And be it enacted*, That the said canal and the works to be erected thereon, in virtue of this act when compleated, shall forever thereafter be esteemed and taken to be navigable as a public

Canal to be esteemed a public highway.

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high way free for the transportation of all goods, commodities or produce, whatsoever, on payment of the tolls imposed by this act; and no toll or tax whatsoever, for the use of the waters of the said canal and the works thereon erected, shall at any time hereafter be imposed by all or either of the said States, except as is herein after *provided*.

President, &c.  
may agree with  
the owners of  
lands for the  
purchase there-  
of,

But if the  
owner is inca-  
pacitated to  
sell; then the  
clerk of the  
supreme court,  
&c.

SECT. 11. *And be it enacted*, That it shall and may be lawful for the president and directors or a majority of them, to contract and agree, with the owner or owners of any land and tenements, for the purchase of so much thereof as shall be necessary for making, digging and perfecting so much of the said canal as may pass through this State, and of erecting and establishing all the necessary locks, works and devices, to such a navigation belonging, if they can agree with such owners; but in case of disagreement, or in case the owner thereof shall be *a feme covert*, under age, *non compos mentis*, or out of the State, or otherwise incapacitated to convey, then it shall and may be lawful to and for the said president and directors, to apply to the clerk of the Supreme court of this State, for the county or counties through which the said canal is intended to pass, who upon such application, is hereby authorised, empowered, enjoined and required to issue one or more writ or writs as occasion shall require, in the nature of a Writ of *ad quod damnum*, to be directed to the Sheriff of the county in which such lands and tenements shall be, describing the same, and naming the owner thereof, and commanding the said Sheriff that by the oaths or affirmations of twelve good and lawful men of his bailiwick, who shall be indifferent to the parties, he

shall enquire whether the person or persons, owning any lands and tenements, necessary to be used by the said president and directors, or which shall be injured by the establishment of the said canal, will suffer and sustain any and what damages, by reason or means, of taking any such lands, tenements or other real hereditaments, necessary for the use of the said canal and navigation, and the locks and works thereto belonging, or by reason of the said canal passing through any such lands and tenements, and separating the same, or by any ways or means whatever, and to return the same writ together with the finding of the said jury, to the next Supreme court of this State, after such finding; and upon such writ being delivered to the said Sheriff, he shall give at least ten days notice in writing to the parties in the said writ named, or their representatives, of the time of executing the same, and shall cause to come upon the premises at the time appointed, twelve good and lawful men of his bailiwick, who shall be selected in such manner as struck juries usually are, to whom he shall administer an oath or affirmation, *that they will diligently enquire concerning the matters and things in the said writ specified, and a true verdict give according to the best of their judgments and ability, without favour or partiality to any*; and thereupon, the said Sheriff and inquest shall proceed to view all and every the lands and tenements or other real hereditaments, in such writ specified, and having considered the quantity and quality of so much as shall be necessary to be vested in the said company, for the purposes aforesaid, they shall cause the same to be minutely and exactly described by metes and bounds, or other particular descriptions, and shall value and appraise the injury and damages which

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Sheriff to return the writ to the Supreme court.

To give notice to the parties.

Oath of the jurors.

Jury to assess damages.

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Sheriff and jury  
to make in-  
quisition and re-  
turn it to the  
Supreme court:

who is author-  
ized to enter  
judgment.

The company,  
on payment of  
the damages,  
entitled to the  
land.

the owner or owners, of such lands, tenements, hereditaments or other improvements, will according to their best skill and judgment, sustain and suffer by means of the same being vested in the said company, or by means of any works being destroyed, or rendered useless, or of less value, or by reason of said canal passing through any such lands and tenements, and separating the same, or by means of any water course being diverted, and turned or emptied into the said canal, or by any means whatsoever, defining and ascertaining as well all such lands and tenements, liberties and privileges, so to be vested in the said company, as the several sums at which the said injuries and damages shall be so assessed; and the said Sheriff and jury shall make an inquisition under their hands and seals, distinctly setting forth all the matters and things aforesaid, and the Sheriff shall forthwith return the sum together with the said writ, to the office of the clerk of the Supreme court, and at the first Supreme court, which shall be held next after the return of any such writ, the judges of the said court shall examine the same, and if the said writ shall appear to have been duly executed, and the return thereof be sufficient to ascertain the lands and tenements, rights, liberties and privileges intended to be vested in the said company, and the several compensations awarded to the owners thereof; then the said court shall enter judgment, that the said company paying to the owners as aforesaid, the several sums of money in the said inquisition assessed, or bringing the same into court for the use of such owners, and also paying the costs of the said writ, and of executing and returning the same, shall be entitled to have and to hold to them and their successors and assigns for ever, all and every the lands, tenements, rights, liberties and privi-

leges, in the said inquisition described, as fully and effectually as if the same had been granted to them by the respective owners thereof; and if any return so to be made, shall not be sufficiently certain for the persons aforesaid, the said court shall award an inquisition *de novo*.

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SECT. 12. *And be it enacted*, That the said president and directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchase of a quantity of land, not exceeding one acre, at or near convenient places for the receipt of tolls aforesaid, for the purpose of erecting necessary buildings, and in case of disagreement, or any of the disabilities aforesaid, or the proprietor being out of the State, then such land may be valued; condemned and paid for as aforesaid, for the purpose aforesaid, and the said company shall, upon payment of the valuation of the said land, be seized thereof in fee simple as aforesaid.

President, &c.  
may purchase  
land for the  
erection of  
buildings.

SECT. 13. *And be it enacted*, That it shall and may be lawful for every of the said proprietors to transfer his share or shares, by deed executed before two witnesses, and registered after proof of the execution thereof in the said company's books, and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the said company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls: *Provided* that no transfer whatsoever shall be made, except for one or more whole share or shares, and not for part of such shares, and that no share shall at any time be sold, conveyed, transferred, or held in trust, for the use and benefit, or in the name of another, whereby the said president and directors, or proprietors of said com-

Proprietors  
may sell their  
shares.

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pany, or any of them shall or may be challenged or made to answer concerning any such trust, but that every person appearing as aforesaid to be a proprietor, shall as to others of the said company be to every intent taken absolutely as such, but as between any trustee, and the person for whose benefit any trust shall be created, the common remedy may be pursued.

The company may increase the capital, as from time to time appears to them necessary.

SECT. 14. *And be it enacted*, That if the said capital, and the other aids already granted by this act shall prove insufficient, it shall and may be lawful for the said company from time to time to increase the said capital, by the addition of so many more whole shares, as shall be judged necessary by the said proprietors or a majority of them, holding at least five hundred shares present at any general meeting of the said company; and the said president and directors or a majority of them, are hereby empowered and required, after giving at least one month previous notice thereof in some of the Maryland, Delaware and Pennsylvania newspapers, to open books at such place or places, as shall be directed by said meeting, for receiving and entering such additional subscriptions, in which the proprietors of the said company for the time being, shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose; and the said president and directors are hereby required to observe in all other respects the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any four or more of them an exact list of such additional subscriptions, with the sums by them re-

spectively subscribed into the general courts as aforesaid, to be there recorded, and all proprietors of such additional shares, shall be, and they are hereby declared to be from thence forward incorporated into the said company.

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SECT. 15. *And be it enacted,* That if the stockholders, or the president and directors aforesaid should neglect or omit, or be by any accident prevented from performing any act or thing on the particular day, on which it is directed by this act to be done and performed, such neglect or omission shall not be construed or taken in any manner to destroy or invalidate this charter, but the said act may be done at the next convenient day.

Stockholders omitting their duty, shall not destroy this charter.

SECT. 16. *And be it enacted,* That whenever said canal shall cross any public road, it shall be the duty of said company, at the proper expence of the same, to make and keep good and sufficient bridges across the said canal, so as to prevent any inconvenience, in the usage of said road or roads by reason of said canal crossing the same, and that it shall be lawful for the Legislature of this State, at all times hereafter, to enact laws for the erecting and maintaining bridges across the said canal, at the expence of the said company, and to subject the said company to forfeitures, pains and penalties for not complying with such laws.

Bridges to be kept across the Canal at all the public roads.

Legislature empowered to erect bridges.

SECT. 17. *Provided nevertheless, and be it enacted,* That whenever and so long as the net profits arising from the said tolls shall amount to ten per centum per annum, or more, the Chesapeake and Delaware canal company aforesaid, shall pay into the treasury of this State, for the use of the State, one tenth part of the said net profits, annually, in half yearly payments, for ever; and in default of

Per centum to the State.

Repealed, 4 vol. 348.

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the payment of the said tenth part of the said net profits, at or before the respective times herein before limited and appointed, then all the estate hereby granted to the said Chesapeake and Delaware canal company, in the lands and tenements which may be purchased or condemned as aforesaid, shall cease and determine, and all and every the said lands and tenements shall revert to their former owner or owners thereof, or their heirs, and the benefit of taking tolls granted by this act, shall cease and determine.

Company shall not lessen the rates of toll.

Repealed, 4 vol. 348.

SECT. 18. *Provided nevertheless, and be it enacted,* That it shall not be lawful for the said Chesapeake and Delaware canal company, to lessen the rates of tolls fixed by this act, without the assent of the legislature of the State of Delaware.

The Corporation not complying with the terms contained in this act, shall be dissolved.

Repealed, 4 vol. 348.

SECT. 19. *And be it enacted,* That it is on the condition of the Chesapeake and Delaware canal company, making the payments and complying with the terms mentioned in the seventeenth and eighteenth sections of this act, that this present act of incorporation is passed, and in case the same and every part thereof shall not be complied with by the Chesapeake and Delaware canal company aforesaid, according to the true intent and meaning thereof, the authority, estate, right, privileges and tolls, hereby given to them, shall cease and determine, and the said corporation shall *ipso facto* be dissolved, and this act be repealed, any thing herein contained to the contrary in any wise notwithstanding.

Books of the company shall be open to the inspection

SECT. 20. *And be it enacted,* That the books, papers and transactions of the said Chesapeake and Delaware canal company, shall at all times be open to the inspection and examination of the

auditor of accounts, or such other person or persons as shall be appointed by the general assembly of this State for that purpose, in order that the net profits arising from the said tolls may be ascertained and reported to the general assembly.

of the auditor.

Repealed; 4 vol. 348.

SECT. 21. *And be it enacted*, That this act of general assembly shall be of no force or effect until the State of Pennsylvania shall pass a law to authorize and empower an agent or agents to be appointed by the governor of this State, to have free access to the papers in their land office, and to transcribe and copy, or procure to be transcribed and copied under his or their care and direction, in one or more well bound books, in folio, all such warrants, surveys, resurveys, patents, grants and other original papers, as may be found in the land office, or in any other office of the State of Pennsylvania, which in any wise relate to, or make the title or part of the title to lands, tenements or hereditaments, within this State; and which cannot be removed without injuring or spoiling the records or other papers in the said office or offices, [and also until such transcripts and copies shall be actually made and compared with such warrants, surveys, resurveys, patents, grants and other original papers by such agent or agents as aforesaid, and be brought into this State by the said agent or agents for the use of the citizens of the State; and also until all such original warrants, surveys, resurveys, patents, grants and other papers which can be taken and separated from other records and papers in said land office or other offices of the State of Pennsylvania, shall be first selected by and delivered whole and undefaced as they now remain, to such agent or agents, and he or they be allowed to bring the same into this State, and to be kept here for the use of the citizens of the State;]

This act to be of no effect until the State of Pennsylvania pass certain laws.

[So much of this Sec. as is between crotchets, repealed 3 vol. 348.]

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and as soon as the said transcripts and copies, and original warrants, surveys, resurveys, patents, grants, and other original papers, shall be so procured and brought into this State, the governor is hereby directed and required to give public notice thereof by proclamation, from the date whereof this act shall have operation, and be in full force and effect, and not before, upon the terms and conditions mentioned in this act.

SECT. 22. *And whereas* it is the opinion of this Legislature, that the ports of Wilmington and New-Castle in this State, have been materially affected by the operation and effect of certain provisions and regulations contained in the quarantine laws of the Commonwealth of Pennsylvania, it is hereby expressly provided, *and be it enacted*, that this law shall be of no force or effect whatsoever, until the Legislature of the Commonwealth of Pennsylvania shall repeal such part or parts of their quarantine laws, as do require a longer term or time, for the admission into the port of Philadelphia, of goods, wares and merchandizes, which have been unladen within this State from on board any ship or vessel, coming from any sickly port or place into this State, or which may have been originally bound for Philadelphia, or elsewhere, or for the admission into the city of Philadelphia, of the crew or passengers of such ship or vessel, than is required by the same laws for the admission into the said port of Philadelphia, of goods, wares and merchandizes, unladen within the Commonwealth of Pennsylvania, from on board any ship or vessel coming from any sickly port or place into the Commonwealth of Pennsylvania, or of the crew or passengers.

*Passed at Dover, January 29, 1801,*

## C H A P. LXXIX.

C H A P.  
LXXIX.  
1801

*A Supplement to an act, entitled, "An act for regulating and establishing fees," 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 from and after the passing of this act, every clerk, prothonotary; or register, shall on every non-suit, discontinuance, abatement, or retraxit, decree, judgment, 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 officers, 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 and return the fees as aforesaid, such officer so neglecting shall forfeit and pay thirty dollars for each offence, to be recovered as is directed by the act to which this is a supplement. And for every such bill of costs, the said clerk or prothonotary shall be entitled to twenty-five cents, to be charged to the party against whom the same is properly chargeable; and for advertising the trial of causes, the clerk or prothonotary shall be entitled to eight cents for each cause, and for entering a judgment or a justice's transcript, to sixty-seven cents.

Bill of costs to be entered at large on the dockets.

Penalty for neglect.

Clerks fees.

SECT. 2. *And be it further enacted,* That it shall be the duty of the respective courts in this State, and they are hereby required and enjoined to tax all bills of costs upon application made to them

Duty of the courts.

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LXXIX.  
1801

at any time by the party or parties concerned, or his, her or their agent or attorney, and to ascertain and make out the true costs, and to cause the entries on their respective dockets, if erroneous, to be corrected, so that no other than the costs allowed by law may be recovered.

Sheriff's duty.

SECT. 3. *And be it enacted,* That whenever any Sheriff, or person who hath held the office of Sheriff, shall levy or receive by means of sale, or in any other manner whatever, any debt, damages or costs contained in any writ of execution, or any part thereof, or shall by any means whatever procure a settlement of any such debt, damages or costs, or any part thereof, the said Sheriff, or person who hath held the office of Sheriff, his executor or administrator, shall within thirty days after levying, receiving or settling any such debt, damages or costs, or part thereof, appear in the office of clerk of the Supreme court, or prothonotary, as the case may be, and endorse upon every such execution, if the same hath been returned, such sum or sums of money so levied, received or settled, and the dates thereof; and if the said execution hath not been previously returned, then the return of such execution shall contain and specify the levying, receiving or settling such sum or sums of money as hath or have been levied, received or settled as aforesaid, and the dates thereof; and the said clerk or prothonotary shall enter on his docket the said endorsement and return, and whenever it shall appear by such endorsement or return, that the said execution hath been fully satisfied, the said clerk or prothonotary shall note the same on the original judgment, upon which such execution hath issued; and if any Sheriff, clerk or prothonotary, shall neglect or refuse to do and perform the several things

Clerk and prothonotary's duty.

herein required of him, the court from whence the said execution issued shall punish the said Sheriff, clerk or prothonotary for contempt of the said court, as other contempts are punished.

Penalty for neglect.

SECT. 4. *And be it enacted*, That whenever any plaintiff or plaintiffs, complainant or complainants, shall obtain satisfaction of any decree made in the Court of chancery, in this State, or of any judgment, entered or recovered by him, her or them in the Supreme court, or in the Court of common pleas, in any county in this State, without execution being sued out, it shall be the duty of every such complainant or complainants, plaintiff or plaintiffs, and he, she and they are hereby required and enjoined within ninety days after satisfaction received, to appear by him, her or themselves, or by his, her or their attorney, in the office of the said court, in which the said decree or judgment shall be, and there enter satisfaction of such decree or judgment on the docket in which said decree or judgment shall be recorded; and in case of neglect, or refusal so to do, the said complainant or complainants, plaintiff or plaintiffs shall forfeit and pay the defendant or defendants, his, her or their executors or administrators, any sum of money not exceeding a moiety of the money so paid or satisfied, to be recovered by action of debt, bill, plaint or information, in any court of record in this State, or before any justice of the peace, in case the said moiety of said money shall not exceed twelve pounds, as other debts under twelve pounds are recoverable.

Plaintiff's duty on obtaining satisfaction before execution.

Penalty for neglect.

*Passed at Dover, January 29, 1801.*

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## CHAP. LXXX.

*An ACT to vacate a road therein mentioned.*

**W**HEREAS it has been represented to this General Assembly, that part of the road leading from Ellis's Tavern, in Cecil county, in the State of Maryland, to the Buck Tavern, in New-Castle county, is of no public advantage, by reason of other roads which have since been established in that neighbourhood, much more beneficial to the community, and advantageous to the owners of the contiguous lands,

*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 road as crosses the land of James A. Bayard, and runs from the road leading from Bohemia Ferry to the Buck Tavern, to the road which runs from Ellis's Tavern to Elkton, shall be, and is hereby declared to be vacated, and that it shall and may be lawful for the said James A. Bayard, his heirs and assigns to enclose and shut up the said road.*

*Passed at Dover, January 29, 1801.*

## CHAP. LXXXI.

*An ACT to authorize the Treasurer of this State to pay the claims therein mentioned.*

**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 authorized and directed to pay to John Clark and James Sorden,

administrators with the will annexed, of Brinckle Roe, late Sheriff of Kent county, for his attendance on the High Court of errors and appeals, at August term last, five dollars; to Henry Molliston or to his order, for his attendance on the High Court of errors and appeals, during his Sherifflyty, sixteen dollars and forty cents; to William Black or his order, for printing three hundred copies of the laws passed in January, eighteen hundred, and for printing four quires of blank commissions, fifty-five dollars and thirty-six cents; to Samuel and John Adams, for printing the journals of the two houses of the general Assembly, of their session in January, eighteen hundred, three hundred and three dollars and thirty-three cents; and to John Clarke, State treasurer, for his travelling charges, attendance, expences and time at Philadelphia, and in Sussex, for public services required by the laws of this State, fifty-five dollars, out of any money in the treasury of this State not otherwise appropriated.

Allowance to Brinckle Roe's administrators.

To H. Molliston.

To William Black.

To S. & John Adams.

To John Clarke.

Passed at Dover, January 30, 1801.

C H A P. LXXXII.

An ACT to procure certain papers, or copies thereof, from the land office in Pennsylvania.

See page 187, 245, 298.

WHEREAS from the former communication between Delaware and Pennsylvania, as to jurisdiction and government, many of the warrants, surveys, patents, and grants for lands within the State of Delaware, were filed and recorded in the land office of Pennsylvania, where by the inhabitants of this State have sustained

Preamble.

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great hardships and expence in procuring authenticated copies of such original papers and records.

Governor authorized to appoint an agent to procure from Pennsylvania copies of all warrants, &c. which relate to lands in this State.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the Governor of this State be, and he is hereby authorized and required to appoint an agent on behalf of this State, to repair to the State of Pennsylvania, and permission being first obtained from the said State, to transcribe and copy, or procure to be transcribed and copied, 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 land office, or in any other office of the State of Pennsylvania, which in any wise relate to, or make the title, or part of the title to any lands, tenements or hereditaments in this State, and which cannot be removed without injuring or spoiling the records or other papers in the said office or offices; and the said agent is hereby required carefully and diligently to compare such transcripts and copies with the originals in the said office and offices; and also to select and obtain from the said State, all such original warrants, surveys, re-surveys, patents, grants and other original papers which can be taken and separated from other records and papers in said land office and other offices of the State of Pennsylvania, whole and undefaced as they now remain, without injuring or defacing other records in the said office and offices, and the said transcripts, copies and original warrants, surveys, re-surveys, patents, grants and other original papers to bring into this State, to the end that the same being first examined and approved by the Legislature of this State, may be deposited in the office for recording of deeds in Dover, as public records.

In what cases he shall get the originals.

Where to be deposited.

SECT. 2. *And be it enacted,* That the Governor be, and he is hereby authorized and empowered to draw an order on the State treasurer, in favour of the person so to be appointed, for any sum not exceeding five hundred dollars, as a compensation for his services in the said business.

Governor empowered to draw on State treasurer for 500 dolls.

SECT. 3. *And be it further enacted,* That such agent, his assistant or assistants, if any be necessary, shall before he or they or either of them enter upon the duties required by this act, take an oath or affirmation before some person lawfully qualified to administer the same, *that he or they will faithfully and diligently discharge the trust reposed in him or them.*

Agent to take an oath.

*Passed at Dover, January 30, 1801.*

C H A P. LXXXIII.

*An ACT for making the bridge across Naaman's creek, in the county of New-Castle, a public toll bridge.*

3d vol. 243.  
Repealed 4th  
vol. 649.

**W**HEREAS the erection and support of the numerous bridges over creeks and deep waters within the county of New-Castle, is extremely burdensome to the good people thereof; and whereas they have lately erected, at a very considerable expence, a new bridge over Naaman's creek, on the main road leading from the borough of Wilmington to the city of Philadelphia, for the repairing and keeping up said bridge or bridges, it is but reasonable that those who enjoy the advantages should contribute to their con-

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tinuance, and but just and right that the public expences of the county should be thereby lessened.

Bridge over  
Naaman's creek  
a public toll  
bridge.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the first day of May next, the bridge across Naaman's creek, in the county of New-Castle, on the State road leading from the borough of Wilmington to the city of Philadelphia, shall be deemed, held and taken, and the same is hereby declared to be a public toll-bridge, for the passing and repassing whereof, the rates of toll or pontage hereinafter prescribed and set forth, shall be payable to and for the uses hereafter mentioned.

Commissioners  
of the Levy  
court to appoint  
a collector.

To give bond.

SECT. 2. *And be it enacted,* That the commissioners of the Levy court and Court of appeal be, and they are hereby authorized, empowered and directed at their meeting in February next, and annually thereafter, to nominate and appoint some suitable person for the purpose of collecting and receiving the rates of toll or pontage hereinafter prescribed; and the person so appointed, shall as soon thereafter as he conveniently can, and before he enters upon the duties of his said appointment, give bond with one or more sufficient sureties, with a warrant of attorney annexed thereto, to confess judgment in the penalty of four thousand dollars to the treasurer of the said county of New-Castle, conditioned for the true and faithful performance of the duties reposed in him as collector and receiver of the tolls of the said bridge, and that he will render a true and perfect account, verified by his oath, to the said commissioners of the Levy court and Court of appeal, at their annual session, of all and every sums or sum of money which shall come to his hands, or possession as collector

and receiver of the said tolls, and the same, or the balance thereof (after a reasonable allowance thereout for the time and trouble of collecting and receiving the same) shall and will faithfully and truly discharge and pay into the hands of the said treasurer.

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SECT. 3. *And be it enacted*, That the person who shall be appointed aforesaid collector and receiver of the tolls of the said bridge, under the regulations of this act, shall take and receive for toll or pontage over the same, the rate and prices following, *to wit*: for every single horse and rider three cents, for every led horse, ox, cow or heifer one cent, for every sheep or hog half cent, for a coach or other pleasurable carriage with four wheels, drawn by four horses or more, and passengers, twenty-five cents, and for the same carriages drawn by two horses twelve and a half cents, for every stage waggon, mail stages owned by the United States excepted, drawn by either two or four horses or more, eighteen cents, for a chair, sulkey or sleigh, with a driver, six cents, for a waggon or cart with four or more horses or oxen and driver ten cents, for every other cart or waggon, with less than four horses or oxen and driver four cents: *provided* that no foot passenger shall pay any toll. Rates of toll.

SECT. 4. *And whereas* it is just that the rights and interest of those persons residing near the said bridge should be attended to, so that they may not be affected too much or oppressed with the payment of the tolls or pontage imposed on passing the same; *Be it enacted*, That it shall and may be lawful for the person authorized as aforesaid, to collect and receive the said tolls, and he is here- Rates may be commuted for an annual sum.  
Repealed, 3d vol. 243.

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Disputes re-  
specting com-  
mutation by  
whom deter-  
mined.

by required in case any person or persons shall prefer an annual contract for the use of the said bridge, to agree with any person or persons residing in New-Castle county, within five miles distance from the said bridge, for the use of the said bridge annually for himself or herself, and for his or her family, at any sum not less than one dollar, nor more than four dollars; and in case any stage owner or proprietor shall prefer an annual contract for the use of the said bridge, to agree with him, her or them, for the use of the bridge annually for his, her or their stages, at any sum not less than twenty dollars, and not more than fifty dollars, and in case the said parties shall not be able to agree upon such annual compensation in lieu of the tolls aforesaid, the commissioners of Levy court and Court of appeal for the county of New-Castle, shall fix the same, and the sum so agreed or fixed, shall be paid half yearly and in advance; and in case such person or persons shall not make one half yearly payment always in advance, it shall be lawful for the said person duly authorized as aforesaid, to collect and receive the tolls or pontage as aforesaid, to collect and receive the tolls or pontage established by this act.

Exaction of  
more than le-  
gal rates,

How punished.

SECT. 5. *And be it enacted,* That if any person having the care and keeping of the said bridge, shall exact or demand greater rates or prices for the passing and repassing the same, than are herein before prescribed and specified, for every such offence so by him committed, he shall forfeit and pay any sum not exceeding ten dollars, one moiety thereof to the party grieved, and the other moiety to the treasurer of the said county, for the use of the county, to be recovered by indictment and conviction in the Court of general session of the peace for the county aforesaid.

SECT. 6. *And be it enacted,* That the person or persons to be appointed as aforesaid, collector or receiver of the said toll or pontage, shall account at his annual settlement with the commissioners of Levy court and Court of appeal aforesaid, and verify the truth and justice of the entries of all the receipts of the tolls and pontage aforesaid on oath; and the sum or sums of money found due from the said collector or receiver, on settlement with the commissioners of the Levy court and Court of appeal annually, as aforesaid, shall by him be paid into the hands of the county treasurer, to and for the use of the said county, to be applied to the support, maintenance and erection of bridges lying over creeks and deep waters, which by the laws of this State, are to be erected and supported at the common expence of the said county. *Provided nevertheless, and be it enacted,* That the said commissioners of the Levy court and Court of appeal, shall make a reasonable and competent allowance, such as they shall deem proper, from and out of the said tolls or pontage, to the said collector or receiver, as a compensation for his time and trouble in collecting and receiving the same.

Collector to settle annually, on oath, with the commissioners of the Levy court.

Levy court to make allowance to the collector.

*Passed at Dover, January 30, 1801.*

C H A P. LXXXIV.

*An ACT to incorporate a seminary of learning in the town of New-Castle.*

**W**HEREAS institutions for the instruction of youth in the various branches of useful learning, have an evident tendency to advance the welfare of society, by the promotion of knowledge and

Preamble.

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LXXXIV  
1801

virtue; *And whereas* the inhabitants of the town of New-Castle, and its neighbourhood, have, by voluntary contributions, erected an academy in the said town of New Castle, upon a lot of ground in the public square, which lot by an act of the Legislature, entitled an "an act for vesting the State house and other public buildings, with the lot of ground whereon the same are erected, together with other grounds situate in the town of New-Castle, in trustees for the uses therein particularly mentioned," was vested in trustees, and appropriated for erecting a school house or school houses thereon, and to be for that use for ever. *And whereas* the inhabitants of the said town, have solicited an act of incorporation for the better management of the said seminary of learning, and for rendering the same more extensively useful; and this general assembly being desirous to aid every beneficial institution, have agreed to enact.

Trustees.

SECT. 1. *And be it enacted by the Senate, and House of Representatives of the State of Delaware, in general assembly met,* That Kensey Johns, James Booth, George Read, Archibald Alexander, James Riddle, James Caldwell, Nicholas Vandyke, James M'Calmont and John Bird, and their successors, be and they are hereby declared to be one community, corporation or body politic, to have continuance forever by the name of the *Trustees of the New-Castle Academy*; and by the same name they shall have perpetual succession forever.

Trustees class-  
ed.

SECT. 2. *And be it enacted,* That the trustees herein named, shall at the expiration of one year, be divided by lot into three classes; the seats or places of the first class, shall become vacant at the expiration of one year thereafter; the seats or places of the second class, at the expiration of two

years thereafter; and the seats or places of the third class at the expiration of three years thereafter; so that one third may be chosen or appointed, annually, as hereinafter mentioned.

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SECT. 3. *And be it enacted,* That in order to supply the said vacancies, and to perpetuate the succession of trustees, the president of the board of trustees, shall within one week after every such vacancy shall happen, give notice thereof by one or more advertisements to be set up at the academy, in which he shall appoint a time for holding an election to supply the said vacancies, within twenty days after the date of the said advertisement, and that the contributors to, and supporters of the said academy, shall at the time so appointed, meet at the said academy, and elect proper persons to be trustees to supply such vacancies, but the trustees whose terms have so expired shall not be ineligible; *Provided always,* that to make such election valid, a majority of the persons entitled to vote shall assemble and elect; *Provided also,* that no person shall be deemed a contributor or supporter so as to entitle him or her to a vote, at such election, unless he or she shall have previously given towards the erection of the said academy or its endowment, the sum of twenty dollars at least, or at the time of the election hath, and for six months immediately preceding the same, had one or more pupils at the said seminary; and that the trustees hereafter to be elected, shall have the same qualifications as the persons entitled to vote.

Vacancies how supplied.

Electors how notified.

Qualification of electors.

SECT. 4. *And be it enacted,* That the trustees of the New-Castle academy, and their successors in office, or a majority of them, shall be vested with

Powers of the Trustees.

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the powers and authority hereinafter mentioned,  
*that is to say,*

To make by  
laws.

1st. They shall and may make, alter, repeal and again re-enact, all laws, regulations and ordinances which they may deem necessary and convenient, for the better government of the said academy as a seminary of useful learning; *Provided*, that nothing herein contained, shall be construed to authorize them to exercise any powers repugnant to the laws or constitution of this State.

To appoint pro-  
fessors,

2d. They may appoint professors, tutors, or such officers or persons as they may deem requisite for the said academy, under such rules and stipulations, and for such pecuniary compensations as they shall consider adequate and proper.

to manage the  
funds of the  
academy.

3d. They shall manage, apply, and dispose of the estate and funds of the academy, either by themselves or their agents (to whom may be allowed for their labours and services reasonable and moderate compensations) in such manner as may most redound to the benefit and advantage of the institution.

To elect officers

4th. They shall annually chuse one of their own body to be president of the board of trustees; and they shall from time to time appoint a treasurer, secretary, and such other officers as may be requisite, whose duties shall be prescribed by ordinances of the board of trustees; but the treasurer shall be required to enter into bond, to the corporation for the performance of his trust before he shall officiate as treasurer.

Schools for  
reading, &c.

5th. They shall always keep open a school or schools, in which the common branches of edu-

cation, *to wit*, Reading, writing and arithmetic shall be taught.

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6th. Whenever funds may be obtained, by donation or otherwise, sufficient for the education of the children of poor persons unable to defray the expence of education, it shall be the duty of the trustees to admit all such children, who shall receive their tuition without any charge therefor.

When the funds are sufficient, poor children to be taught gratis.

7th. They shall be capable of exercising all such other powers as may be necessary 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 shall be ordained by the regulations and ordinances of the said corporation.

SECT. 5. *And be it further enacted*, That whenever any vacancy shall happen in the board of trustees, by death, removal, incapacity, or resignation, or where no election shall be held as aforesaid, to supply the vacancies occasioned by the annual rotation of trustees, in either of these cases, the then remaining trustees, or a majority of them, shall supply the same, by a choice of persons, who shall continue therein as long as the trustees would have continued whose places are so supplied.

When a vacancy happens by death, &c. how supplied.

SECT. 6. *And be it further enacted*, That the trustees of the New-Castle academy, and their successors by the same name, shall be able and capable, in law and equity, to have, purchase, possess and enjoy any lands, tenements and hereditaments, goods, chattels, rights, credits and effects, of what nature, kind, or quality soever by the gift, grant, bargain, sale, alienation, devise or

Trustees incorporated.

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bequest of any person or persons, or bodies politic, or corporate; and to sell, dispose, alien, or demise the same in such manner and form as they shall think most advantageous for the benefit of the said institution.

May sue and be sued, &c.

SECT. 7. *And be it further enacted,* That the said corporation shall be able and capable in law to sue, and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of law and equity, or any other place whatsoever; and to do and execute all other matters and things, which bodies politic and corporate may lawfully do.

Shall use a common seal, and may change the same.

SECT. 8. *And be it further enacted,* That the said corporation shall have full power and authority to have and use a common seal, and to change 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.

Former trustees empowered to convey the lot on which the house stands.

SECT. 9. *And be it enacted,* That the surviving trustees or trustee, in whom is vested by the act of general Assembly herein before recited, the legal estate in the lot of ground whereon the said New-Castle academy is erected, are or is hereby empowered and directed to convey the said estate therein, to the trustees of the said academy.

SECT. 10. *And be it enacted,* That every matter and thing herein contained, shall be construed and taken most favourably and beneficially for the said corporation.

SECT. 11. *And be it enacted,* That the trustees of the New-Castle academy, shall annually, at least three months before the respective elections here-in before directed to be held for supplying the vacancies to be occasioned by the annual rotation of trustees, cause to be published a statement of the receipts and expenditures of the said corporation.

Trustees to publish annually their accounts.

SECT. 12. *And be it enacted,* That for the more effectual advancement of useful knowledge, the trustees of the New-Castle academy, and any other body or bodies politic and corporate, instituted for the advancement of learning, who may be desirous to engraft and consolidate their funds and estate, or any part thereof, with the funds and estate of the said academy, shall have full power and authority mutually to treat and agree with each other, and carry into effect the agreement in such manner and on such terms as may be deemed most proper to effect the object, whereby the said funds and estates may be consolidated and engrafted; and the same shall be, and are hereby declared to be vested in the trustees of the said academy, in conformity to the terms of such agreement, when made; *Provided,* that the body politic or corporate agreeing aforesaid to consolidate the funds and estates thereof, as aforesaid, and vest the same in the trustees of the said academy, shall be entitled to one or more representatives to be chosen and become trustees of the said academy, in such manner and under such regulations as the trustees of the said academy may agree and ordain.

Trustees may consolidate their funds with other similar institutions.

SECT. 13. *And be it enacted,* That the trustees of the New-Castle academy, shall not, on any pre-

Trustees shall  
not receive a  
compensation.

tence whatever, take or receive any pecuniary reward or compensation for their personal attendance or services, for their expences incurred in such attendance in the discharge of the duties or powers vested in them by this act.

*Passed at Dover, January 30, 1801.*

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### RESOLUTION

*Respecting the removal of the laws of this State to  
Dover.*

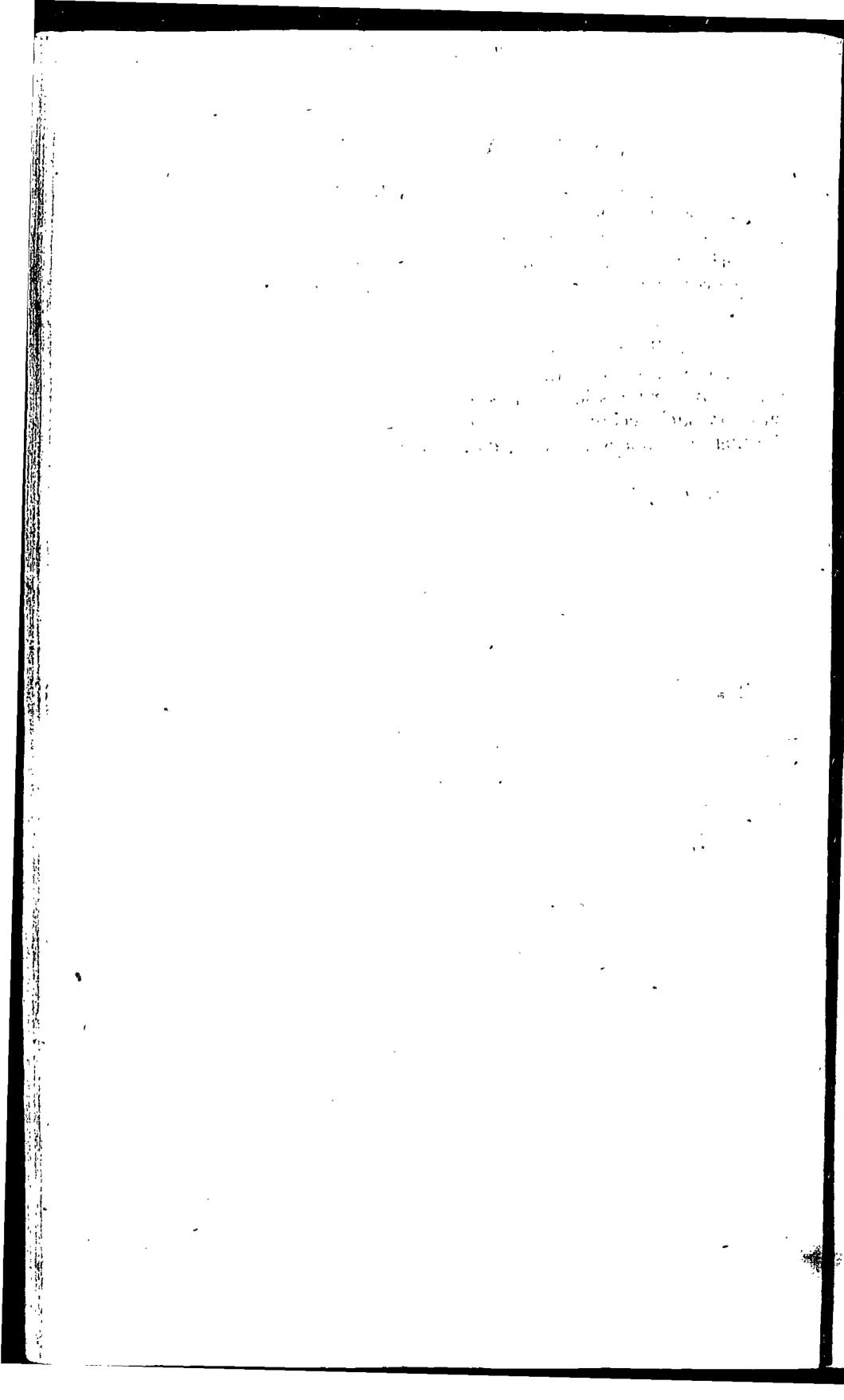
**R**ESOLVED, *By the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the copies of the laws of this State, which have been printed in pursuance of an act, entitled, "An act empowering the secretary to cause the laws of this State to be printed," and which remain unsold, be deposited at the town of Dover, to be there safely kept under the care of the secretary; and that this State will make good to the secretary any reasonable expences which may accrue in removing the said books to Dover; provided that the secretary be, and he is hereby required to furnish the citizens of the State in the several counties with the laws, in such manner as will be convenient to them, and at the same time secure to the State the money which may arise by the sale thereof.

*Resolved,* That the late secretary of the State account with the auditor of accounts, for such of the laws, as he, or others by his authority may have disposed of, or distributed, in pursuance of the laws of this State; and that on such settlement, he pay over to the treasurer of the State

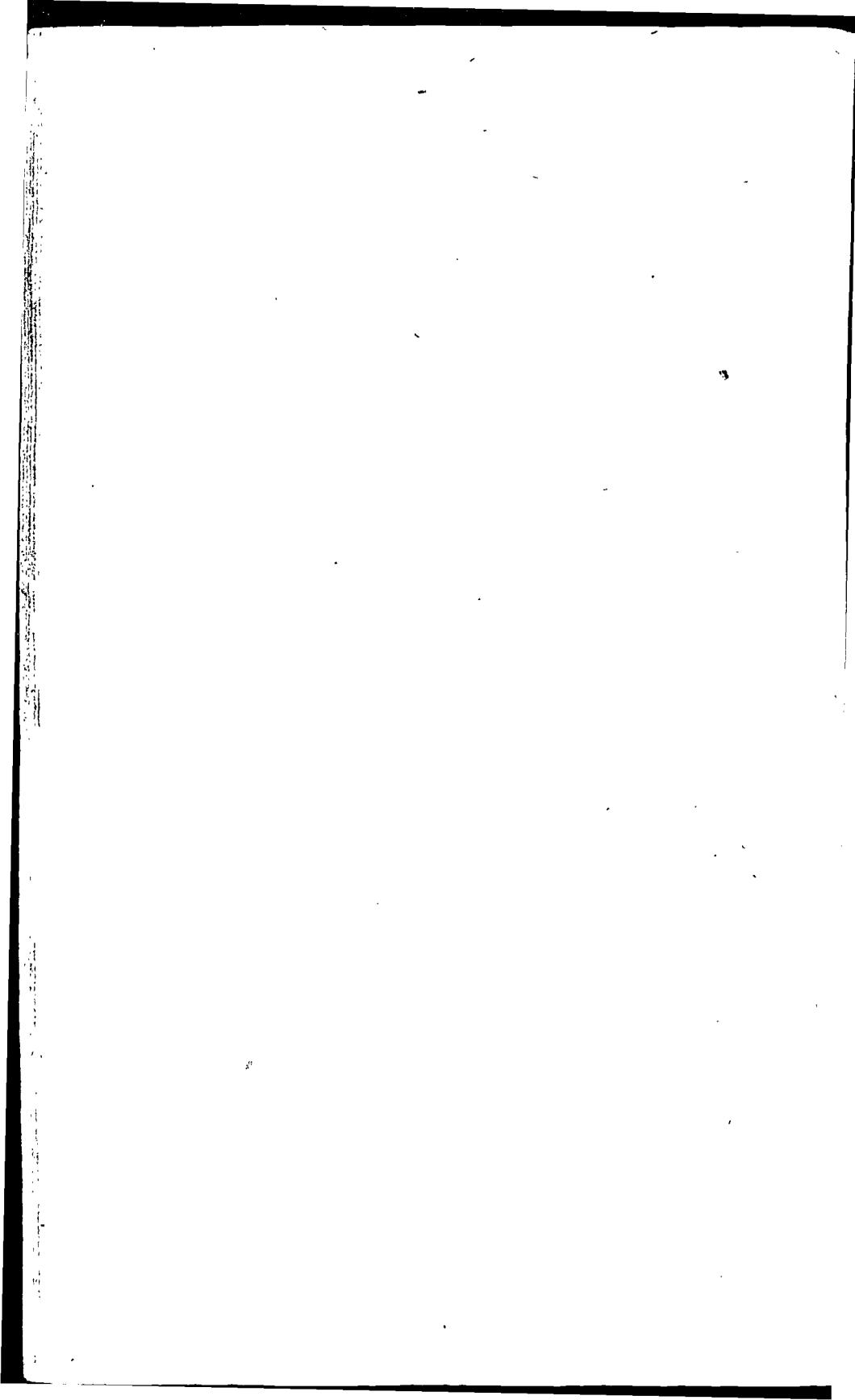
such sum of money as may be in his hands—And further, that the late secretary take a receipt from the present secretary, for such of the laws as he may deliver to him, pursuant to this resolution, and deliver such receipt to the auditor of accounts.

*Resolved,* That the secretary of the State for the time being, account with the auditor of accounts half yearly, for the sale of the said laws, and that on every such account, he pay to the treasurer of the State the money in his hands on such sale.

*January 28, 1801.*



2C



## C H A P. LXXXV.

C H A P.  
LXXXV.  
1801

*A Supplement to an act, entitled, "An act to prevent swine running at large within the bounds of Lewes Town, in Sussex county."* 1st vol. 324.

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 day of March next, no person or persons whatsoever, shall suffer or permit any of their hogs or swine to run at large within the limits or bounds described in the act to which this is a supplement, and that the owner or owners of all such hogs or swine, which shall be found trespassing, or without the enclosures of the said owner or owners, and within the limits of the said town, after the aforesaid day, shall forfeit the same. Swine trespassing after the 1st day of March, forfeited.

SECT. 2. *And be it further enacted,* That it shall and may be lawful for any person or persons whatsoever, to seize, drive, or carry all such swine, or hogs so found, or being at large, or trespassing, or without the inclosures of the respective owner or owners, within the aforesaid bounds of Lewes Town, to any lawful constable of Sussex county, for the time being, who is hereby authorized and required to receive and detain the same, and after three days public notice by advertisement at two of the most public places within the bounds aforesaid, to sell, or dispose of the same, and to pay over one half of the price therefor received, after deducting out his reasonable fees and other expenses necessarily arising thereon, to the person or persons who drove or brought the said hog, hogs or swine to him, and to apply the residue thereof, in such manner as he, together with two freeholders, to be chosen by him, within the said Any person may drive such swine to a lawful constable. How he shall dispose thereof.

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1802

limits, shall think most advantageous to the town aforesaid.

Method to be pursued where the owners of swine do not usually suffer them to run at large.

SECT. 3. *And be it further enacted,* That in case the owner or owners of any such hog, or hogs, or swine, that shall be seized, taken up, or driven to a constable, as aforesaid, shall put in a claim that he, she, or they did not usually suffer or permit their swine as aforesaid, to run at large within the bounds or limits of said town, as described in the act to which this is a supplement, then, in every such case, the constable who has charge of the said hogs or swine, so claimed, shall summon three freeholders of said town, to hear the complaints, and if it shall appear from the report of the freeholders, as aforesaid, that the owner or owners of said swine, did not usually suffer or permit them to run at large, as aforesaid, then, upon the payment of reasonable costs, and the actual expense of feeding such hog, hogs, or swine, the owner or owners thereof shall have the same delivered to them by said constable.

Parts of the original act contrary hereto, repealed.

SECT. 4. *And be it further enacted,* That so much of the said recited act, as is hereby altered, shall be, and the same is hereby repealed, made null and void.

*Passed at Dover, January 15, 1802.*

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CHAP. LXXXVI.

*An ACT to alter a road therein mentioned.*

*Passed at Dover, January 15, 1802—Private act.*

C H A P. LXXXVII.

C H A P.  
LXXXVII.

1802

An ACT making provision for the support of government for the year One thousand eight hundred and two.

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 ten thousand and five hundred dollars, shall be raised and paid into the treasury of this State, within the time, and in the manner directed by an act of the general Assembly, entitled, "An act for the better ordering, assessing, levying, and collecting of taxes, and making provision for the support of government, for the year of our Lord, One thousand seven hundred and ninety-eight," passed the 24th day of January, in the said year; and shall be assessed and levied in the said 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.

10,500 dollars to be raised and paid into the treasury.

Each county's proportion.

SECT. 2. *And be it further enacted,* That the aforesaid sums of money shall be appropriated and applied to, and in the following manner; that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due, and to become due, to the Governor, Chancellor, Judges of the Supreme court, Judges of the Court of common pleas, Attorney General, Secretary, and Auditor of accounts, up to the first day of January, which shall be in the year of our Lord, One thousand eight hundred and three; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the general Assembly, their clerks, and other expenses, and for printing the laws passed at this session of the general Assembly, and the votes and proceedings of the two branches thereof; and

Appropriation, for payment of salaries, &c.

Residue, for  
payment of  
debts due to  
citizens.

the residue, if any there be, shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be hereafter made by law.

*Passed at Dover, January 20, 1802.*

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C H A P. LXXXVIII.

*An ACT to alter part of the road leading from Dover through Murderkill Forest, towards Tappahana.*

*Passed at Dover, January 21, 1802—Private act.*

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C H A P. LXXXIX.

*An ACT for altering the times for holding the Court of chancery in this State.*

2d vol. 1088.  
2d vol. 1192.  
2d vol. 1211.  
4th vol. 662.

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 day of May next, the Court of chancery shall be held in each of the counties of this State, twice in every year; and the terms of the said court shall commence and be held as follows, that is to say, the winter term, in Sussex county, the second Tuesday of February; in Kent county, on the second Thursday after the said term commences in Sussex county; and in New-Castle county, on the second Tuesday after the commencement of the said term in Kent county; and the summer term in Sussex county, on the third Tuesday of July; in Kent county, on the second Tuesday of August; and in New-Castle county, on the second Thursday after the said term commences in Kent county.

Winter term of  
the Court of  
chancery when  
to be held.

Summer term.

SECT. 2 *And be it enacted,* That it shall be the duty of the Sheriffs of the several counties, to attend the Court of chancery during its sitting in the respective counties, for which they shall receive one dollar and fifty cents each per diem, to be paid by the respective counties; and in case of neglect or refusal so to do, they shall respectively be liable to the like pains, penalties, and forfeitures, as they severally are, for not attending the Supreme court, or the Court of common pleas, during their sittings.

Sheriffs of the several counties to attend during its sittings.

Penalty for neglect.

SECT. 3. *And be it enacted,* That so much of the acts of the General assembly 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, shall be, and is hereby repealed, made null and void.

Parts of former acts repealed.

*Passed at Dover, 21st January, 1802.*

C H A P. XC.

*An ACT to repeal an act entitled, "An ACT to prevent swine running at large in George Town."*

**B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the act entitled, "An act to prevent swine running at large in George Town," passed the 23d day of January, eighteen hundred and one, be, and the same is hereby repealed, made null and void.

Original act repealed.

3 vol. 155.  
2 vol. 1218.

*Passed at Dover, January, 21st 1802.*

C H A P.  
XCI.

1802.

C H A P. XCI.

*An ACT for incorporating the Reliance Fire Company, in the Borough of Wilmington.*

SECTION. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That those persons, who at the time of the passing of this act, and those who shall hereafter be, and become members of the said Fire Company, be, now are, and hereafter shall be one body politic and corporate, in deed, and in law, to all intents and purposes, and be known as such, by the name and style of, "The Reliance Fire Company of Wilmington."

Members in corporation.

Style of the corporation.

Members limited.

*Provided always nevertheless,* That the said corporation shall not admit and have at any one time, more than sixty persons as members thereof.

Powers.

SECT. 2. *And be it enacted,* That the members of the said corporation shall, on the first Saturday of February, in every year hereafter, meet in such convenient place within the Borough aforesaid, as by a majority of the said members shall have been agreed upon, and then and there proceed to vote by ballot for a president, treasurer, and clerk out of the said members, who shall continue in office for one year, and until an election of new officers shall have been held; and the president of the said corporation, when so elected, shall have power to convene the members of the said corporation, as often as he may think necessary, and at such meeting, so convened, all such rules, regulations and bye laws for the government and direction of the said corporation, and the officers and members thereof as a majority shall judge necessary and expedient, shall and may be made, ordained and established.

Proviso.

*Provided always,* That the said corporation shall not hereby be authorised to exercise any powers contrary to the laws and constitution of this State.

SECT. 3. *And be it further enacted,* That the said corporation are hereby declared and made capable in law and in equity, to hold, take, purchase, receive, possess and enjoy, any lands, tenements, and hereditaments, goods, chattels, rights, credits and effects of what nature, kind, and quality soever, to the amount of four 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, and to such use, as they shall and may think proper.

May hold property; and

dispose of the same.

SECT. 4. *And be it further enacted,* That the said corporation be, and hereafter shall be able and capable to do and execute all and singular such matters and things, as bodies politic and corporate may or can lawfully do, and to sue, and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of law and equity, and otherwise howsoever, and to have and use a common seal, and to break and alter the same, and establish another or others, with such device, or devices as they shall or may think proper.

Capacity to sue, &c.

May have a common seal.

*Passed at Dover, January 23, 1802.*



C H A P. XCII.

*An ACT to incorporate a fire company in Milford, in Kent county.*

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That those persons who at the time of the passing of this act, and those who shall hereafter be, and become members of the said fire company be, now are, and hereafter shall be one body politic and corporate, in deed and in law to all intents and purposes,

Members incorporated.

Style of the corporation.

and be known as such by the name and style of, "The Milford Fire Company."

Powers.

SECT. 2. *Be it further enacted,* That the members of the said corporation, shall on the first Saturday in February in every year hereafter, meet in such convenient place within the village aforesaid, as by a majority of the said members shall have been agreed upon, and then and there proceed to vote by ballot, for a president, treasurer, and clerk, out of the said members, who shall continue in office for one year, and until an election of new officers shall have been held; and the president of the said corporation when so elected, shall have power to convene the members of the said corporation as often as he may think necessary, and at such meeting, so convened, all such rules, regulations and bye laws for the government and direction of the said corporation; and the officers and members thereof, as a majority shall judge necessary and expedient, shall and may be made, ordained and established.

Proviso.

*Provided always,* That the said corporation shall not hereby be authorized to exercise any powers contrary to the laws and constitution of this State.

May hold property; and

SECT. 3. *And be it further enacted,* That the said corporation are hereby declared and made capable in law and in equity, to hold, take, purchase, receive, possess and enjoy any lands, tenements and hereditaments, goods, chattels, rights, credits and effects of what nature, kind and quality soever, to the amount of four 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, and to such use as they shall and may think proper.

dispose of the same.

Capacity to sue, &c.

SECT. 4. *And be it further enacted,* That the said corporation be, and hereafter shall be able and capable to do and execute all and singular such

matters and things as bodies politic and corporate may, or can lawfully do; and to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of law and equity, and otherwise howsoever; and to have and use a common seal, and to break and alter the same, and establish another, or others, with such device, or devices, as they shall or may think proper.

C H A P.  
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May have a  
common seal.

*Passed at Dover, January 26, 1802.*

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C H A P. XCIII.

*An ACT for the maintenance of the banks and sluice belonging to the tract of marsh, called the Red Hook Marshes.*

*Passed at Dover, Jan. 26, 1802—Private act.*

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C H A P. XCIV.

*An additional supplementary act to an act, entitled, "An act for stopping St. George's creek, and for embanking and draining a quantity of marsh and cripple on both sides of the said creek, being deemed about three thousand acres, situate in Red-Lion and St. George's hundred, and county of New-Castle; and for keeping the dykes and drains belonging to the same, in good order and repair."*

*Passed at Dover, Jan. 27, 1802—Private act.*

C H A P.  
XCV  
1802

## C H A P. XCV.

*An ACT to authorize the owners and possessors of the swamp and low grounds situate in Murderkill hundred, commonly called Wild-Cat Swamp, and of the adjacent lands, to ditch and drain the same.*

*Passed at Dover, Jan. 27, 1802—Private act.*

## C H A P. XCVI.

*An ACT to enable certain commissioners to make partition of certain tracts or parcels of land called Deep-Creek Furnace, and Nanticoke Forge, with their appurtenances, and the lands purchased for their accommodation, in the county of Sussex, and for other purposes therein mentioned.*

*Passed at Dover, Jan. 27, 1802—Private act.*

## C H A P. XCVII.

*An ACT authorizing Ezekiel Riggs, his heirs or assigns, to alter or change a road therein mentioned.*

*Passed at Dover, Jan. 28, 1802—Private act.*

## C H A P. XCVIII.

*An ACT to enable the owners and possessors of the meadow ground, marsh and cripple, on Red Lion Creek, in New-Castle county, to keep the banks, dams, sluices and flood-gates in re-*

*pair, and to raise a fund to defray the expense thereof.*

C H A P.  
XCIX.  
1802

*Passed at Dover, Jan. 28, 1802---Private act.*

C H A P. XCIX.

*A Supplement to an act, entitled, "An act to prevent the erection of booths, or selling of spirituous or other liquors, in any county town, on the day of the annual election, and for other purposes."* 3d vol. 7.

**W**HEREAS it hath been found by experience, that the act to which this is a supplement, hath not answered all the beneficial purposes thereby intended; Preamble.

*BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That if any person, or persons, shall, on the first Tuesday of October, in any year, or on the day next preceding or succeeding that day, set up any booth, stall, or other convenience, for the selling of spirituous or other liquors, or shall on the said first Tuesday of October, in any year, with or without such booth, stall, or other convenience, sell, or expose to sale, any wine, rum, brandy, whiskey, perry, cider, porter, beer, metheglin, mead, or other vinous, spirituous or malt liquors, on any road or public highway leading to any town or village within this State, or in any part or place, within this State, he, she, or they, so offending, shall forfeit and pay for every such offence, the sum of twenty dollars, one half thereof to the informer, and the other half to and for the use of the State, to be recovered as is directed, by the act to which this is a supplement.* Penalty for selling strong liquors on the public highway on 1st Tuesday of October, or the preceding or succeeding days. How applied, and recovered.

*Provido.* *Provided always,* That nothing herein contained, shall extend so far, as to prevent those persons from selling any or all of the above mentioned liquors, in their proper house or houses, on any, or all of the days aforesaid, who may be regularly licensed thereto, agreeably to the laws of this State, or of the United States.

*Passed at Dover, January 29, 1802.*



### C H A P. C.

*An ACT for appointing an additional number of constables, in the county of New-Castle.*

*Preamble.*

**W**HEREAS by an act of the Legislature of the State of Delaware, passed on the sixteenth of January, 1801, the Governor was authorized and empowered to appoint and commission an additional number of justices of the peace, in and for the county of New-Castle.

*And whereas* no provision hath been made in the said act, to increase the number of constables within the said county :

*Court may appoint an additional number of four Constables.*

*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, it shall and may be lawful for the justices of the Court of general sessions of the peace, to appoint an additional number of four constables, in and for the county of New-Castle, at such times, and in such manner, as the constables for said county are usually appointed.

*Provido.*

*Provided always,* That one constable shall be annually appointed in and for the village of Port-Penn.

*Passed at Dover, January 30, 1802.*

## C H A P. CI.

C H A P.  
CI.  
1802

*A Supplement to an act, entitled, "An act to authorize the owners and possessors of the swamp and low ground, situate on the head waters of Chester river, in the forest of Duck creek hundred, in Kent county, to cut a ditch or drain through the same."*

*Passed at Dover, February 1, 1802.----Private act.*

## C H A P. CII.

*A further supplement, to the act, entitled, "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."* 2 vol. 1189.

**W**HEREAS this General assembly are of Preamble. opinion, that the surplus monies which have been raised by the New-Castle pier lottery, amounting to the sum of three thousand two hundred and ninety-two dollars and thirty cents, now remaining in the hands of Kensey Johns, treasurer of the said lottery, who was also one of the managers of the the said lottery, and also the sum of six hundred and fifty-three dollars and forty-five cents, outstanding debts due from divers persons to the said lottery, or so much thereof as may be recovered, according to a settlement of the accounts of the said lottery, made by the board of managers aforesaid, and finally adjusted on the thirty-first day of December last past, ought to be applied to the purposes intended by the original act aforesaid.

**SECT. 1.** *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware,* Money in the hands of the treasurer together with That the aforesaid sum of money in the hands of

outstanding debts appropriated for repairing the upper pier, &c.

the said treasurer, together with the outstanding debts as before recited, or so much thereof as may be recovered, shall be, and the same is hereby appropriated to and for the purpose of defraying the expense which has, or may be incurred in virtue of a contract, heretofore made by Kensey Johns with Richard Sexton and Henery Rowen, under a resolution of the board of managers aforesaid, for repairing the upper pier in the harbour of the town of New-Castle, over and above the sum of five hundred dollars, which has been allowed to the said Kensey Johns, for and on account of the aforesaid contract, and the residue thereof to and for the purpose of erecting an additional pier, or piers, within the aforesaid harbour of the town of New-Castle, or repairing the sunken pier off Delaware street.

Commissioners appointed.

SECT. 2. *And be it further enacted*, That Archibald Alexander, James Riddle, and James M'Calmont, be, and they are hereby appointed commissioners, to superintend the building, erecting and placing one or more piers, within the aforesaid harbour of the town of New-Castle, or repairing the sunken pier off Delaware street, and the said commissioners, or a majority of them, or the survivors, or survivor of them, shall be, and hereby are authorized and empowered to make and enter into such contract, or contracts for the same, as they shall judge or determine to be most expedient and promotive to the general improvement of the aforesaid harbour.

Their duty.

Proviso.

*Provided always*, That the authority herein before vested in the said commissioners, shall be deemed and taken to extend to the making of such contracts, as the funds hereby appropriated, will be sufficient to discharge.

Commissioners may draw on the Treasurer.

SECT. 3. *And be it further enacted*, That the said commissioners, or a majority of them, or the survivors, or survivor of them, shall and may draw

on Kensey Johns, treasurer of the aforesaid lottery, for such sum, or sums of money, as may be necessary for defraying the residue of the expense of the aforesaid repairs to the upper pier before mentioned, and also for the residue of the aforesaid sum of money remaining in his hands, as aforesaid.

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*Provided always,* That all such draughts for the residue of the money, as aforesaid, shall be in favour of the contractors or contractor, who shall undertake to build, erect, or place one or more piers in the harbour of New-Castle, or, for the repair of the aforesaid sunken pier, or his or their representatives, and that the draughts on the treasurer, shall not exceed one half of the aforesaid sum remaining in his hands, until the work contracted to be done, shall be finished, and a majority of the said commissioners, or the survivors of them as aforesaid, shall give a certificate thereof under their hands.

Proviso.

SECT. 4. *And be it enacted,* That the said Kensey Johns, shall be, and he hereby is authorized, empowered and required, to pay over to the said commissioners, on their draughts as aforesaid, the aforesaid sum of money remaining in his hands, and such draughts, with regular receipts for payment thereof, shall be sufficient vouchers for the said Kensey Johns to settle his accounts before the auditor of accounts, who is hereby authorized and empowered to examine and adjust the same, and to give a certificate accordingly.

K. Johns required to pay the money in his hands to the commissioners. Their drafts, with receipts thereon, vouchers for him in settling with the auditor, who is to adjust the same.

SECT. 5. *And be it further enacted,* That the said Kensey Johns, shall be, and he is hereby authorized to deliver over to the said commissioners, or a majority of them, any notes or other written evidences of debts due to the said lottery, and remaining in his possession; and the said commissioners, or a majority of them, or the survivors or survivor of them, are hereby authorized to receive the same, or any part thereof, to use all lawful means to re-

K. Johns to deliver to the commissioners notes, &c. due to the Lottery.

Commissioners authorized to recover the same.

Mode of recovery.

cover the same ; and to this end suits, or a suit may be commenced, either in the names of the aforesaid managers, or in the name or names of the person or persons to whom such notes or other written evidence were given, according as the case may be ; and be endorsed for the use of the aforesaid commissioners, or the survivors, or survivor of them.

Commissioners shall have the care of the piers, and

May assess wharfage on vessels arriving thereat.

How expended.

Proviso.

SECT. 6. *And be it further enacted,* That the commissioners of the town of New-Castle, for the time being, shall have the superintendance and care of the same piers, when repaired and erected as aforesaid ; and shall have power to assess, levy and collect a reasonable sum of money as and for wharfage, in each year hereafter, from all and every vessel and vessels, that may arrive at, or derive protection from the said piers, to be laid out and expended in repairing and keeping in repair the same piers, and removing obstructions from the said harbour ;

*Provided always, and be it enacted,* That all accounts as well concerning the raising, as the expending of such money, shall be, and hereby are directed to be adjusted and settled by the commissioners, annually, with a committee of five of the inhabitants of the said town, on the first Tuesday in May, annually, hereafter, when that committee shall be chosen at the same time with the commissioners of the said town, for the then ensuing year, by persons qualified by law to vote for commissioners ; and the commissioners for each succeeding year, shall at the same time be entitled to demand and receive from their predecessors in office, any unexpended balance of said monies remaining in their hands, which they shall apply from time to time thereafter to like purposes ; and the said committee shall publish by six or more hand-bills, set up in public views, in the said town, the particulars of the said adjustment and settlement, immediately after the same shall be made in each year.

SECT. 7. *And be it enacted,* That the commissioners of the town of New-Castle, and their successors in office, or a majority of them, shall be, and are hereby authorized and empowered to make and prescribe such rules, and regulations touching and concerning all ships and vessels coming to, lying at, taking in, or discharging any cargo, lading, or ballast at the port of New-Castle, as they may deem fit and proper, and such rules and regulations to alter, repeal, or renew from time to time; and that any person or persons violating, or contravening all, or any of the said rules or regulations, shall forfeit and pay to the commissioners of the town of New-Castle, the sum of one hundred dollars, for each and every offence, to be sued for by action of debt, bill, plaint, or information, in any Court of record, in the names of the commissioners and their successors in office, wherein special bail shall be given as in other cases in which bail is by law requirable.

Commissioners of the town empowered to make rules concerning ships at the port of New-Castle.

Penalty for violating said rules.

Made of record.

*Provided nevertheless, and be it further enacted,* That no action or suit to be brought as aforesaid, shall abate or be put without day, for, or be reason of any change, by removal or otherwise, of all or any of the commissioners, in whose names such action or suit may or shall have been brought, but that the same may be continued and prosecuted with effect, as if no such change by removal, or otherwise, had taken place.

Suits therefor shall not abate

*Provided further, and be it enacted,* That the said rules and regulations shall be, and are hereby declared to be in force for every purpose, after the expiration of four hours from the time of their publication, which shall be, by putting up at least three advertisements containing the same, in public views in the said town.

Rules in force four hours after publication.

SECT. 8. *And be it further enacted,* That there shall be a harbour-master in the town of New-Castle, to be appointed by the commissioners of the

Commissioners to appoint a harbour master.

His term of office.

said town, as soon as conveniently may be in each year after their election, whose term of office shall expire on the day of each ensuing annual election, after his appointment as aforesaid.

Vacancies happening in office of harbour master, how supplied

*Provided*, That if vacancies should happen in the said office of harbour master, by removal from the said town of New Castle, or otherwise, then and in such case, the said commissioners, or a majority of them, shall have from time to time, and at all times hereafter, power to supply such vacancy by another appointment, to continue until the ensuing election.

Duties of the harbour master.

SECT. 9. *And be it enacted*, That it shall be the duty of the said harbour master, to take charge of, and superintend the said harbour, to publish and make known all and every such rules and regulations, as may from time to time be made and ordained by the said commissioners or a majority of them, to collect and pay over to the said commissioners, all monies that shall be paid in discharge of penalties or forfeitures, that may be incurred, and generally, to cause the provisions of this act, and whatsoever may be done or transacted under and in virtue of the same, to be carried into due execution; and that he shall in all respects conform to, and observe the orders and directions of the said commissioners or a majority of them; and that the said harbour master, shall have and receive such compensation, as may be allowed by the said commissioners, or a majority from time to time, to be paid out of the wharfage that may hereafter be collected, pursuant to their rules and regulations.

His compensation.

SECT. 10. *And be it further enacted*, That this act shall be, and is hereby declared to be a public act.

*Passed at Dover, February 1, 1802.*

## C H A P. CIII.

C H A P.  
CIII.  
1802

*An ACT making provision for the payment of the printing the Laws and the Journals of the Senate and House of Representatives.* 2d vol. 1064.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the secretary of State be authorized and empowered to contract with any printer he may deem proper, for printing the acts of the general Assembly, of the present or any future session; and the clerk of the Senate, and the clerk of the house of Representatives are hereby authorized to contract likewise with any printer they may deem proper, for printing the journals of their respective houses, of the present or any future session, and after the aforesaid printing shall be done and approved of, by the said secretary and the said clerks, respectively, they shall give to any such printer, a certificate of his having done the printing aforesaid, according to contract, which certificate shall specify the number of sheets or pages printed, and the price agreed to be given for the same; and it shall and may be lawful for the Governor, upon examination of the aforesaid certificate or certificates, to draw on the said certificate or certificates, an order on the treasurer of the State for the payment thereof; which order, when entered in the auditor's office, the said treasurer is directed to pay, out of any money in the treasury not otherwise appropriated.

Secretary of State & clerks of the general Assembly, authorized to contract with a printer to print the laws and journals.

When done and approved, to certify the same

Order to be drawn by the Governor for payment thereof.

*Passed at Dover, February 2, 1802.*

C H A P.  
CIV.  
1802

C H A P. CIV.

*An ACT to suppress 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 for the purpose of horse-racing, foot-racing, cock-fighting, shooting matches, &c. as also the selling, vending, or otherwise disposing of strong liquors, thereby promoting vice and immorality, to the great prejudice of religion, virtue and morality.

Penalty on promoting horse racing, &c.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the passing of this act, 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, cider, 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 sessions of the county where such offence may be committed, and if a public house keeper, his or her house shall be suppressed by the judges of the aforesaid court.

Proviso.

*Provided always,* That every information, or suit against any offender before mentioned, shall be made or prosecuted, within six months after the time of committing the said offence.

Penalty on disturbing places of public worship.

SECT. 2. *And be it enacted by the authority aforesaid,* That if any person, or persons shall, from and after the passing of this act, wilfully

abuse, interrupt, or in any manner disturb any church, meeting, or society of people of this State, having assembled for the purpose of Divine worship, every such person, or persons so offending, shall forfeit and pay the sum of eight dollars, for every such offence, being duly convicted thereof, by presentment, bill, plaint, or information, or the confession of the party offending, in any Court of general sessions of the peace of this State, in any county where the offence or offences, may have been committed, to be applied to the use of the poor of the respective counties.

C H A P.  
CIV.  
1802

SECT. 3. *And whereas*, by the fourth section of an act against drunkenness, blasphemy and profane cursing and swearing, it is construed by and from the expressions contained in said section, that a justice of the peace cannot from his own hearing convict any person, or persons for the crime of profane cursing and swearing, for remedy whereof,

*Be it enacted by the authority aforesaid*, That it shall be lawful, for any one justice of the peace, on his own hearing, to convict any person or persons guilty of profane cursing and swearing, expressed in the aforesaid fourth section in the act aforesaid, in as full and as ample a manner, as such offender, or offenders, could or might be convicted, by the testimony of one or more credible witness or witnesses, any construction of the fourth section of the before recited act to the contrary notwithstanding.

Justice of the peace may convict persons for swearing within his hearing.

*Passed at Dover, February 2, 1802.*

CHAP.  
CV.  
1802

## C H A P. CV.

*An ACT for erecting a bridge and causeway over Cedar creek, in Sussex county.*

Preamble.

**W**HEREAS it has been represented to the general Assembly of this State, that considerable convenience and utility would result to the inhabitants of Cedar Creek, and Slaughter Necks, from the erection of a bridge, by subscription, over the waters of Cedar creek; and whereas it has been further represented, that from the lands of Edward Stapleford to the lands of Daniel Rogers, would be a suitable place for the same.

Commissioners appointed to erect the bridge and causeway.

**SECT. 1.** *Be it therefore enacted, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Daniel Rogers, Robert Hill, and Edward Stapleford, the survivor or survivors of them be, and they are hereby nominated and appointed commissioners for the purpose of building and erecting a bridge and causeway across Cedar creek, to begin at or near a cedar tree, standing near the waters of Cedar creek, being the north boundary of Daniel Rogers's land, running thence across said creek, northerly, to the north side or shore of said creek, being the land and marsh in the tenure and possession of Edward Stapleford, thence to run northerly, through the marsh of said Edward Stapleford, unto the fast land, in such direction as the persons herein before appointed commissioners, or a majority of them, shall deem most convenient and practicable; 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.

**SECT. 2.** *And be it 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 feet, at least, and shall be constructed so as to admit boats without masts to pass and repass under it with convenience, and such person or persons as shall have occasion to pass or repass with any boat, or otherwise, are hereby obliged carefully to pass, so as the same receive no damage thereby, under the penalty of two dollars for every offence therein, together with the expense of repairing and amending the said bridge, to be recovered with costs in the name of any one of the commissioners aforesaid, before any justice of the peace of said county, and applied to the use of the said bridge.

C H A P.  
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Penalty for damaging it,

How recovered.

SECT. 3. *And whereas* it has been stated, that it may happen, that Joseph Haslet, or his representatives, may in process of time, erect and establish a place of traffick or intercourse with said waters of Cedar creek aforesaid, above said bridge thus to be erected and built as aforesaid;

*Be it therefore enacted by the authority aforesaid,* That if the aforesaid Joseph Haslet, or his representatives, do, and shall erect, make or build, or cause to be erected, made or built, a wharf and granaries, or granary, at or upon any part of his the aforesaid Joseph Haslet's swamp, low grounds or cripple, now lying and adjoining the head waters of Cedar creek aforesaid, then, and in such case, it shall be the duty of the aforesaid commissioners, and they are hereby directed and required, at the request of the said Joseph Haslet, or his representatives, within four months notice thereof, to cause the said bridge to be changed in such manner and form as may afford a sufficient draw or pass-way to any vessel or boat, which may eventually have occasion to pass or repass to or from such wharf, granaries, or granary, so erected, built and completed :

In case Joseph Haslet shall build a wharf, &c. commissioners shall change the bridge, for his accommodation.

*Provided nevertheless,* That there shall be built and erected a wing, to project from each side of the bridge on the south side of the creek, so as

Proviso.

CHAP.  
CVI.  
1802

effectually to prevent the sand from washing down into the said creek.

*Passed at Dover, February 2, 1802.*

—\*—  
C H A P. CVI.

*An ACT enjoining certain duties on the secretary of State, and other officers therein mentioned.*

Secretary to furnish the clerks of the peace with marriage licences, &c.

How the same shall be distributed.

Secretary annually to examine the number undistributed, &c.

Secretary to pay all public monies into the treasury within one month,

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the secretary of State be, and he is hereby required and directed, from time to time, to furnish the clerks of the peace in the several counties, with marriage licences, tavern licences and licences for hawkers or pedlars, to keep an exact account of the number of each, so delivered to the said clerks, respectively, who shall be accountable to him for the same, and the said clerks of the peace shall distribute the said licences according to the laws of the State, to all persons applying for them; and the said secretary of State is hereby required and directed, annually, in the month of October, to examine what number of the aforesaid licences each of the said clerks may have on hand, undistributed, which he shall deduct from the number delivered to such clerk, and whatever sum or sums of money the residue amounts to, according to the prices fixed by law, shall be forthwith paid over by the said clerks of the peace, to the aforesaid secretary of State, for which he shall give two receipts, one of which shall be transmitted to the auditor of accounts; and the said secretary is hereby directed, within one month after the receipt of all and every such sum or sums of money as aforesaid, to pay the same,

together with all other monies that may come in to his hands, belonging to the State, into the State treasury, for which he shall take duplicate receipts, one of which he shall transmit to the auditor of accounts.

after he shall receive the same.

SECT. 2. *And be it enacted,* That the aforesaid clerks of the peace are hereby authorized to appoint such number of the justices of the peace, not less than six in each county, as they may respectively think proper, to distribute according to law the aforesaid marriage licences; and from and after the passing of this act, it shall not be lawful for any person or persons to distribute any of the before mentioned licences, other than the said clerks of the peace, and the justices of the peace by them appointed for the distribution of marriage licences.

Clerks of the peace to appoint justices to distribute marriage licences.

SECT. 3. *Be it enacted,* That it shall be the duty of the clerks of the peace, yearly, within one month after the rising of the Levy courts of their respective counties, to transmit to the State treasurer a return of the delinquencies allowed the collectors of the State tax, by the said courts, and the State treasurer, upon receiving the said returns, shall forthwith proceed to settle and adjust the commissions allowed by law to the said collectors, and in the first week of December, annually, the said treasurer shall make a return of such delinquencies and commissions to the auditor of accounts.

Clerks of the peace to make yearly returns to State treasurer, of delinquencies allowed to collectors, &c.

He shall settle the same, and make return thereof to the auditor.

SECT. 4. *Be it enacted,* That it shall be the duty of the treasurers of the poor, and of the county treasurers, and they are hereby expressly directed and enjoined upon the receipt of any sum or sums of money, that may be payable to them, by virtue of their respective offices, to give to the person or persons, paying the same, two receipts, one of which receipts, the person or persons aforesaid,

Treasurers of the poor, and county treasurers, to give duplicate receipts to collectors, &c.

One whereof to be deposited with the clerk of the peace. shall forthwith deposit in the office of the clerk of the peace, for the county where the treasurer receiving the money, for which the said receipts were given, does reside, and upon the neglect or refusal of any collector of taxes, paying money as aforesaid, to deliver or cause to be delivered to the clerk of the peace, as aforesaid, one of the said receipts within fifteen days from the date thereof, he shall forfeit the penalty of four dollars, to be recovered by the said clerk of the peace as other debts under forty shillings are recoverable; and the said clerk of the peace shall carefully arrange and preserve the said duplicate receipts, and the same shall deliver to such person, or persons as are directed by law to examine and adjust the accounts of the aforesaid treasurer.

Penalty for neglect.

How recovered.

Former acts, or parts thereof, contrary hereto, repealed. **SECT. 5.** *And be it enacted,* That all former acts, or parts of acts, that are hereby altered or supplied, be, and they are hereby repealed.

*Passed at Dover, February 2, 1802.*

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C H A P. CVII.

*An ACT to authorize the Sheriffs for the time being, to hold inquisitions on lands taken in execution by former Sheriffs.*

Preamble.

**W**HEREAS the act, entitled, "An additional 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 trusts, and prescribing a time for their returns on writs of Fieri Facias," passed at Dover, on the 9th February, 1796, was made to remedy the particular cases in the said act mentioned, and does not apply to cases of the like kind, which have since

and may hereafter happen : and whereas the provisions therein contained, would greatly tend to the furtherance of justice, and ought to apply to all cases of the like kind, which hereafter may take place.

C H A P.  
CVII.  
1802

SECT. 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, or hereafter may be taken in execution, by virtue of any writ or writs of Fieri Facias, it shall and may be lawful for the Sheriff in office, or for the person who hath seized and taken in execution, or who shall hereafter seize and take in execution such lands and tenements, at the election of the plaintiff or plaintiffs in such suits, to enquire 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 this 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 or their debt and damages therein mentioned :

In which cases the Sheriff, &c. may hold inquisitions.

*Provided nevertheless,* That nothing in this act shall extend to the discharging of any Sheriff or other officer from the debt, damages and costs, in any writ of Fieri Facias mentioned for which he hath, or may hereafter become answerable, by the 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."

Not to discharge the Sheriff who has become responsible for the debt.

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,

How rules to hold inquisitions shall be

obtained.

What they shall contain.

How they shall be served.

Sheriff neglecting, shall be guilty of contempt.

upon application to the clerk or prothonotary, to obtain a rule to be laid on the sheriff in office, or upon the person who hath seized and taken in execution, or who hereafter may seize and take in execution any lands and tenements as aforesaid, by virtue of any writ or writs of Fieri 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 on 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 Fieri 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 made, or hereafter shall make such levy or seizure, in writing, at least ten days before the expiration thereof; and if the Sheriff in office, or person who made or hereafter shall make 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.

*Passed at Dover, February 2, 1802.*

C H A P. CVIII.

C H A P.  
CVIII.  
1802.

An ACT for the holding of fairs in the several counties in this State.

Repealed 3 vol. 281.

SECTION 1. **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 to hold fairs or marts, for the sale of all kinds of live stock, and country produce and manufactures (spirituous liquor excepted) after the date hereof, and at the times and places following, to wit, at George Town, in Sussex county on the second Tuesday in April, and at Broad creek, on the second Tuesday in October, in every year, and continue for the term of three days, and no longer. At Dover in Kent county, on the third Tuesday in the months of April and October, for the term or time of three days, and no longer. And at Middletown, in the county of New-Castle, on the fourth Tuesday of April and October in each and every year, and to continue for the space of three days, and no longer.

Fairs for the sale of live stock, &c. may be held

at George-Town and Broad Creek, in Sussex county.

At Dover, in Kent county; and at Middletown, in New-Castle county.

SECT. 2. *And be it enacted,* That if any person or persons shall actually expose or offer for sale, either privately, or publicly, any imported article, or goods, wares, or merchandize, the person or persons so offending, shall forfeit and pay for the first offence, twenty dollars, and for the second offence, the sum of thirty dollars, besides the forfeiture of the article, or articles, so offered, one half thereof to the use of the person suing for the same, the other half thereof to the use of the county in which the offence may be committed, to be recovered before any justice of the peace where the offence may be committed ;

Penalty for selling any imported article.

Mode of recovery.

*Provided,* That the value of the said goods forfeited, be under twelve pounds ; and if above twelve pounds, to be recovered before the Supreme court,

Proviso.

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or Court of common pleas of the county where the said offence may be committed, by bill, plaint or information.

Penalty on driving horses, cattle, &c. on the Sabbath.

SECT. 3. *And be it enacted;* That if any person or persons, who shall be found driving or leading any drove of horses, or of driving any drove of horned cattle, sheep, hogs, or swine, on the Sabbath, in going to, or returning from the fair or fairs, so intended to be held, shall pay the sum of thirty dollars, to be recovered before a justice of the peace, one half of such fine to go to the person that shall inform, and the other half to the county where the offence may be committed; and every driver of any cart or waggon, who shall be found so offending, shall pay the sum of fifteen dollars, to be recovered, and to be applied as aforesaid.

How recovered and applied.

Penalty on driving cart or waggon.

Penalty for erecting booths, stalls, &c. for selling strong liquors on fair days.

SECT. 4. *And be it enacted by the authority aforesaid,* That if any person shall set up, or erect any booth, stall, or any convenience, for the sale of any kind of spirituous liquors; or shall sell, or otherwise dispose of any kind of rum, spirits, wine, whiskey, brandy, ale, beer, cider, or per-ry, at the time and place of holding any of the fairs, in the different counties of this State, or within one mile of such place, such person or persons shall forfeit and pay the sum of ten dollars, for the first offence, and for the second offence, the sum of fifteen dollars, and besides forfeit all such articles as he, she, or they, may be thus offering for sale, one half thereof to go to the person that shall inform and sue for the same, and the other half to go to the county, where the offence may be committed, to be recovered before a justice of the peace, in like manner as other debts are recovered.

Mode of recovery.

Not to prevent persons selling spirituous

SECT. 5. *And be it enacted,* That nothing in this act shall be taken, or construed to prevent any person from selling any spirituous liquor, by li-

cence under the laws of this State, or of the United States. liquors, by license.

*Passed at Dover, February 3, 1802.*

—\*—

C H A P. CIX.

*An ACT to vest in James Mortimer, his heirs and assigns, a lawful title to a certain lot of ground, in the borough of Wilmington.*

*Passed at Dover, February 3, 1802—Private act.*

—\*—

C H A P. CX.

*An additional Supplement to an act, entitled, "An act for the better relief of the poor."* 2d vol. 989.

**W**HEREAS the act to which this is an additional supplement, has not answered all the good purposes thereby intended, and for the better remedying thereof, Preamble.

**SECT. 1.** *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the passing of this act, before it shall and may be lawful for any master or owner, importer, or bringer-in of any person or persons in any ship, or vessel, to land at any port or place within this State, any of the persons by him imported, or brought in, the owner or master, importer, or bringer-in, of every person and persons, shall first give bond and sufficient security with warrant of Master or owner of any ship, &c. shall give bond, &c. before landing.

C H A P.  
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or Court of common pleas of the county where the said offence may be committed, by bill, plaint or information.

Penalty on driving horses, cattle, &c. on the Sabbath.

SECT. 3. *And be it enacted,* That if any person or persons, who shall be found driving or leading any drove of horses, or of driving any drove of horned cattle, sheep, hogs or swine, on the Sabbath, in going to, or returning from the fair or fairs, so intended to be held, shall pay the sum of thirty dollars, to be recovered before a justice of the peace, one half of such fine to go to the person that shall inform, and the other half to the county where the offence may be committed; and every driver of any cart or waggon, who shall be found so offending, shall pay the sum of fifteen dollars, to be recovered, and to be applied as aforesaid.

How recovered and applied.

Penalty on driving cart or waggon.

Penalty for erecting booths, stalls, &c. for selling strong liquors on fair days.

SECT. 4. *And be it enacted by the authority aforesaid,* That if any person shall set up, or erect any booth, stall, or any convenience, for the sale of any kind of spirituous liquors; or shall sell, or otherwise dispose of any kind of rum, spirits, wine, whiskey, brandy, ale, beer, cider, or perry, at the time and place of holding any of the fairs, in the different counties of this State, or within one mile of such place, such person or persons shall forfeit and pay the sum of ten dollars, for the first offence, and for the second offence, the sum of fifteen dollars, and besides forfeit all such articles as he, she, or they, may be thus offering for sale, one half thereof to go to the person that shall inform and sue for the same, and the other half to go to the county, where the offence may be committed, to be recovered before a justice of the peace, in like manner as other debts are recovered.

Mode of recovery.

Not to prevent persons selling spirituous

SECT. 5. *And be it enacted,* That nothing in this act shall be taken, or construed to prevent any person from selling any spirituous liquor, by li-

cence under the laws of this State, or of the United States. liquors, by license.

*Passed at Dover, February 3, 1802.*

—\*—  
C H A P. CIX.

*An ACT to vest in James Mortimer, his heirs and assigns, a lawful title to a certain lot of ground, in the borough of Wilmington.*

*Passed at Dover, February 3, 1802—Private act.*

—\*—  
C H A P. CX.

*An additional Supplement to an act, entitled, "An act for the better relief of the poor."* 2d vol. 989.

**W**HEREAS the act to which this is an additional supplement, has not answered all the good purposes thereby intended, and for the better remedying thereof, Preamble.

**SECT. 1.** *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the passing of this act, before it shall and may be lawful for any master or owner, importer, or bringer-in of any person or persons in any ship, or vessel, to land at any port or place within this State, any of the persons by him imported, or brought in, the owner or master, importer, or bringer-in, of every person and persons, shall first give bond and sufficient security with warrant of Master or owner of any ship, &c. shall give bond, &c. before landing.

Penalty of such bond,  
and condition.

attorney thereto annexed, in the sum of one thousand dollars, in the name of the trustees of the poor of the county where the owner or master, importer, or bringer-in, of such ship, or vessel, may wish to land the person or persons, by him imported, or brought in, conditioned, that he will indemnify and save harmless the county from any charges, that may accrue by means of the person or persons, by him imported and brought in.

Penalty on master or owner landing, before giving bond.

SECT. 2. *Be it enacted by the authority aforesaid,* That if any master, or owner, importer, or bringer-in, of any person or persons, shall land at any port or place, before he shall have given bond and sufficient security to the trustees of the poor as aforesaid, the said master, or owner, importer, or bringer-in, shall forfeit and pay the sum of three thousand dollars.

How the forfeitures incurred, shall be recovered and applied.

SECT. 3. *Be it enacted by the authority aforesaid,* That all forfeitures and penalties, which may hereafter be incurred under this act, or the act to which this is an additional supplement, shall be sued for and recovered, with cost of suit, in the name of the trustees of the poor of the county where the offence shall be committed, and all cases of suits for penalties under this act, or the act to which this is an additional supplement, the party sued shall give special bail as in other cases where special bail is by law requirable; and the fines and forfeitures mentioned in this act, or the act to which this is an additional supplement, shall be sued for by the trustees of the poor of the county where the offence is committed, and shall be applied to the maintenance of the poor of said county.

2d vol. 998.

28th § of chap.  
218 b. repealed.

SECT. 4. *Be it enacted by the authority aforesaid,* That the twenty-eighth section of the act to which this is an additional supplement, be, and the same is hereby declared to be repealed, made null

and void; any thing in the said act to the contrary notwithstanding.

C H A P.  
CXI.  
1802

*Passed at Dover, February 3, 1802.*

C H A P. CXI.

*A Supplement to the act for making the bridge across Naaman's creek, in the county of Newcastle, a public toll bridge.* 3d vol. 195.

Repealed 4th vol. 649.

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, the collector and receiver of the tolls of said bridge, to be appointed in conformity to the act to which this is a supplement, shall only give security as is in said act directed, in the sum of one thousand dollars, and that the tolls to be collected from said bridge, shall be paid quarterly by said collector to the treasurer, only retaining one fourth part of the allowance that may be annually made him, by the commissioners of the Levy court of said county; and all persons desirous of commuting, shall hereafter commute, annually, with the said commissioners of the Levy court for such sum or sums of money, as the said commissioners of the Levy court may think proper, and that all and every line, or lines of stages shall pay toll or pontage, and none be excepted; any thing in the said act to the contrary notwithstanding.

Collector to give bond in 1000 dollars and pay tolls quarterly.

Every line of stages to pay toll.

SECT. 2. *And be it enacted by the authority aforesaid,* That the fourth section of the act to which this is a supplement, and any other part of the same, as is hereby altered, or supplied, shall

4th § of original act repealed. 3d vol. 197.

C H A P.  
CXII.  
1802

be, and the same are hereby repealed, made null and void.

*Passed at Dover, February 3, 1802.*



C H A P. CXII.

1st vol. 192.

*A Supplement to an act, entitled, "An act for regulating inn-holders, tavern-keepers and other public house-keepers, within this government, and empowering the Justices to settle the rates of liquors."*

Preamble.

**W**HEREAS it is expressly declared in the act to which this is a supplement, 'That if any person or persons within this government, shall presume, after the publication of this act, to keep any tipling-house, or sell, or retail any wine by any less measure than half a gallon, the person or persons so offending, shall for every such offence, forfeit and pay five pounds,' for remedy whereof,

Repeal—See  
§ 5, chap. 75. a.

1st vol. 194.

*BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That so much of the act to which this is a supplement, as prevents retailers from selling wine, by any less measure than half a gallon, be, and the same is hereby repealed, made null and void.*

Proviso.

*Provided nevertheless, That no retailer of wine shall sell or dispose of any wine, by any less measure than one quart, under the forfeiture expressed in the act to which this is a supplement.*

*Passed at Dover, February 3, 1802.*

## C H A P. CXIII.

C H A P.  
CXIII.  
1802

*An ACT to vest the title of two several parcels of land therein mentioned in Joseph Haslet and Jemima Monroe.*

*Passed at Dover, February 3, 1802.—Private act.*

## C H A P. CXIV.

*A Supplement to an act, entitled, "An act to procure certain papers, or copies thereof, from the land office in Pennsylvania."* 3 vol. 195. 298.

SECTION. 1. **B**E it enacted, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Governor be, and he is hereby authorized and directed to draw an order, on the State treasurer, in favour of Samuel White, esquire, the agent appointed on the part of this State to procure certain papers from the State of Pennsylvania, for the balance of the sum appropriated by the act to which this is a supplement.

Governor to draw on S. Treasurer, for balance due to Samuel White, Esq.

*And whereas* by the report of the said agent made to this general Assembly, it appears the sum appropriated, as aforesaid, is not adequate to complete the business of said agency ;

SECT. 2. *Be it therefore enacted by the authority aforesaid,* That the Governor, be, and he is hereby authorized to draw an order on the State treasurer in favour of the said agent, for any further sum, or sums, not exceeding five hundred dollars, to defray the expenses incidental to said agency.

And for a further sum, to defray incidental expenses.

*Passed at Dover, February 4, 1802.*

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CXV.  
1802

## CHAP. CXV.

*A Supplement to the act, entitled, "An act to incorporate a company for the purpose of cutting and making a canal, between the Chesapeake bay and bay or river Delaware, or the waters thereof:"*

Preamble.

**W**HEREAS it appears to this Legislature that the eighteenth section of the act to which this is a supplement, which prevents the said company from lessening the rates of tolls, fixed by the said act, may prevent the incorporation of a company for the liberal and beneficial purposes mentioned in the said act, agreeably to the other provisions therein contained.

Eighteenth section of original act repealed.

**SECT. 1.** *Be it enacted, by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* [That the said section of the act, to which this is a supplement, be, and the same is hereby repealed made null and void ;

Proviso.

So much as is between crotchets, repealed 4 vol. 348.

*Provided nevertheless, and it is hereby enacted,* That it shall not be lawful for the said Chesapeake and Delaware canal company, to lessen the rates of tolls fixed by the act to which this is a supplement, more than one fourth of such rates of tolls, without the assent of the Legislature of the State of Delaware.]

*And whereas,* By the twenty-first section of the act to which this is a supplement, it is provided, that the same shall be of no force or effect, ' Until the State of Pennsylvania shall pass a law to ' authorize and empower an agent, or agents to be ' appointed by the Governor of this State, to have ' free access to the papers in their land office, and ' to transcribe and copy, or procure to be transcribed or copied, under his or their care and ' direction, in one or more well bound books in ' folio, all such warrants, surveys, re-surveys,

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' patents, grants and other original papers, as may  
 ' be found in the land office, or in any other  
 ' office of the State of Pennsylvania, which in  
 ' any wise relate to, or make the title, or part of  
 ' the title, to lands, tenements or hereditaments,  
 ' within this State, and which cannot be removed  
 ' without injuring or spoiling the records or other  
 ' papers, in the said office or offices, and also un-  
 ' til such transcripts and copies shall be actually  
 ' made and compared with such warrants, surveys,  
 ' re-surveys, patents, grants and other original  
 ' papers, by such agent or agents as aforesaid,  
 ' and be brought into this State, by the said  
 ' agent or agents, for the use of the citizens of  
 ' the State, and also until all such original war-  
 ' rants, surveys, re-surveys, patents, grants and  
 ' other papers, which can be taken and separated  
 ' from other records and papers in said land of-  
 ' fice, or other offices of the State of Pennsylvania,  
 ' shall be first selected by, and delivered whole  
 ' and undefaced as they now remain, to such  
 ' agent or agents, and he or they be allowed to  
 ' bring the same into this State, and to be kept  
 ' here for the use of the citizens of this State:  
 ' and as soon as the said transcripts and copies,  
 ' and original warrants, surveys, re-surveys, pa-  
 ' tents, grants and other original papers shall be  
 ' so procured, and brought into this State, the  
 ' Governor is hereby directed and required to  
 ' give public notice thereof by proclamation, from  
 ' the date whereof, this act shall have operation,  
 ' and be in full force and effect, and not before,  
 ' upon the terms and conditions mentioned in this  
 ' act.

*And whereas,* It appears to this Legislature,  
 that Samuel White, esquire was duly appointed by  
 the Governor of this State, the agent to procure the  
 original papers or transcripts thereof mentioned in  
 the said section last aforesaid, of the act to which  
 this is a supplement, and that he has by memorial

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to this general Assembly stated, that the land office of Pennsylvania has been freely opened to him, and leave granted to procure the papers aforesaid, or transcripts thereof to be taken by him, and that he has received every liberal aid from the officers of the State of Pennsylvania, and it also appears that most of the original papers have been procured, which could be separated from those appertaining to Pennsylvania, and actually lodged by the agent aforesaid, in the Recorder's office for Kent county :

*And whereas,* It also appears from the statement of the said agent to this Legislature, that it will require near ten months to complete the transcribing of all the papers aforesaid, necessary to be transcribed, long before which time the law of Maryland for incorporating the aforesaid canal company, will expire.

See 3 vol. 137.  
 3 vol. 247.

SECT. 2. *Be it enacted,* That so much of the section last mentioned of the act to which this is a supplement, which enacts that the said act shall be of no force or effect, ' Until such transcripts and ' copies therein mentioned shall be actually made ' and compared with such warrants, surveys, re- ' surveys, patents, grants, and other original papers, by such agent or agents therein mentioned, ' and be brought into this State by the said agent ' or agents, for the use of the citizens of the State; ' and also until all such original warrants, surveys, ' re-surveys, patents, grants, and other papers ' therein mentioned, which can be taken and separated from other records and papers in said land office, or other offices of the State of Pennsylvania shall be first selected by and delivered, whole and undefaced as they now remain to such agent or agents, and he or they be allowed to bring the same into this State; and to be kept here for the use of the citizens of the State;

and also such parts thereof as require that the said original papers should be actually brought into this State, be, and the same is hereby repealed, made null and void.

C H A P.  
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1802

SECT. 3. *And be it enacted,* That so soon as the State of Pennsylvania shall comply fully and effectually with the conditions of the twenty-second section of the act, to which this is a supplement, then and not before, the Governor shall, and he is hereby authorized and required, immediately, to proclaim the said act in full operation, force and effect, agreeably to the provisions contained in the same.

When the Governor shall proclaim original act in force.

*Passed at Dover, February 5, 1802.*

C H A P. CXVI.

*An ACT for erecting and keeping in good repair, a draw-bridge over Little creek.*

**W**HEREAS the erection of a draw-bridge over Little creek, at or near the place where the public road now runs to Little creek landing, would be of great public utility, and more especially of advantage to the good people residing in the necks of Little creek and St. Jones's, respectively; Preamble.

*And whereas,* It hath been represented to this general Assembly, that the persons more immediately interested in the erection of the said draw-bridge, are willing to make ample contributions for that purpose.

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

Commissioners  
appointed to re-  
ceive subscrip-  
tions and erect  
the draw bridge

Marim, Outten Laws, and Manlove Emerson, be, and they are hereby appointed commissioners, with full power and authority to collect and receive all such sums of money, as any person, or persons of his, her, or their own free will and accord, may or shall be disposed to contribute for the erection of a draw-bridge over and across Little creek, at *or near* the place where the public road now runs to Little creek landing, and when the commissioners aforesaid shall have collected and received a sufficient sum to enable them to erect and build a good and sufficient draw-bridge across and over the said creek of at least fifteen, and not more than eighteen feet wide, it shall and may be lawful for them and the survivor of them, and they are hereby required and enjoined, to lay out and expend the same, in the purchase of materials and the employment of workmen and labourers in and about the building and erecting of the said draw-bridge—and to proceed in the same until the said draw-bridge shall be built and completely finished.

Space to be left  
over the chan-  
nel.

SECT. 2. *And be it further enacted,* That there shall be left between the abutments, wings and other works erected for the use, support and preservation of the said draw-bridge, a space of at least twenty feet, at all times, for the waters of the said creek to pass and flow 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 raised a draw or platform, of the breadth of the said bridge, with good and sufficient chains for raising up the same, for the accommodation of all such persons as may have occasion to pass and re-pass with any boat or vessel through the said bridge; and the said persons so passing and re-passing with their boat or vessel, are hereby directed to raise and let down the said draw or platform, in such manner as that the same receive no damage

Breadth of the  
draw or plat-  
form.

thereby, under the penalty of four dollars for every such neglect, or offence therein, to be recovered with costs of suit before any justice of the peace for Kent county; by any person who will sue for the same, one half thereof to be applied to the use of the party suing for the same, and the other half thereof, to the use and for the purpose of maintaining the said bridge in good order and repair.

Penalty for damaging it.

Mode of recovery.

SECT. 3. *And be it further enacted,* That the commissioners aforesaid, before they enter upon the duties herein before enjoined and required of them, shall enter into a bond with one or more sufficient surety or sureties, jointly and severally, to and in the name of the treasurer of the county, for the time being, in the sum of two thousand dollars, lawful money of the United States of America, conditioned, for the true and faithful performance and discharge of the duties required and enjoined of them by this act, and for the due observance of the same; and the said commissioners and the survivor of them, shall keep a regular and fair account of all sums of money received by them as aforesaid, and of the expenditures by them had and made in and about the necessary building, erecting and completing of the said draw-bridge, and after the same shall be finished and completed as aforesaid, the said accounts of the commissioners shall be open to the inspection and examination of the treasurer of the county for the time being, who is hereby vested with full power and authority to examine into and inspect the said accounts, and to adjust and settle the same, and to report to the commissioners of the Levy court and Court of appeal, for Kent county, what sum, if any, then be remaining in the hands of the aforesaid commissioners, or the survivor of them, and the balance, if any, so remaining, shall be paid over to the treasurer of the county for the time being, and shall be appropriated and applied to, and for the use and purpose of maintaining and keeping

Commissioners shall give bond.

Penalty, and condition.

Commissioners to keep an account of monies received and expended.

Accounts shall be open to the inspection of the county treasurer

How the balance if any, shall be applied.

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CXVII.  
1802

the said draw-bridge in good order and repair; and in case of neglect or refusal to pay over the said balance by the commissioners aforesaid, to the said treasurer of the county, then and in that case, he is hereby directed to proceed to the recovery of the same.

SECT. 4. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the commissioners appointed, or any two of them, to erect and build the said draw or platform, in any other manner that they may think proper, *Provided* the same shall be constructed to answer all the purposes herein before mentioned and expressed.

Draw-bridge,  
when erected,  
to be deemed a  
public high-  
way,

and free from  
toll.

How supported.

SECT. 5. *And be it further enacted,* That the said draw-bridge after it shall be so built, erected, finished and completed, shall be deemed and taken to be a public highway, free for all persons whomsoever, to pass and repass over and across the same, free from toll or pontage; and the said draw-bridge is hereby directed to be kept in good order and repair, in the same manner that other bridges in Kent county are directed to be kept.

*Passed at Dover, February 5, 1802.*

—\*—  
C H A P. CXVII.

*An ACT for appointing an additional number of constables in the county of Kent.*

Preamble.

**W**HEREAS by an act of the Legislature of the State of Delaware, passed on the third of February, 1789, limiting the number of constables in each county in said State; and whereas

there has great inconvenience arisen in the county of Kent, for want of an additional number of constables in said county.

C H A P.  
CXVIII.  
1802.

*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, it shall and may be lawful for the justices of the court of General sessions of the peace, to appoint an additional number of three constables in and for the county of Kent, at such times and in such manner as the constables for said county are usually appointed.*

Court may appoint three additional constables.

*Passed at Dover, February 5, 1802.*

C H A P. CXVIII.

*An ACT to prevent frauds at the general elections, within this State.* 3d vol. 12.

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, if any person or persons whatsoever, whether aliens, citizens of this State, or any of the sister States, disqualified to vote, by the constitution and laws of this State, shall vote or offer to vote at any general election within this State, he or they, so offending, shall forfeit thirty dollars, to be recovered by indictment, with costs of prosecution; which sum, or sums, so recovered, shall be applied to the use of the poor, of the county in which the same may be recovered.

Penalty on disqualified persons voting or offering to vote at any general election.

Mode of recovery.

SECT. 2. *And be it enacted, That if any inspector or judge of the election shall take, or re-*

Penalty on inspector or

judge of the  
election receiv-  
ing such vote.

This sec. alter-  
ed in 5 vol. 45.

ceive any vote from any person not qualified as aforesaid, knowing the same, such inspector or judge shall forfeit thirty dollars, to be recovered by indictment with costs of prosecution; which sum or sums, when recovered, shall be applied, as aforesaid.

Repealed.

SECT. 3. *And be it enacted,* That so much of every act as is hereby altered, or amended, be and the same hereby is repealed, made null and void.

*Passed at Dover, February 5, 1802.*

So far as respects aliens, altered and supplied, 5 vol. 49.

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C H A P. CXIX.

*An act to authorize the treasurer of this State to pay and allow the claims therein mentioned.*

S. Treasurer  
authorized to  
pay to R. Ham-  
ilton, S. Caswell  
and W. Torbert.

To W. Black

SECTION 1. **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 authorized and directed to pay to Robert Hamilton, Samuel Caswell, and William Torbert, guardians of the minor children of captain Jonathan Robinson, late of New-Castle county, deceased, five hundred and sixty-one dollars and one cent; to William Black for printing ten quires of tavern licences, ten dollars; for printing five hundred amendments to the constitution, eighteen dollars; for printing three hundred copies of the laws passed at the session in November 1800, the sum of seventeen dollars and fifteen cents; for printing three hundred copies of the laws, passed at January session in 1801, one hundred and twenty-eight dollars and

sixty-seven cents: for printing the journals of both houses of the Legislature, the further sum of four hundred and thirty-four dollars; for printing one ream of blank commissions, sixteen dollars; to Joseph Israel Sheriff of New-Castle county, for setting up notices in said county respecting the alterations of the constitution, the sum of ten dollars; to Jonathan Manlove Sheriff of Kent county for like services in Kent county, ten dollars; to Kendle Batson Sheriff of Sussex county, for like services in Sussex county, ten dollars; to John Clarke State treasurer, for extraordinary expenses incurred in purchasing stock of the United States, in conformity to the act respecting the funds of this State, twenty dollars; to Peter Robinson for support and maintenance, while a minor, which he did not receive out of his father's confiscated estate agreeably to the provision of the act in such case made, four hundred dollars, out of any money in the treasury of this State, not otherwise appropriated.

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1802.

To J. Israel.

To J. Manlove.

To K. Batson,

To J. Clarke

To P. Robinson.

SECT. 2. *And be it enacted*, That George Read, esquire, for services rendered as attorney for the trustee of the Loan office of the county of New-Castle, be, and he is hereby authorized to retain two hundred and seventy-eight dollars and twenty-eight cents, out of the public monies in his hands; and that Thomas Fisher, esquire, for services rendered as Sheriff of Sussex county, be and he hereby is authorized to retain, one hundred and twenty dollars and thirty-three cents out of the public monies in his hands.

G. Read authorized to retain 278 dollars 28 cents, for public services.

T. Fisher for services, as Sheriff, 120 dolls. and 33 cts.

*Passed at Dover, February 5, 1802.*

## RESOLUTION

Vol. 42.

*Altering and amending the constitution of this State.*

**W**HEREAS the general Assembly at their session in January last, two thirds of each house having deemed it necessary, did with the approbation of the Governor, propose an amendment to the constitution of this State, that is to say,

To strike out, make null and void, the fifteenth section of the sixth article of the constitution of this State, and to insert in lieu thereof, as the fifteenth section of the sixth article of the same, the following :

The chancellor shall compose the Orphans' court of each county, and exercise the equity jurisdiction heretofore exercised by the Orphans' court, except as to adjusting and settling executors, administrators and guardians' accounts, in which cases he shall have an appellate jurisdiction from the sentence and decree of the Register.—This court may issue Process throughout the State to compel the attendance of witnesses.—Appeals may be made from the Orphans' court, in cases where that court has original jurisdiction to the Supreme court, whose decision shall be final :

*And whereas* the said general Assembly, at least three, and not more than six months before the then next general election, did duly publish the said amendment in print, for the consideration of the people, Therefore,

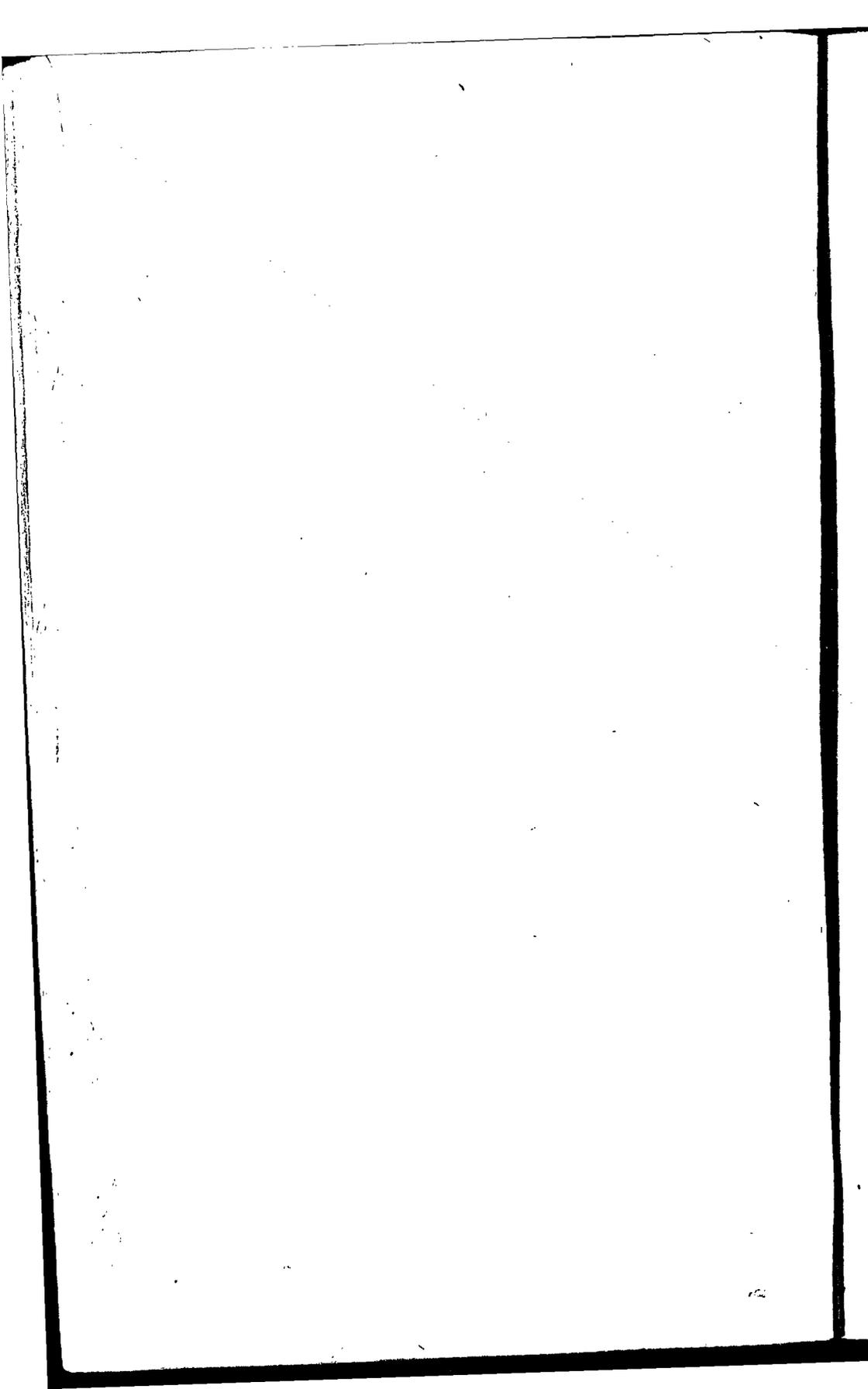
**RESOLVED**, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, After the said general election and before another, three fourths of each branch of the Legislature herein agreeing and concurring, that the said amendment to strike out, make null and void the fifteenth section of the

sixth article of the constitution of this State, and to insert in lieu thereof as the fifteenth section of the sixth article of the same, the following :

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The chancellor shall compose the Orphans' court of each county, and exercise the equity jurisdiction heretofore exercised by the Orphans' court, except as to the adjusting and settling executors, administrators and guardians accounts, in which cases he shall have an appellate jurisdiction from the sentence and decree of the register : This court may issue process throughout the State to compel the attendance of witnesses—Appeals may be made from the Orphans' court in cases where that court has original jurisdiction to the Supreme court, whose decision shall be final ; shall be and is hereby ratified, and shall be valid to all intents and purposes, as part of the constitution of this State.

*Passed January 22, and February 5th, 1802.*



## C H A P. CXX.

C H A P.  
CXX.  
1803

*An ACT ceding to the United States of America, the sites of piers, and piers in the river Delaware off the town of New-Castle, and jurisdiction in, and over the same.*

**W**HEREAS by an act of the congress of the United States of America, passed the sixth day of April, in the year of our Lord, One thousand eight hundred and two, entitled, "An act authorizing the erection of certain light-houses, and for other purposes," it was among other things enacted, that it should be lawful, for the secretary of the treasury under the direction of the President of the United States, to cause to be expended in repairing and erecting public piers in the river Delaware, a sum not exceeding thirty thousand dollars, and that the same be paid out of any monies in the treasury, not otherwise appropriated: *Provided*, that the jurisdiction of the site where any such piers may be erected shall be first ceded to the United States according to the conditions, in such case by law provided; and whereas it is proposed, that part of the said sum of money shall be expended and laid out, pursuant to the said recited provision in the erection of certain piers in the river Delaware, at the port of New-Castle, provided that the Legislature of the State of Delaware, shall by law cede to the United States, the sites where any such piers may be erected, according to the conditions in such case by law provided.

Preamble.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the sites of all piers that may hereafter be erected under the

Sites of piers,  
&c. off the town

of New-Castle,  
ceded to the  
United States.

herein before recited provision of the act of congress aforesaid, off the town of New-Castle in the river Delaware aforesaid, and the lands and tenements thereunto belonging, together with the jurisdiction of, in and over the same, and the said piers when erected are declared to be, and are hereby ceded to, and vested in, the United States of America fully and absolutely.

Piers, &c. heretofore erected, vested in the United States.

SECT. 2. *And be it further enacted,* That the public piers heretofore erected off the said town in the river Delaware aforesaid, and the sites thereof, and of whatsoever additions that may be made thereto, and the lands and tenements thereunto belonging, together with the jurisdiction of, in, and over the same, are declared to be and are hereby ceded to, and vested in, the United States aforesaid fully and absolutely.

Senators of this State in congress, authorized to execute deeds of confirmation, in case the same shall be deemed necessary.

SECT. 3. *And be it further enacted,* That the senators of this State in the congress of the United States, are hereby authorized, empowered and required (if the President of the United States should deem it necessary) to execute any deed or deeds of confirmation or of other nature, conveying to the United States of America all the right, title and interest of the State of Delaware, of, in and to, the sites of piers, and piers in the river Delaware, off the town of New-Castle, together with all the lands, tenements and appurtenances thereto belonging, with full jurisdiction in and over the same, as granted and ceded, or declared or intended so to be, by the provisions contained in the two preceding sections of this act, to have and to hold to the said United States fully and absolutely.

*Passed at Dover, Jan. 11, 1803.*

## C H A P. CXXI.

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*An additional Supplement to an act, entitled, "An Act for the better relief of the poor," passed at Dover, the 29th day of January, one thousand seven hundred and ninety-one, and for other purposes.* 2 vol. 989.

**W**HEREAS it appears to the general Assembly of this State, that great inconvenience and hardship, by ill-treatment are experienced by apprentices bound by the trustees of the poor, and as well by other apprentices or servants, owing to there being no redress to be obtained, but from the Court of general quarter sessions of the peace, for remedy whereof,

Preamble.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the passing of this act, it shall and may be lawful for the respective trustees of the poor within this State, on complaint to them made by any apprentice by them bound, or his, her or their parent or next friend, for or by reason of any breach of covenant or other matter, cause or thing whatsoever, for the said respective trustees, or a majority of them, to issue a summons against such master or mistress, directed to any constable of said county, and cause him or her to come before them to answer such complaint; and after hearing the proofs and allegations of the parties, to discharge any apprentice from his or her indenture, and bind him or her out to some other master or mistress, if to the said trustees it shall seem meet and convenient so to do.

Trustees of the Poor, on complaint by an apprentice bound by them may issue summons against the master or mistress.

How proceeded on.

SECT. 2. *And be it further enacted,* That the chancellor of this State or any one of the judges of the Supreme court or Court of general sessions of the peace, on application to any one of them made

Chancellor or a single judge, may issue a summons against a master or mistress.

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How to proceed.

See chap.  
129. a.

at any time hereafter by any apprentice or servant, or by his or their parent or next friend, are hereby authorized and empowered to issue their summons against said master or mistress, directed to any constable of said county, and to proceed and determine, as is directed by an act, entitled, "A supplementary act to the act, entitled, an act for the better regulation of servants and slaves, within this government."

*Passed at Dover, Jan. 13, 1803.*

\*  
C H A P. CXXII.

3d vol. 321.

*An ACT to reduce the price of the bound laws of this State, and for other purposes.*

Preamble,

**W**HEREAS by an act of the general Assembly of this State, authorizing the printing and procuring one thousand copies or sets of the bound laws of this State, which was done, and a considerable number thereof remain on hand, owing to the high price thereof; and whereas the promulgation of the laws of this State and the diffusion of knowledge consequent thereon, it is believed, would greatly contribute to the peace and harmony of society, and in order to promote so desirable an object,

Secretary to transmit 200 copies of the bound laws, to each of the counties of New-Castle and Sussex.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the secretary of this State, be, and he is hereby authorized and required forthwith to transmit and deliver over to the prothonotaries of the counties of New-Castle and Sussex, each, two hundred copies, or sets of the bound laws of this State, and shall deliver over to the prothonotary of Kent county the residue, or

Residue for Kent county.

such part as may remain, taking duplicate receipts therefor; one of which he shall deposit with the auditor of accounts for this State, and the other he shall file in his own office. And that the legislature of this State will reimburse to the said secretary, his expenses, in and about the transmission and delivery of the said copies of the laws.

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SECT. 2. *And be it further enacted by the authority aforesaid,* That each of the prothonotaries of the counties aforesaid, respectively, shall immediately on the receipt of the aforesaid bound laws, advertise in each of the hundreds of the counties, respectively, giving information of the sale and at what price, and expose them to sale at four dollars and twenty-five cents the set, retaining and deducting thereout twenty-five cents for each set, for their commissions and trouble, they shall each and every of them, transmit to the secretary aforesaid, duplicate accounts of their sales for every six months, describing therein, each and every purchaser's name, one of which accounts shall be lodged with the auditor of accounts, and the other with the State treasurer.

Prothonotaries shall advertise the sale, and price, &c. and

transmit duplicate accounts of sales to the secretary, &c.

SECT. 3. *And be it further enacted,* That the aforesaid prothonotaries, respectively, shall pay over to the State treasurer, at the expiration of every six months, all monies in their hands arising from the sale of the laws aforesaid, taking duplicate receipts therefor, one of which shall be lodged with the auditor of accounts.

Prothonotaries shall pay over to the State treasurer, every six months, and take duplicate receipts.

*Passed at Dover, Jan. 13, 1803.*

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## C H A P. CXXIII.

*An ACT to incorporate a company for the purpose of cutting and making a canal between the head waters of Lewes creek and Rehoboth bay, or the waters thereof, and for improving the navigation of Lewes creek.*

Preamble.

**W**HEREAS it is represented to the general Assembly, that the cutting a canal from the head waters of Lewes creek to Rehoboth bay, by affording a safe and commodious conveyance of produce from Indian river and Rehoboth bay, and by deepening the waters of Lewes creek so as to afford a harbour for large vessels, would promote the commercial and agricultural interest of this State ;

Subscription books to be opened by James P. Wilson, &c.

Books to be kept open for six months, and

notice of opening them shall be advertised.

SECT. 1. *Therefore be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall be lawful to open books for receiving and entering subscriptions to the amount of ten thousand dollars, in shares of twenty dollars each, for the cutting said canal and perfecting the navigation thereof, under the management of James P. Wilson, of Lewes, Thomas Marsh and Daniel Wolfe, of Rehoboth, William Shankland, of Indian river, and Samuel Paynter jun., of Broadkilm, and under the management of such other persons as the aforesaid managers may appoint, that the said books shall continue open for the purpose of receiving subscriptions as aforesaid, during the space of six months from the time of their being first opened, which time shall have been previously notified by public advertisements in one or more of the most public places in each of the hundreds in the county of Sussex, and in one or more of the Delaware or Philadelphia news-papers, during the space of thirty days previous to the opening the books for receiving subscriptions as aforesaid, and after the expiration of the term for which the books as aforesaid shall have remained open, there shall be*

a general meeting of the subscribers at Lewes, which meeting shall be publicly advertised as aforesaid, by the said managers or any two of them, at least thirty days previous to such general meeting; and the acting managers at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept, containing the state of said subscriptions, and if two fifths of the capital sum aforesaid, should upon examination appear not to have been subscribed, then the said managers at the said meeting are empowered to take and receive subscriptions to make up the deficiency, and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said managers or any two of them, under their hands, to the Levy court of the county of Sussex, and filed in the office of the clerk of the peace of said county: *Provided*, that unless four thousand dollars of the said capital shall be subscribed as aforesaid all subscriptions made in consequence of this act shall be void, and in case four thousand dollars and less than the whole said capital shall be subscribed as aforesaid, then the president and directors appointed as herein after mentioned are hereby empowered and directed to take and receive subscriptions until the deficiency shall be made up; and in case more than the said capital of ten thousand dollars shall be subscribed as aforesaid, the said president and directors, or a majority of them, are hereby empowered to continue them by increasing the said capital, or to reduce them to the amount of said capital as they may judge expedient or necessary, a certificate of which additional subscriptions or reduction of subscriptions, as the case may be, shall be made under the hands of the president and directors for the time being, or a majority of them, and returned to, and filed in the office of the clerk of the peace herein before mentioned.

Subscribers to meet at Lewes, on notice given by the managers.

Managers shall lay before the subscribers the books, &c.

List of subscribers shall be returned to the Levy court of Sussex county.

Proviso.

SECT. 2. *And be it enacted*, That in case two fifths of the said capital, or a greater sum shall be subscribed as aforesaid, the said subscribers and

Incorporation of the company.

their heirs and assigns from the time of their said first meeting, shall be, and they are hereby declared to be incorporated by the name of the Lewes and Rehoboth canal company, and may have perpetual succession, and sue and be sued, as such, and those of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and five directors for directing and completing said canal, and managing the business of said company for and during such time, not exceeding five years, as the said subscribers or a majority of them shall think proper; and every subscriber shall be allowed one vote for every share held by him or her in said company, and any stock holder by writing under his or her hand and seal, executed in the presence of two witnesses, may depute any other member or stockholder to vote and act as his or her proxy at any general meeting.

Style of the company.

Empowered to elect a president and directors.

Stock-holders may vote by proxies, &c.

Powers of the president and directors.

May appoint officers, &c.

SECT. 3. *And be it enacted*, That the said president and directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of said company to perform, or perform themselves, all such works as they shall judge necessary for opening and improving the navigation between the waters of Lewes creek and Rehoboth bay, and out of the money arising from the subscriptions and tolls to pay for the same, and to repair and keep in order the said canal and other works necessary thereto and to defray all incidental charges, and also to appoint a treasurer, clerk and such other officers and servants as they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle and pass their accounts, and also to make and establish rules of proceeding, and to transact the business and concerns of the said company, during the intervals between the general meetings of the same, and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall by a general meeting of the subscribers, be determined: *Provided always* that the

treasurer shall give bond in such penalty and with such security as the said president and directors or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made him for his services shall not exceed five dollars in the hundred, for the disbursements by him made, and that no officer in said company shall have any vote in the settlement or passing his own account.

Treasurer shall give bond.

His compensation.

SECT. 4. *And be it enacted,* That the said president and directors or a majority of them shall have full power and authority from time to time, as money shall be wanted, to direct at what time, and in what proportion the sums subscribed shall be paid; and, if any of the said proprietors shall refuse or neglect to pay their said proportions within three months after an order shall be presented, signed by the said president for the said proportion, then the share or shares of the said proprietor and all monies thereon paid shall be forfeited to the company, and shall be sold by them to any person willing to purchase, for such price as can be obtained therefor; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the said sale and conveyance had been made by the original proprietor.

President & directors empowered to direct in what manner subscriptions shall be paid.

Subscribers not paying shall forfeit their shares, and

the same may be sold.

SECT. 5. *And to continue the succession of the said president and directors and to keep up the same number,*

Continuance of officers.

*Be it enacted,* That from time to time upon the expiration of the term for which the said president and directors may be appointed, or at any time thereafter, it shall be lawful for the said president and directors, or any two of them, or of any four of the proprietors, to call a general meeting of the subscribers, which shall consist of not less than the proprietors of two hundred shares, which general meeting shall either continue the said president and directors, or any of them, or choose others in their stead, and in case of the death, removal, re-

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signation or incapacity of the president or any of the said directors, may and shall elect any other person or persons to be president and directors, and may at any of their general meetings remove the president or any of the directors, and appoint others for and during the remainder of the term, for which such person or persons were at first to have acted.

Canal and profits vested in the corporation.

SECT. 6. *And be it enacted,* That for and in consideration of the expenses the said stock-holders will be at, not only in cutting the said canal and other works for opening the said navigation, but in maintaining and keeping the same in repair, the said canal works with all their profits under the limitations aforesaid, shall be and the same are hereby vested in the said corporation forever, subject nevertheless to the conditions hereafter mentioned; and that it shall and may be lawful for the said president and directors after the said canal shall be made navigable, to demand and receive the following tolls at such place or places in the canal as they may hereafter direct---*Provided,* that the whole toll received shall not amount to more than the rates fixed by this act, that is to say---

	Cents.
Rates of toll.	
Every Pipe of Distilled Spirits or Wine,	37½
Every Hogshead of ditto ditto	31
Every Hogshead of Tobacco	31
Every Hogshead of Beer, Cider, Lime or Molasses	25
Every Barrel of ditto	0
And all other Casks or Kegs in proportion, according to the quantity and quality of their contents.	}
Every Bushel of Wheat or other Grain or Salt	4
Every Barrel of Pork, Beef, Fish or Flour	6
Every Ton of Iron	25
Every Hundred Pipe or Hogshead Staves or Heading	3
Every Hundred do. Barrel ditto	2
Every Thousand Shingles two feet long or more	20
Every Thousand ditto less than two feet long	10
Every Hundred Rails or Logs	10
Every Hundred Cubic Feet of Plank or Scaupling	20
Every Hundred Cubic Feet of other Timber	15

	Cents.	} 3	} 3
Every Cord of Wood	25		
Every Gross Hundred Weight of all other Commodities or Packages			

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And for all other commodities in proportion to the articles herein enumerated.

And every boat or vessel more than one ton burthen which has not commodities on board, to pay the sum of two dollars, and every boat or vessel one ton burthen, or under as aforesaid, which has not commodities on board, to pay the sum of one half dollar, shall pay so much respectively as with the commodities on board will yield the sums aforesaid.

SECT. 7. *And be it enacted,* That in case of refusal or neglect to pay the tolls at the time of offering to pass through the said canal, and previous to the vessel or raft passing through the same the collectors of the said tolls may lawfully refuse passage to such vessel or raft, and if any vessel or raft shall pass without paying the said toll, then the said collector may seize such vessel or raft wherever found, and sell the same at auction for ready money, or so much thereof as may be judged necessary to pay the said toll and the expenses of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having the direction of such vessel or raft shall be liable for such toll if the same is not paid by the sale of such vessel or raft as aforesaid---*Provided,* That the said proprietors or a majority of them, holding at least three hundred shares, shall have full power and authority at any general meeting to lessen the said tolls or any of them.

Penalty on refusing to pay toll.

Proprietors may lessen the tolls.

SECT. 8. *And be it enacted,* That it shall and may be lawful for the president and directors or a majority of them to contract and agree with the owner or owners of any land and tenements, for the purchase of so much thereof as shall be necessary for making, digging and perfecting said canal; but in

President and directors may agree with the owners of land for the purchase thereof.

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signation or incapacity of the president or any of the said directors, may and shall elect any other person or persons to be president and directors, and may at any of their general meetings remove the president or any of the directors, and appoint others for and during the remainder of the term, for which such person or persons were at first to have acted.

Canal and profits vested in the corporation.

SECT. 6. *And be it enacted,* That for and in consideration of the expenses the said stock-holders will be at, not only in cutting the said canal and other works for opening the said navigation, but in maintaining and keeping the same in repair, the said canal works with all their profits under the limitations aforesaid, shall be and the same are hereby vested in the said corporation forever, subject nevertheless to the conditions hereafter mentioned; and that it shall and may be lawful for the said president and directors after the said canal shall be made navigable, to demand and receive the following tolls at such place or places in the canal as they may hereafter direct---*Provided,* that the whole toll received shall not amount to more than the rates fixed by this act, that is to say---

	Cents.
Rates of toll. Every Pipe of Distilled Spirits or Wine,	37½
Every Hogshead of ditto ditto	31
Every Hogshead of Tobacco	31
Every Hogshead of Beer, Cider, Lime or Molasses	25
Every Barrel of ditto	6
And all other Casks or Kegs in proportion, according to the quantity and quality of their contents. }	
Every Bushel of Wheat or other Grain or Salt	1
Every Barrel of Pork, Beef, Fish or Flour	6
Every Ton of Iron	25
Every Hundred Pipe or Hogshead Staves or Heading	3
Every Hundred do. Barrel ditto	2
Every Thousand Shingles two feet long or more	20
Every Thousand ditto less than two feet long	10
Every Hundred Rails or Logs	10
Every Hundred Cubic Feet of Plank or Scantling	20
Every Hundred Cubic Feet of other Timber	15

Every Cord of Wood	Cents.
Every Gross Hundred Weight of all other Commodities or Packages	25
	3

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And for all other commodities in proportion to the articles herein enumerated.

And every boat or vessel more than one ton burthen which has not commodities on board, to pay the sum of two dollars, and every boat or vessel one ton burthen, or under as aforesaid, which has not commodities on board, to pay the sum of one half dollar, shall pay so much respectively as with the commodities on board will yield the sums aforesaid.

SECT. 7. *And be it enacted,* That in case of refusal or neglect to pay the tolls at the time of offering to pass through the said canal, and previous to the vessel or raft passing through the same the collectors of the said tolls may lawfully refuse passage to such vessel or raft, and if any vessel or raft shall pass without paying the said toll, then the said collector may seize such vessel or raft wherever found, and sell the same at auction for ready money, or so much thereof as may be judged necessary to pay the said toll and the expenses of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having the direction of such vessel or raft shall be liable for such toll if the same is not paid by the sale of such vessel or raft as aforesaid---*Provided,* That the said proprietors or a majority of them, holding at least three hundred shares, shall have full power and authority at any general meeting to lessen the said tolls or any of them.

Penalty on refusing to pay toll.

Proprietors may lessen the tolls.

SECT. 8. *And be it enacted,* That it shall and may be lawful for the president and directors or a majority of them to contract and agree with the owner or owners of any land and tenements, for the purchase of so much thereof as shall be necessary for making, digging and perfecting said canal; but in

President and directors may agree with the owners of land for the purchase thereof.

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Remedy in case  
of incapacity to  
sell.

Land, when ob-  
tained shall be  
deemed a public  
highway.

Mode of trans-  
ferring shares.

Proviso.

case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos mentis or out of the State or otherwise incapacitated to convey, then it shall and may be lawful to and for the said president and directors to apply to the justices of the general sessions of the peace for the county of Sussex, who are hereby required to have the said land laid off and valued in the usual form of laying off and opening roads and public highways, which land when so laid off, valued and paid for by the said president and directors, and the said canal compleated thereon, shall forever thereafter be deemed and taken to be navigable as a public highway, free from the transportation of all goods, commodities or produce whatsoever, on payment of the tolls imposed by this act.

SECT. 9. *And be it enacted,* That it shall and may be lawful for every of the said proprietors to transfer his share or shares by deed executed before two witnesses, and registered after proof of the execution thereof in the said company's books, and not otherwise, except by devise, which devise shall also be exhibited to the president and directors and registered in the said company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls: *Provided,* that no transfer whatsoever shall be made except for one or more whole share or shares, and not for part of such shares, and that no share shall at any time be sold, conveyed, transferred or held in trust for the use and benefit or in the name of another, whereby the said president and directors or proprietors of said company or any of them shall or may be challenged or made to answer, concerning any such trust, but that every person appearing as aforesaid, to be a proprietor, shall as to others of the said company, be to every intent taken absolutely as such, but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

*Passed at Dover, January 14, 1803.*

C H A P. CXXIV.

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*A Supplement to an act entitled an act to enable certain commissioners to make partition of certain tracts or parcels of land, called Deep-creek-furnace, and Nanticoke forge, with their appurtenances, and the lands purchased for their accommodation, in the county of Sussex, and other purposes therein mentioned.*

*Passed at Dover, January 15, 1803.---Private act.*

C H A P. CXXV.

*A Supplement to an act, entitled, "An act against 1 vol. 101.  
"wears across creeks and rivers."*

**W**HEREAS it hath been represented to this Preamble.  
general Assembly, that divers persons when fishing in St. Jones's creek or Dover river, to the disturbance of other persons who fish in the said creek, use improper means therefor, by threshing and beating the waters of said creek, thereby preventing the fish from passing up and down the said creek, as they otherwise would do; *And where- as* the said act to which this is a supplement doth not answer and provide in those cases,

*Be it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That if any person or persons after the passing of this act shall be discovered, whipping, threshing, beating or otherwise disturbing the waters of St. Jones's creek or Dover river with a view to divert or drive the fish into his, her or their nets, seins or wears, he, she, or they for every such offence, being thereof con-*

Penalty for  
whipping,  
threshing, &c.  
of the waters of  
St. Jones's  
creek.

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Mode of recovery.

victed by the view of any one justice of the peace or by the testimony of one credible witness, shall forfeit and pay to any person or persons who may sue for the same, the sum of ten dollars with costs of suit, to be recovered by complaint made to any one justice of peace for the county of Kent, as other debts under twelve pounds, are recoverable by the laws of this State.

*Passed at Dover, January 17, 1803.*

C H A P. CXXVI.

*An ACT to authorize John Bowers, his heirs, executors, administrators or assigns, to cut a ditch and erect a toll gate across the public road running across a certain tract of land and marsh belonging to the said John Bowers, down to the Delaware bay, and for other purposes.*

Preamble.

**W**HEREAS it appears to this general Assembly from the petition of John Bowers and others, that he is seized of a tract or parcel of land and marsh known by the name of Mulberry point or Bowers's beach, situate in Murderkill hundred in Kent county, and bounded on the east by the Delaware bay; and that the said John Bowers is put to much trouble, and inconvenience from the great concourse of people that resort to the said bay, and while there, trespass on his land and property: and it appears from the petition of the said John Bowers and others, that he is willing to lay off and appropriate to the use of the public, a large part or district of the aforesaid tract or parcel of land and marsh by cutting a ditch from Murderkill creek to the waters of Jones's creek, which said district so to be appropriated as aforesaid, will be included

and contained within the following metes and bounds, to wit; it will be bounded on the east by Delaware bay, on the south by Murderkill creek, on the west by the ditch to be cut so as aforesaid, and on the north by Jones's creek: *And whereas* it is just and proper that all persons who frequent the said bay and trespass on the property of the said John Bowers, should render adequate compensation therefore,

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SECTION 1. *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 John Bowers, his heirs, executors, administrators or assigns, to cut a ditch across the public road running down to the said Delaware bay across the tract of land and marsh so belonging as aforesaid to the said John Bowers, from Murderkill creek to the waters of Jones's creek: and after the said ditch shall be cut so as aforesaid across the said road, the said John Bowers, his heirs, executors, administrators or assigns shall at his or their own proper costs and charges build a good and sufficient bridge over the said ditch where it intersects the said road, in the space of ten days from the day the said ditch shall be cut across the said road.

J Bowers authorized to cut a ditch across the public road, leading to the Delaware bay.

To build a bridge over the ditch.

SECT. 2. *And be it enacted,* That the said John Bowers, his heirs, executors, administrators, or assigns may, and he or they or any of them is and are hereby authorized and empowered to build and erect a gate across the said road running down as aforesaid to the Delaware bay across the land and marsh of the said John Bowers, in such place as he or they may choose; *Provided* the same shall be erected across the said road at not more than half a mile's distance from the side of the Delaware bay, to be measured along the said road; and that there be included between the said ditch and the high water marks of the said bay and creeks at least one hundred acres of land and marsh.

To erect a gate across the road.

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To be a toll-gate.

Profits to belong to J. Bowers and his legal representatives.

Rates of toll.

SECT. 3. *And be it enacted,* That after the said gates shall be erected as aforesaid, the same shall be and remain a toll-gate; and all the emoluments and profits arising therefrom shall belong to the said John Bowers, his heirs, executors, administrators or assigns, and be received by him or them, and applied to his and their own proper use and uses, without accounting for the same in any manner to any person or persons or to any power or authority whatever.

SECT. 4. *And be it enacted,* That the said John Bowers, his heirs, executors, administrators or assigns, or his, or their agent or agents, shall take and receive for toll at the said gate after the same shall be erected from every person or persons passing through the same, the rates and prices following, to wit,

	<i>Cents.</i>
For Every Horse with or without a rider	6
For Every Horse and Chaise, or Sulky or Chair	12
For Every four-wheel pleasurable Carriage drawn } by two Horses	25

For every cart or waggon or other carriage drawn by horses, mules or oxen, at the rate of three cents for every horse, mule or ox.

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Which rates and prices shall be paid by the person or persons for passing through the said gate, but nothing shall be paid by them for repassing on their return home—*Provided also* that no foot-passenger shall pay any toll.

J. Bowers to keep the bridge and gate in good order.

Forfeiture on passing without paying toll.

SECT. 5. *And be it further enacted,* That the said John Bowers, his heirs, executors, administrators and assigns shall keep in good and sufficient order and repair, at his and their own proper costs and charges, the said bridge and gate after the same shall be built and erected in the manner aforesaid: and if any person or persons shall pass through the said gate without having first paid the legal toll, or without the consent of the said John

Bowers, his heirs, executors, administrators or assigns, or his or their agent or agents being first had and obtained : or if any person or persons shall injure or destroy the said gate or bridge voluntarily, he, she or they so offending, shall for every such offence, so by him, her, or them committed, forfeit and pay any sum not exceeding fifty dollars, lawful money of the United States, one moiety thereof to the said John Bowers, his heirs, executors, administrators or assigns, and the other moiety to the treasurer of the said county of Kent, for the use of the said county : to be recovered by indictment and conviction in the Court of general quarter sessions of the peace, for the county aforesaid.

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Mode of recovery.

SECT. 6. *And be it further enacted,* That if any person having the care and keeping of the said gate, shall exact or demand greater rates or prices for passing through the same, than are herein before prescribed and specified; or shall refuse to permit any person or persons to pass through the said gate, after he, she or they shall offer the legal rate or price for the same, for every such offence, so by him committed, he shall forfeit and pay any sum not exceeding ten dollars, one moiety thereof to the party grieved, and the other moiety to the treasurer of the said county for the use of the said county, to be recovered in the same manner as other forfeitures are directed by this act to be recovered.

Exaction of more than legal tolls,

how punished

SECT. 7. *And be it further enacted,* That nothing in this act contained shall extend, or be taken, or construed to extend, to deprive the said John Bowers, his heirs, executors, administrators or assigns, of any right, title or claim which he has to the said district, so by him about to be laid off as aforesaid, other than that the citizens of this State and others may have free ingress and egress, to and from the said district, paying therefor the rates and prices aforesaid ; and may also have the liberty of taking with them their horses, mules and oxen, and of pasturing the same within the said dis-

Certain rights of J. Bowers, not to be hereby impaired.

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In cases of tres-  
pass, the com-  
mon remedy  
may be pursued.

Tolls not to  
commence till  
toll-gate, &c.  
erected.

Penalty on not  
giving due at-  
tendance, &c.

Mode of re co-  
very.

trict so long and no longer than the owners of such horses, mules or oxen, shall continue themselves within the said district. And if any person or persons shall cut down any tree or trees growing or standing on said district, so as aforesaid about to be laid off, or shall commit any kind of trespass on the same other than as above mentioned, he, she or they so offending, shall be liable to be sued by the said John Bowers, his heirs, executors, administrators or assigns, in any action of trespass, or other proper action, before any court of this State having jurisdiction in such cases, and shall answer to such suit or suits, and abide any order, decree or determination that the court or jury shall lawfully make therein.

SECT. 8. *And be it enacted,* That until the lands as aforesaid are laid off for the use of the public, and a ditch of sufficient depth and breadth for the confinement of horses and other cattle, cut, and a bridge built, and gate erected, as contemplated by this law, the tolls imposed by this act, shall not be receivable; and if at any time hereafter the said John Bowers, his heirs, devisees or assigns shall cease to appropriate the said lands for the use of the public as aforesaid, and to keep in sufficient order for the purposes above mentioned, the said ditch, bridge and gate, then and in such case, the tolls imposed by this act, shall cease and determine, during such insufficiency.

SECT. 9. *And be it further enacted,* That the said John Bowers, his heirs, devisees or assignees, shall give or procure to be given due attendance at the place, where the said gate shall or may be erected, to receive the tolls aforesaid, and on neglect or refusal so to do, the said John Bowers, or his heirs, devisees or assignees shall forfeit and pay to the party grieved, the sum of four dollars, to be recovered before any justice of the peace in such manner as other debts under forty shillings are recoverable by the laws of this State.

SECT. 10. *And be it further enacted, That the* Limitation.  
said act shall be and continue in force for fourteen  
years, and no longer.

*Passed at Dover, Jan. 18, 1803.*

\*—\*—\*

C H A P. CXXVII.

*An ACT making provision for the support of go-  
vernment for the year One thousand eight hundred  
and three, and for other purposes.*

SECTION 1. **B**E it enacted by the Senate and <sup>10,500 dols. to</sup>  
*House of Representatives of the* be raised and  
*State of Delaware, in General Assembly met, That* paid into the  
the sum of ten thousand five hundred dollars shall treasury.  
be raised and paid into the treasury of this State,  
within the time and in the manner directed by an  
act of Assembly, entitled, "An act for the better  
ordering, assessing, levying, and collecting of  
taxes and making provision for the support of  
government, for the year of our Lord, One thou-  
sand seven hundred and ninety-eight," and shall  
be assessed and levied in the following proporti-  
ons, 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 dol-  
lars, and for the county of Sussex, the sum of three  
thousand dollars.

SECT. 2. *Whereas* the Levy court of the county  
of New-Castle, was required by the act, entitled,  
"An act making provision for the support of go-  
vernment for the year of our Lord, One thousand  
eight hundred and one," to lay a sum sufficient to  
raise the sum of four thousand dollars, clear of de-  
linquencies and commissions, the same being the

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quota of the said county, of the tax imposed by the said act, whereof the Levy court notwithstanding the said act, did only lay the sum of four thousand one hundred and nineteen dollars and thirty cents, including commissions and delinquencies;

Additional sum to be levied in New-Castle county, to supply its deficiency for the year 1801.

*Be it therefore enacted,* That there shall be assessed and levied in the said county of New-Castle, in addition to the amount of the said county's quota, for the year Eighteen hundred and three; the sum of three hundred and seventy-five dollars and twenty-two cents, being the sum deficient of the quota of said county, imposed by the tax, for the year Eighteen hundred and one, clear of commissions and delinquencies.

10,000 dols. appropriated for the purchase of stock,

State treasurer authorised to purchase stock, and

enter the same in his books, &c.

SECT. 3. *And be it enacted,* That the sum of ten thousand dollars, part of the sum now in the treasury of this State, shall be, and the same is hereby appropriated to the purchase of bank stock, or other stock in the United States of America. And the State treasurer is hereby authorised and required to purchase for the use of the State, on the lowest and best terms to be obtained, with said money, the said bank or other stock in the United States. And the stock when so purchased, shall be entered by him in the treasury books of this State, specifying therein the number and amount of each certificate, the date thereof, to whom the same issued, of whom bought and the price paid for the same. And the State treasurer is hereby directed to return to the auditor, in his quarterly settlements with him, an account of such purchase of stock, with a specification thereof, as before mentioned.

Appropriation for payment of salaries, &c

SECT. 4. *And be it enacted,* That the aforesaid sums, together with all sums of money which now are or may hereafter come into the treasury of this State (not otherwise appropriated) 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 sala-

ries due, and to become due to the Governor, Chancellor, Judges of the Supreme court, Judges of the Court of common pleas, Attorney General, Secretary and Auditor of accounts, up to the first day of January, which will be in the year of our Lord, One thousand eight hundred and four; and so much thereof, as may be necessary, shall be applied to the payment of the daily allowance of the members of the general Assembly; their clerks and other expences, and for printing laws passed at this session of the general Assembly, and the votes and proceedings of the two branches thereof, and the residue, if any, shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law.

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Residue for  
payment of  
debts due to ci-  
tizens.

*Passed at Dover, Jan. 19, 1803.*

C H A P. CXXVIII.

*An ACT to repeal an act, entitled, "An act for the holding of fairs in the several counties of this State," passed at Dover, on the third day of February, One thousand eight hundred and two.*

**W**HEREAS the aforesaid act hath been found not to answer the purposes therein contemplated, therefore

Preamble.

*BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the before recited act and every part thereof, be, and the same is hereby repealed, made null and void.*

Repeal—see  
chap. 108. 3d.  
vol. p. 239.

*Passed at Dover, January 20, 1803.*

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## C H A P. CXXIX.

*An ACT to authorize Ann Ward, administratrix of George Ward, dec. to convey and assure unto Nicholas Barlow a certain parcel of land.*

*Passed at Dover, Jan. 22, 1803—Private act.*

## C H A P. CXXIX.

*An ACT respecting the Appoquinimink bridge and causeway, in the county of New-Castle.*

Bridge, &c.  
across Appoqui-  
nimink creek,  
by whom to be  
repaired.

Penalty for not  
repairing, &c.

How the cause-  
way shall be re-  
paired.

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 day of September next, any person or persons who may occupy the public house or tavern, now reputed the property of the heirs of Sharp Delany at Appoquinimink landing, in the county of New-Castle aforesaid, shall support, maintain and repair the bridge at the place or landing aforesaid, across the Appoquinimink creek and the causeway leading from the same over the marsh or low ground to the fast-land, for the safe and convenient passage of men, horses, carts, waggons and other carriages, under the penalty of any sum not exceeding thirty dollars for each offence, at the discretion of the court, to be recovered by indictment.

SECT. 2. *And be it enacted*, That the occupier or occupiers shall set up, or cause to be set up, at or within the time aforesaid, at sixty feet distance from each other, good white-oak or cedar posts, to be at least four inches square, planted or fixed in

the earth at least four feet, and at least three feet above the marsh over and along the edges of the causeway aforesaid, the better to enable the passengers to pass over the said causeway in case it should be overflowed, by any extraordinary flowing of the tide; and for neglect or refusal so to do, the said occupier or occupiers shall forfeit the like penalty as aforesaid; to be recovered in manner aforesaid.

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SECT. 3. *And be it further enacted,* That the said occupier or occupiers shall within the aforesaid time, cause to be made at different places along the said causeway, at equal distances from the two extreme ends, two good and sufficient offsets, which shall admit without difficulty all persons travelling with carriages, carts or otherwise, to pass and re-pass each other under the penalty aforesaid, to be recovered as aforesaid.

Offsets to be made along the causeway, to admit carriages, &c to pass each other.

*Passed at Dover, Jan. 25, 1803.*

C H A P. CXXX.

*An ACT to restrain swine from running at large within the limits therein described.*

**W**HEREAS divers inhabitants of Appoquinimink hundred in the county of New-Castle, by their petition to this general Assembly, have prayed that swine shall not be permitted to run at large (on account of the scarcity of timber) within the following limits or bounds, therefore,

Preamble.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the first day of April next ensuing the passing of this

Swine not to run at large within certain limits.

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Swine running  
at large after  
the 1st day of  
April, forfeited.

act, no inhabitant or inhabitants of the said hundred, or other person or persons whatsoever shall suffer or permit any of their swine or hogs, to run at large within the limits or bounds following, that is to say, beginning at the bridge over the southerly prong of Appoquinimink creek, on the road from Middle-town to Blackbird, from thence along said branch or creek to the Wolf'swamp, from thence to Dutchman's pond and the State line, from thence up the State and hundred lines, to the road leading from Middle-town to Blackbird as aforesaid, thence down said road to the place of beginning; and if any person or persons shall permit or suffer any of his, her or their swine or hogs to run at large, within the bounds and limits aforesaid, after the said first day of April next, the owner or owners of all such swine or hogs, shall forfeit the same to the trustee of the poor of New-Castle county, for Appoquinimink hundred, who shall apply the same, to and for the use of the poor of said county.

Nearest justice  
shall appoint a  
ranger.

SECT. 2. *And be it enacted,* That it shall and may be lawful for the justice of the peace who shall reside within or nearest to the district or limits aforesaid, and he is hereby authorised, directed and required to appoint annually, on the first Monday of April, in writing under his hand and seal, one discreet and suitable person, an inhabitant within the limits and bounds aforesaid as ranger, for the purpose of keeping and detaining all such swine or hogs, so permitted and suffered to run at large as aforesaid, within the limits aforesaid.

Penalty on re-  
fusing to serve  
as ranger, when  
appointed.

Made of recover-  
y and approp-  
riation.

SECT. 3. *And be it enacted,* That if any person whatsoever, who shall be appointed to serve as ranger in manner aforesaid, shall refuse to accept of said appointment, or neglect the duties herein after prescribed, every such person so refusing or neglecting, shall forfeit and pay the sum of twenty dollars, to be recovered as other debts under twelve pounds are by the laws of this State recoverable, together with costs thereon, by any person or persons who will prosecute for the same, one-moety thereof

to the use of the person or persons prosecuting and the other moiety to the use of the poor of New-Castle county. *Provided*, that if any person or persons so appointed ranger, shall refuse to serve, die or be rendered incapable of acting, then and in every such case the said justice shall nominate and appoint in writing some other person, which said person, so appointed, is hereby empowered and required to act in the premises as fully as the person before appointed.

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SECT. 4. *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 permitted or suffered to run at large as aforesaid, within the limits aforesaid, to the ranger, who is hereby authorized 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, to and for the use of the poor of said county; first paying a reasonable compensation to the person or persons driving or conveying such swine or hogs to the ranger aforesaid, for his or their trouble, to be judged of by said ranger, and retaining what may be reasonable for his own trouble, and other expences necessarily arising, to be judged of by any one justice of the peace of the county aforesaid; the said ranger always accounting to the trustee of the poor of New-Castle county residing within the hundred aforesaid, which said trustee is hereby authorized and required to enquire into and settle the same, from time to time, with the said ranger, and the said trustee as well as the said ranger to keep fair accounts of the proceedings and money arising therefrom, and of the use and application of it for the purpose aforesaid.

Mode of proceeding, in case of swine running at large.

SECT. 5. *Provided nevertheless*, That if any owner or owners of any hog, hogs or swine, shall within three days after the same shall have been driven or carried to the ranger aforesaid, pay the

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sum of one dollar for each and every hog so driven or carried to the ranger, aforesaid, together with reasonable expenses to the person or persons, who drove or carried the same, and to the ranger to whom the same shall have been carried as aforesaid for keeping thereof, 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 or owners again, on his, her or their application for the same.

SECT. 6. *And be it enacted,* That if any inhabitant or inhabitants within the limits aforesaid shall permit or suffer any of his, her or their hogs or swine to run at large without the said limits or district; it shall and may be lawful to and for any person or persons whatsoever, to seize, drive and carry alive, the said hogs or swine to the ranger aforesaid, who is hereby authorized, empowered and directed, to receive and proceed to dispose thereof in the same manner as if the same had been running at large, and seized, driven or carried to him within the bounds aforesaid.

In case of suit,  
general issue  
may be pleaded,  
&c.

SECT. 7. *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 this 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.

*Passed at Dover, January 25, 1803.*

## C H A P. CXXXI.

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*An additional supplement to an act entitled "An act for the appointing a corder or measurer of fire-wood in each of the towns and villages within this government."*

1 vol. 247.

2 vol. 1307.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That if any person within the town of Dover, or one quarter of a mile thereof, shall, when there is any wood-corder or measurer appointed and sworn, buy any fire-wood which is not measured or to be measured by the wood-corder of the town, the person purchasing the same shall forfeit and pay for every parcel of wood so bought, the sum of two dollars, to be recovered before any justice of the peace of the county, by any person or persons who will sue for the same, in such manner as debts under forty shillings are recoverable.

Penalty on persons in Dover buying fire-wood without measuring, &c.

Mode of recovery.

SECT. 2. *And be it further enacted by the authority aforesaid,* That if any measurer or corder of wood within the town of Dover shall neglect or refuse upon application of any person, to attend in person or by deputy forthwith for the purpose of measuring wood, unless he can give some good and sufficient reason for such neglect or refusal, shall forfeit and pay for every such offence the sum of one dollar and fifty cents, to be recovered as before mentioned.

Penalty on wood-corder refusing to measure wood.

Mode of recovery.

*Passed at Dover, January 25, 1803.*

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CHAP. CXXXII.

*A Supplement to an act, entitled, "An act for the better regulation of distresses for rent, and for other purposes therein mentioned."*

Preamble.

**W**HEREAS the twelfth section of the act to which this is a supplement, is found not to answer all the desirable purposes thereby intended, and is inadequate to remedy the injurious delays before possession can be recovered, for remedy whereof,

Remedy in case tenants hold over after the determination of their leases, &c.

SECT. 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, that where any person or persons being owners of land within 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, three months previous to the determination of said time or demise, to remove from and leave the same, that then and in all such cases, the said lessor or lessors, his or their heirs or assigns, may complain thereof to any two justices of the peace of the county where the demised premises are situate, and upon proof thereof made before the said justices, that they are hereby directed and required, at the request, and on such application of the said lessor or lessors, his or their heirs or assigns, to proceed forthwith to issue their warrant to the Sheriff, and proceed as is directed in the twelfth section of the act to which this is a supplement.

SECT. 2. *And be it further enacted by the authority aforesaid,* That all arrears for rent due, when the sum doth not exceed twelve pounds, be, and the same are hereby made cognizable before any one justice of the peace by *capias* or summons, as the case may require, directed to any constable of the county where the defendant dwells, and proceed therein as is directed by the act for the more easy and speedy recovery of small debts; any law, custom or usage to the contrary notwithstanding.

Arrears of rent not exceeding twelve pounds, cognizable before a justice of the peace.

Mode of proceeding.

*Whereas* by the third section of the act of Assembly for determining debts under forty shillings, it is made lawful for justices of the peace to grant warrants of attachment for debts not exceeding forty shillings; *And whereas* debts to the amount of twelve pounds have since been made cognizable before justices of the peace, the beneficial effects whereof is happily experienced, and it is believed the granting to the justices aforesaid the power of issuing attachments for debts not exceeding thirty two dollars, would be a public benefit;

1st vol. 189.

*Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for justices of the peace to grant warrants of attachment for debts not exceeding thirty-two dollars in the same manner and under the same restrictions as is directed in the "act for determining debts under forty shillings."

Warrants of attachment under 32 dols. may be issued by a justice of the peace.

*Passed at Dover, January 26, 1803.*

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CXXXIII.

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C H A P. CXXXIII.

*An ACT to regulate hawkers, pedlars and petty chapmen, within the State of Delaware.*

Preamble.

**W**HEREAS the laws heretofore made about hawkers and pedlars, have been found by experience, not to answer all the purposes intended :

No person to follow peddling, &c. until licensed.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the first day of April next, no person or persons, whatsoever, shall follow or employ him, her or themselves in the employment of a hawker, pedlar or petty chapman, or in going from place to place, and travelling with one or more horse or horses, or otherways, within this State, or carry to sell or expose to sale any goods, wares or merchandizes not of the growth, product or manufacture of the United States within this State, until such person or persons, shall have obtained a license therefor from the Governor, and paid the sum which he or she may be enjoined to pay for such license by this act.

Rates of licenses

SECT. 2. *And be it enacted,* That for every license to be granted as aforesaid, there shall be paid to the secretary of State, for the use of the school fund, the following sum, to wit :

Altered by 4th sec. 4th vol. 261. & again altered 5th vol. 118.

For every hawker, pedlar or petty chapman travelling on foot, without a horse or other beast of burthen, the sum of six dollars; for every hawker, pedlar or petty chapman travelling with one or more horse or horses, mule or mules, the sum of ten dollars; and for every hawker, pedlar or petty chapman travelling with a cart or waggon, the sum of sixteen dollars.

Penalty on persons not qualifi-

SECT. 3. *And be it enacted,* That if any person or persons, not licensed as aforesaid (except

such whose licenses may not be expired) shall be found hawking, pedling or travelling from place to place through any part of this State, to sell or expose to sale any goods, wares or merchandizes, not the growth, product or manufacture of the United States, he, she, or they, so offending shall forfeit the sum of thirty dollars, one moiety thereof to this State for the use of the school fund, and the other moiety to the person, who sues for the same, to be recovered as other debts under twelve pounds are recoverable in this State.

SECT. 4. *And be it enacted,* That if any person licensed as aforesaid, shall refuse upon the request of any justice, constable, or other civil officer to shew his or her license, every person so offending shall forfeit the sum of thirty dollars, or if any person having a license shall lend or otherwise dispose of the same to any other person, the person so receiving and the person so lending, shall each forfeit the sum of thirty dollars, all of which fines shall be recovered and applied as by this act above is directed and provided.

ed travelling as pedlars.

Penalty on pedlars, &c. who refuse to show their licenses.

SECT. 5. *And be it enacted,* That the licenses to be granted as aforesaid, shall be and remain in force for the term of one year and no longer.

Licenses in force for one year.

SECT. 6. *And be it enacted,* That the act, entitled, "An act for regulating pedlars within this government," passed on the 4th, of George the second, be and the same is hereby repealed, made null and void.

Repeal—See chap. 59. a. 1 vol. 135.

*Passed at Dover, Jan. 26, 1803.*

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## C H A P. CXXXIV.

*An ACT for the establishment of a college at the borough of Wilmington, in the county of New-Castle, in the State of Delaware.*

Preamble.

**W**HEREAS the happiness and prosperity of every community (under the direction and government of Divine Providence) depends much on the right education of the youth who must succeed the aged in the important offices of society, and the most exalted nations have acquired their pre-eminence, by the virtuous principles and liberal knowledge instilled into the minds of the rising generation.

*And whereas* the charter heretofore granted unto the trustees of the public grammar school in the borough of Wilmington and county of New-Castle on Delaware, bearing date the tenth day of April, in the year of our Lord, One thousand seven hundred and seventy-three, is found upon experience not calculated to answer all the good purposes thereby intended :

*And whereas* it appears to this general Assembly, that the institution of a college at the borough of Wilmington aforesaid, for the instruction of youth in the American and learned languages, and other branches of literature is likely to promote the real welfare of this State.

Former charter to "The trustees of the public grammar school," &c. revoked.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the charter of the said public grammar school in the borough of Wilmington and county of New-Castle on Delaware, bearing date the tenth day of April, in the year of our Lord, One thousand seven hundred and seventy-three, whereby certain persons were incorporated by the name, style and title of, The Trustees of the

public grammar school in the borough of Wilmington and county of New-Castle on Delaware, be and the same is hereby revoked and declared null and void, and that from and after the passing of this act, all the authority, rights, titles and estates, real, personal and mixed, belonging to the said corporation, shall be vested in the trustees herein after appointed and their successors.

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SECT. 2. *And be it enacted,* That there be erected, and hereby is erected and established in the borough of Wilmington in the county of New-Castle in the State of Delaware, a college for the education of youth in the American, learned and foreign languages, the useful arts, sciences and literature, the style, name, and title of which said college and the constitution thereof, shall be and are hereby declared to be, as is herein after mentioned and defined, that is to say,

College of Wilmington, &c. erected.

1. The said college shall be forever hereafter called and known by the name of "The college of Wilmington, in the State of Delaware."

2. That the said college shall be under the management, direction and government of a number of trustees, not exceeding thirty or a quorum or board thereof, as herein after mentioned.

Under the direction of trustees.

3. That the first trustees of the said college shall consist of the following persons, viz. William White, William Smith, Thomas Duff, Miers Fisher, John Dickinson, Joseph Tatnall, Jacob Broom, Gunning Bedford, Henry Latimer, James A. Bayard, Cæsar A. Rodney, Robert Hamilton, George Monroe, James Tilton, Ebenezer Smith, Thomas Read, Joshua Gilpin, David Hall, William Hill Wells, Nicholas Ridgely, James Sykes, John Warner, James Lea, Thomas Lea, James P. Wilson, Outerbridge Horsey, Daniel Rodney, Andrew Barratt, George Kennard, and William M'Kee: which said trustees, and their successors to be elected in the manner hereafter mentioned, shall forever here-

Trustees appointed.

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Trustees incor-  
porated with  
certain powers.

after be, and they are hereby erected, established and declared to be one body politic and corporate, with perpetual succession, in deed and in law, to all intents and purposes whatsoever, by the name, style and title of "The trustees of the college of Wilmington in the State of Delaware," by which name and title they, the said trustees and their successors, shall be competent and capable at law and in equity to take to themselves, and their successors for the use of the said college, any estate in any messuages, lands, tenements, hereditaments, goods, chattels, monies or other effects, by the gift, grant, bargain, sale, conveyance, assurance, will, devise, or bequest of any person or persons whatsoever; *Provided* the same do not exceed in the whole, the yearly value of ten thousand pounds; and the same messuages, lands, tenements, hereditaments and estate, real and personal, to grant, bargain, sell, convey, assure, demise, and to farm, let and place out on interest or otherwise dispose of, for the use of the said college, in such manner as to them, or at least nine of them, shall seem most beneficial to the institution, and to receive the rents, issues, profits, income and interest of the same, and to apply the same to the proper use and support of the said college; and by the same name to sue, commence, prosecute and defend, implead and be impleaded, in any courts of law or equity, and in all manner of suits or actions, whatsoever, and generally by and in the same name, to do and transact all and every the business touching or concerning the premises, or which shall be incidentally necessary thereto, as fully and effectually, as any natural person or body politic or corporate within this State have power to manage their own concerns, and to hold, enjoy and exercise all such powers, authorities and jurisdictions, as are customary in other colleges in Europe or America.

Corporate Seal.

4. That the said trustees shall cause to be made for their use one common seal, with such devices and inscriptions thereon as they shall think proper, under and by which all deeds, diplomas, certificates

and acts of the said corporation shall pass and be authenticated, and the same seal at their pleasure to break, and devise a new one.

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5. That the said trustees of the said college, or six of them at least, shall meet at the borough of Wilmington on the first Monday in May, for the purpose of concerting and agreeing to such business as in consequence of this act, shall be proper to be laid before them at the commencement of the work they have undertaken, and shall have power to adjourn from time to time as they shall see cause, to any other times and places, for the purpose of perfecting the same.

Quorum of six to meet at Wilmington to commence the business of the said college.

6. That there shall be a stated meeting of the said trustees held twice in every year at least, at the borough of Wilmington, at such time as the said trustees or a quorum thereof shall appoint, of which public notice shall be given after the first meeting at least twenty days before the time of such intended meeting, and there shall be occasional meetings of the said trustees, whenever the president to be appointed by them, shall deem the business of the institution to require the same, and shall give due notice thereof; which he is hereby authorized to do, and if at such stated or occasional meetings six of the said trustees shall not be present, those of them who shall be present shall have power to adjourn the meeting to any other day, as fully and effectually to all intents and purposes, as if the whole number of trustees for the time being were present, but if six or more of the said trustees, shall meet at the said appointed times, or at any other time of adjournment, then such six of the said trustees shall be a board or quorum, and a majority of the votes of them shall be capable of doing and transacting all the business and concerns of the said college not otherwise provided for by this act; and particularly of making and enacting ordinances for the government of the said college, of electing trustees, in the place or stead of those who shall resign their places or who shall die, of electing and appointing the principal, and professors of the said college,

Stated and occasional meetings to be held, &c.

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of agreeing with them for their salaries and stipends, and removing them for misconduct or breach of the laws of the institution; of appointing committees of their own body to carry into execution all and every the resolutions of the board; of appointing a president, treasurer, secretary, stewards, managers and other necessary and customary officers, for the taking care of the estate and managing the concerns of the corporation; and generally a majority of voices of the board or quorum of the said trustees consisting of six persons at least, at any semi-annual, occasional or adjourned meeting after notice given as aforesaid, shall determine all matters and things (although the same be not herein particularly mentioned) which shall occasionally arise, and be incidentally necessary to be determined and transacted by the said trustees: *Provided always*, that no ordinances shall be of force, which shall be repugnant to the laws of this State.

Style of the  
chief master &  
the other mas-  
ters.

7. The head or chief master of the said college shall be called and styled "The principal of the college," and the masters thereof shall be called and styled "Professors," but neither principal nor professors while they remain such, shall ever be capable of the office of trustee.

Faculty, their  
powers defined.

8. The principal and professors or a majority of them, shall be called and styled "The faculty of the college," which faculty shall have the power of enforcing the rules and regulations adopted by the trustees for the government of the pupils, by rewarding or censuring them, and finally by suspending such of them, as after repeated admonitions shall continue disobedient and refractory, until the determination of a quorum of trustees can be had, and of granting and confirming by and with the approbation and consent of a board of the trustees, signified by their mandamus, such degrees in the liberal arts and sciences to such pupils of the college, or others, who by their proficiency in learning, or other meritorious distinction, they shall think entitled to them as are usually granted and conferred

in other colleges in Europe or America, and to grant to such graduates, diplomas or certificates under their common seal, and signed by the faculty to authenticate and perpetuate the memory of such graduation.

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9. Persons of every religious denomination among Christians, shall be capable of being elected trustees; nor shall any person, either as principal, professor, or pupil be refused admittance for his conscientious persuasion in matters of religion, provided he shall demean himself in a sober, orderly manner, and conform to the rules and regulations of the college.

Who may be  
elected trustees

10. No misnomer of the said corporation shall defeat or annul any gift, grant, devise, or bequest, to or from the said corporation; provided the intent of the parties shall sufficiently appear upon the face of the gift, grant, will, or other writing, whereby any estate or interest was intended to pass to or from the said corporation, nor shall any misuser or nonuser of the rights, liberties, privileges, jurisdictions and authorities, hereby granted to the said corporation or any of them, create or cause a forfeiture thereof.

Gifts, devises,  
&c. to be con-  
sidered favour-  
ably.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the constitution of the said college, herein and hereby declared and established, shall be and remain the inviolable constitution of the said college forever; and the same shall not be altered or alterable by any ordinance or law of the said trustees, nor in any other manner than by an act of the Legislature of this State.

Constitution  
not to be alter-  
ed unless by act  
of Assembly.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the said trustees herein before appointed and their successors, and the principal and professors and every of them hereafter to be appointed, in such manner and form as herein is directed and required, before he or they enter upon the duties of their trust or office shall take and sub-

Manner of qua-  
lifying the trus-  
tees.

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scribe the oaths or affirmations prescribed by the ninth article of the constitution of this State.

*Passed at Dover, Jan. 26, 1803.*



C H A P. CXXXV.

*An ACT authorizing the distribution of certain public papers relating to lands in this State.*

3d vol. 195. 245.

The title papers obtained from Pennsylvania to be transmitted to the respective counties, &c.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That David Lockwood be, and he hereby is authorized and appointed, to divide as soon as may be, the public papers lately obtained from the State of Pennsylvania by Samuel White, esquire, the agent appointed on the part of this State for that purpose, and to transmit and deposit the same in the several offices of the recorder of deeds for the counties of this State respectively, according as the said public papers may relate to, or concern the said counties respectively; and that the general Assembly of this State will make good any reasonable costs and charges that may be incurred in and about the dividing and transmitting the said public papers as aforesaid.

Shall be deemed public records.

Recorders may make out exemplifications;

their effect,

SECT. 2. *And be it further enacted,* That the said public papers so divided and deposited shall be deemed and taken as public records; and that it shall be lawful for the several recorders aforesaid to make out and grant exemplifications thereof, which shall be taken and received as evidence as exemplifications of the papers aforesaid have heretofore been taken and received, while they remained in the several offices of the State of Pennsylvania aforesaid.

SECT. 3. *And be it further enacted,* That the patents, copies of patents, or other public papers that may hereafter be obtained from the State of Pennsylvania, by the agent aforesaid or his successor, shall be and he is hereby directed and required to transmit and deposit the same in the office of recorder for the counties respectively, to which they may relate or belong; and that the same being so transmitted and deposited, shall be deemed and taken as public records, and that it shall be lawful for the recorders respectively to make out exemplifications thereof, which shall be taken and received as evidence in the same manner as exemplifications from the originals heretofore taken and received, when obtained from the State of Pennsylvania aforesaid; and that for each and every exemplification made by virtue of this act, the recorders respectively may ask and receive the same fees as they are entitled to receive for similar services by the act entitled, "An act for regulating and establishing fees."

Patents, &c. hereafter obtained, to be transmitted to the counties to which they relate.

To be deemed public records.

Exemplifications to be made out, &c.

Recorders fees.

*Passed at Dover, Jan. 27, 1803.*



C H A P. CXXXVI.

*An ACT to enable Jonas Dawson to raise the sum of three thousand dollars by lottery, for the purposes therein mentioned.*

*Passed at Dover, Jan. 27, 1803—Private act.*

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## CHAP. CXXXVII.

*An ACT to incorporate the trustees of Glasgow Grammar School, in the county of New-Castle.*

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That John Hyatt, esquire, William Cooch, Jacob Faris, Solomon Underwood and Robert Middleton, shall be and they are hereby constituted a body politic and corporate by the name of "The trustees of Glasgow Grammar School in the county of New-Castle," and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded in any court of law or equity.

Glasgow grammar school incorporated.

Style of the corporation.

May hold property, and

dispose of the same,

Powers.

SECT. 2. *And be it enacted,* That the said trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive and hold, any lands, tenements, rents, goods or chattels which shall be given, conveyed or devised to them for the use of the said school, and to sell, rent, or dispose of the same in such manner, as to them shall seem most beneficial to the said school.

SECT. 3. *And be it enacted,* That the said trustees, or any three of them, shall have power from time to time, to make and establish such bye-laws, rules and ordinances, not contrary to the laws and constitution of this State, as they shall judge necessary and proper, for the good government of the said school, and to appoint a president, secretary, tutor or tutors and treasurer, the last of whom shall receive all monies accruing to the said school and property delivered to his care, and pay or deliver the same to the order of the said trustees. The said treasurer, before he enters on the duties of his office, shall give bond and security in such sum as the said trustees shall direct, payable to them and

their successors, conditioned for the faithful discharge of the trust reposed in him, and that he will when required by the said trustees, render a true and just account of all monies, goods and chattels received by him on account of, and for the use of the said school; which treasurer shall receive such salary as the said trustees shall allow.

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SECT. 4. *And be it enacted*, That the said trustees shall have power to take and receive subscriptions to the use and for the benefit of the said school; and in case any person shall fail to comply with his or her subscription, to enforce the payment thereof. And in case of the death, resignation, or other legal disability of any of the said trustees herein named, the vacancy thereby occasioned shall be supplied by the remaining trustees.

Trustees may receive subscriptions for the use of the school.

Vacancies how supplied.

*Passed at Dover, Jan. 27, 1803.*



C H A P. CXXXVIII.

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

1st vol. 402. 411  
510. 3d vol. 343.  
4th vol. 407.

**W**HEREAS the present mode of repairing the roads in the county of New-Castle, is found not only to be ineffectual, but highly oppressive to the people of the several hundreds, for remedy whercof,

Preamble.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the following persons be, and they are hereby appointed commissioners of the roads in the several hundreds in the county aforesaid;

Commissioners appointed.

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Viz. For Brandywine hundred, Joseph Tatnall, Thomas Tally, and Thomas Perkins, jun.

Christiana hundred, John Elliott, William Robinson, farmer, and William Walters.

Mill-creek hundred, John R. Phillips, Joseph England and William Moore.

New-Castle hundred, Thomas Mendenhall, Samuel Moore and Charles Thomas.

Whiteclay-creek hundred, Benjamin Chambers, George Gillespie and David Nevin.

Pencader hundred, John Vail, Robert Middleton and William Cooch.

Red-Lion hundred, George Toppin, Enoch Thomas and Jesse Higgins.

St. George's hundred, Nathan Thomas, Robert Maxwell and Leonard Vandegrift.

Appoquinimink hundred, John Clark, Robert Naudain and Benjamin Merritt.

Commissioners,  
how to be chosen.

SECT. 2. *And be it enacted,* That the people of the several hundreds in the county aforesaid, who are entitled to vote for assessor and inspector, shall on the fifteenth day of September next, when they choose assessor and inspector, choose one good and substantial freeholder to supply the place of the person first mentioned in this act as commissioner of the roads in the respective hundreds; and on the fifteenth day of September then next ensuing, one good and suitable freeholder to supply the place of

the person named secondly in this act as commissioner of the roads in their respective hundreds; and on the fifteenth day of September thereafter ensuing, one other good and suitable freeholder, to supply the place of the person last named in this act as commissioner of their respective hundreds—and annually thereafter one good and suitable freeholder to supply the place of the person in each hundred who shall have acted as commissioner of roads for and during the space of three years.—And whenever a vacancy or vacancies may happen in any of the hundreds aforesaid, then the surviving commissioner or commissioners, as the case may be, shall within twenty days after such vacancy or vacancies may happen, appoint one or more suitable freeholder or freeholders, to supply such vacancy or vacancies.

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How vacancies shall be supplied.

SECT. 3 *And be it enacted,* That the said commissioners of the roads or a majority of them in each hundred respectively shall meet at some convenient place in their hundred, by them to be agreed on, in the month of April in every year, and then and there ascertain as soon as may be the sum or sums of money necessary for the building, supporting and repairing the bridges, causways and roads in their hundreds respectively, that are not supported at the common expence of the county; and the sums so ascertained the said commissioners of the roads shall make out and calculate the rate per centum on the duplicates of their respective hundreds, which shall have been approved by the Levy-court, in the month of March in the same year.

When the commissioners shall meet in their several hundreds.

SECT. 4. *And be it enacted,* That the commissioners of roads in the respective hundreds at their first or some subsequent meeting, shall appoint some fit person within their hundred to be collector of the road-tax, to be laid as aforesaid, who shall give bond and security for the faithful performance of his duty in the name of the said commissioners and their successors, in double the sum ascertained as sufficient to repair and support the bridges and

Commissioners shall appoint a collector of the road-tax.

Collector to give bond, and

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settle annually.

His compensa-  
tion.

Shall deliver  
books, papers,  
&c. to his suc-  
cessor.

Commissioners  
shall view the  
roads in their  
respective hun-  
dreds, annually,  
and

give directions  
for repairing,  
the same.

Commissioners  
shall appoint  
overseers annu-  
ally.

roads in the said hundred for one year; and the said collector shall discharge himself of all monies which shall be in his hands in virtue of this act, by orders drawn on him by the said commissioners or any two of them, in favour of the overseer to be appointed as is herein after directed, or any other person or persons; and in the month of December annually, the said collector shall appear at a place to be appointed by the said commissioners with his books and vouchers, and shall lay a statement of his accounts before them, and the said commissioners shall allow him for his trouble in collecting and paying over the said tax at the rate of ten per centum.

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

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

SECT. 6. *And be it enacted*, That the commissioners of the roads in the respective hundreds, or any two of them, shall annually on or before the thirty-first day of April, (a) appoint one or more fit persons or persons in the several hundreds to be overseers of the public wighways, roads and bridges in

(a) Thus it stands in the original roll; probably the last day of April was intended.

the several parts thereof for the ensuing year, by certificate under the hand and seal of said commissioners or any two of them, and the said overseers so to be appointed shall upon receiving such instructions as the commissioners of the roads for the respective hundreds shall think proper to give them in writing, for the repair and support of the roads and bridges, proceed to execute the duties required of them, and to employ labourers and workmen to repair and mend the public roads and bridges, within the limits of their appointments respectively, in the manner by the said commissioners directed.

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

Overseers to settle with the commissioners semi-annually.

Commissioners empowered to draw on the collectors of the respective hundreds, &c.

SECT. 8. *And be it enacted,* That each of the said commissioners of the roads in the several hundreds aforesaid, shall be allowed and shall receive for every day's attendance in the discharge of the duties required by this act, the sum of one dollar and twenty five cents, and no more: *Provided always,* that no commissioner aforesaid, shall in any one year receive for his services a greater sum than ten dollars.

Allowance to the commissioners.

Proviso.

SECT. 9. *And be it enacted,* That the overseers to be appointed in and for the several hundreds, by

Compensation to the overseers

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this act, shall receive such compensation as is at present allowed to the overseers of the roads, or such other compensation as the commissioners of the roads aforesaid, in the respective hundreds, may think proper to allow in consideration of said overseers employing a greater or lesser number of labourers and workmen.

Commissioners shall keep records of their proceedings &c.

SECT. 10. *And be it enacted,* That the said commissioners of the roads in the several hundreds aforesaid, shall keep fair records of their proceedings, to be entered in a book or books to be provided for that purpose, which they shall lay before the Levy-court yearly and every year, on the first Tuesday of February.

Collectors of road tax to pay over the balances in their hands, &c.

SECT. 11. *And be it enacted,* That the present collectors of the road tax, in and for the several hundreds, shall pay whatever balance may be remaining in their hands, after deducting the expences of supporting and repairing the said bridges and roads (except as before excepted) of the respective hundreds, if any there be, to the collectors of said hundreds, to be appointed in pursuance of this act.

Commissioners may anticipate the road tax, by borrowing.

Proviso.

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

Commissioners, their powers.

SECT. 13. *And be it enacted,* That the said commissioners of the roads in the several hundreds aforesaid, shall have and possess all and every power that the justices and constables of the respective hun-

dreds now possess, with respect to the allowances of delinquencies to the collectors on the settlement of their accounts; and if the said roads and bridges in the respective hundreds are not kept in good order and repair, and shall remain impassable, incumbered or unrepaired, for the space of fifteen days together, the said commissioners of the roads in the hundreds respectively, shall be liable to the same penalties as overseers of the roads are now liable to, which penalties shall be recovered in the same manner and applied to the same purpose, as the like penalties are under the act now in force.

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Penalty on not keeping the roads in good order.

Mode of recovery.

SECT. 14. *And be it enacted,* That the said commissioners of the roads in the hundreds aforesaid, shall provide at the expence of the respective hundreds, all fit tools and implements that may be necessary for the repairs of the roads and bridges aforesaid in their hundreds, respectively, which tools and instruments so to be provided, shall be delivered to the overseers aforesaid, upon their giving to the said commissioners such security for their safe keeping and delivery to their successors or the commissioners, as shall be by the said commissioners approved of.

Commissioners shall provide tools and implements, which

shall be delivered to the overseers on giving security.

SECT. 15. *And be it enacted,* That the commissioners of the roads in the respective hundreds aforesaid, are hereby authorized and empowered to let or farm out the several roads in their respective hundreds or any part or parts thereof, for any term not exceeding two years, should they conceive it proper and expedient so to do.

Commissioners may farm out the roads, &c.

SECT. 16. *And be it enacted,* That whenever the commissioners of the roads shall think proper to let or farm out any part or parts of the roads in their respective hundreds, that such agreement shall be made under hand and seal of the said commissioners, and the person or persons so taking or farming the said roads, under such penalties and restrictions as shall ensure a due and faithful performance of the duties enjoined by this act.

Agreement to farm out, how to be made.

Commissioners  
to be qualified.

SECT. 17. *And be it enacted,* That each of the commissioners of roads herein appointed, or hereafter to be chosen, shall before he enters upon his duty, take the following oath or affirmation, which shall be administered by a judge, or justice of the peace, to wit :

Their qualifica-  
tion.

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

Penalty on com-  
missioner or o-  
verseer refusing  
to act.

SECT. 18. *And be it enacted,* That if any commissioner or overseer to be appointed in conformity with this act shall neglect or refuse to take upon himself the duties enjoined herein, then and in every such case such commissioners or overseer shall forfeit and pay to the commissioners serving in pursuance hereof, the sum of twenty dollars, to be recovered before any justice of the peace, in the same manner as other debts under twelve pounds are recoverable, and to be applied to the support of the roads and bridges in the respective hundreds of the county aforesaid.

How recovered,  
and

applied.

Commissioner  
of the Levy-  
court, ineligible  
as commis-  
sioner of the roads.

SECT. 19. *And be it enacted,* That any person or persons who are now or shall hereafter be appointed commissioners of the Levy court, shall be and he is hereby declared ineligible as a commissioner of the roads in any of the hundreds aforesaid, for and during his continuance in the said office.

Repeal.

SECT. 20. *And be it enacted,* That all and every part and parts of the acts heretofore passed by the General assembly of this State as are hereby altered, amended or supplied, be and the same are hereby repealed.

*Passed at Dover, January 28th, 1803.*

## C H A P. CXXXIX.

C H A P.  
CXXXIX.  
1803

*An ACT to authorise the treasurer of this State to pay the claims therein mentioned.*

SECTION. 1. **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 to John Clarke, trustee of the fund for establishing schools within this State, the sum of twenty-five dollars, for travelling charges to and from the city of Philadelphia, for the purpose of purchasing stock in December 1802; to William Black, or to his order, for printing one ream of marriage licenses, one ream of marriage bonds, four quires of tavern licenses and for inserting the Governor's proclamation of the election of Representative to Congress, the sum of thirty-nine dollars; to William C. Smyth, or to his order, for publishing a bill, entitled "a Supplement to the militia law of this State," for publishing the resolution for amending the constitution of this State, and for publishing the resolution of the House of Representatives relative to the abolition of slavery, the sum of thirty-three dollars; to Sarah Adams, (widow of Captain Nathan Adams, who was missing and is supposed to have been killed at the battle of White-plains) or to her order, for interest on half pay, the sum of six hundred and fifty-nine dollars and nine cents; to Frederick Roe and Elizabeth his wife, administrators of Joseph Hall, late trustee of the Loan-office of Sussex county, or to their order, the sum of eighty-nine dollars and ninety-six cents, out of any money in the treasury of this State, not otherwise appropriated.

State-treasurer  
authorised to  
pay to John  
Clarke.

To W. Black.

To W. C.  
Smyth.

To Sarah  
Adams.

To F. Roe and  
wife admrs of  
J. Hall.

SECT. 2. *And be it enacted,* That the Governor Governor to

draw on State  
Treasurer to  
pay for portrait  
of Gen. Wash-  
ington.

of this State be, and he is hereby authorised and empowered, to draw an order on the State-treasurer, in favor of any person or persons whatsoever, for any sum not exceeding five hundred and eight dollars, to enable him to comply with any contract that he may have entered into, by virtue of a resolution of the General assembly, passed in January 1800, for the purpose of procuring a portrait of General Washington.

*Passed at Dover, January 28, 1803.*



*[The following act is published in obedience to a resolution of the General Assembly of the 14th, and January 20th, 1803.]*

C H A P. CXL.

*An ACT for establishing and regulating a ferry over the river Delaware, at the town of New-Castle.*

Preamble.

**W**HEREAS it hath been represented to the Senate and house of representatives of the State of Delaware, in general Assembly met, by the petition of divers inhabitants of New-Castle county, that great inconvenience has for some years past been, and still is, experienced from the want of a well regulated ferry at the town of New-Castle, for the accommodation of travellers and others desirous of crossing the river Delaware from the said town, for the remedy whereof, it is prayed that an act of general Assembly may be passed for establishing and regulating a ferry over the said river at the town aforesaid :

*And whereas,* it hath been further represented that the brick house and wharf commonly called "The old ferry," herein after described, is the most suitable place for keeping the said ferry,

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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 twenty-fifth day of March next, a ferry shall be and hereby is established at the brick house and wharf in the town of New-Castle aforesaid, commonly called "The old ferry," formerly of George Monroe, deceased, and now of James M'Calmont, situated at the south-easterly corner of Harmony and Front streets, for the transportation of travellers, horses, cattle, carriages and goods, from thence over the river Delaware; and that it shall and may be lawful for the said James M'Calmont, and such other person or persons as may from time to time be the owner or owners, possessor or possessors of the said brick house and wharf, to keep and maintain a ferry at the place aforesaid for the purposes aforesaid, for and during the term of twenty-one years from the twenty-fifth day of March next ensuing, and to have, take and receive to his or their own proper use, all such sums of money as may arise therefrom, according to the rates herein after mentioned.

Ferry to be established at New-Castle across the river Delaware.

*Provided always,* That the said James M'Calmont, or such other person as may be the owner of the said premises, do and shall within two years from the said twenty-fifth day of March next, extend and carry out the said wharf at least one hundred and fifteen feet further into the river Delaware from the present end thereof, either by continuing the said wharf or by erecting a pier and bridge, and shall also annex a slip thereunto, so as to render the landing place safe and convenient for the purposes of a ferry.

SECT. 2. *And be it further enacted,* That when the said wharf and landing place shall be completed

Wharf, &c. to be kept in good order for the

safe transportation of passengers, &c.

as herein below mentioned, the owner or keeper of the said ferry shall at all times thereafter keep and maintain the said wharf and landing place in good order, condition and repair, suitable for passengers, horses, cattle, carriages and goods to pass and re-pass with safety, and also shall at all times be provided with good and tight boats, wherries or other vessels, suited to such ferry, sufficient in size, strength, steadiness and accomodation for the safe and speedy transportation of passengers, horses, cattle, carriages and goods, well furnished with sails, oars, setting-poles or other necessary implements, and men, prudent, skilful, able-bodied, sufficient and competent for such business and service.

Penalty on the keeper for attempting to ferry in bad boats, &c.

SECT. 3. *And be it further enacted,* That if any keeper of the said ferry shall at any time carry or attempt to carry over the said river, any person, horse, cattle, carriage or goods in any boat, wherry or other vessel that is not good and sufficient according to the provision of this act---or shall overload his boat, wherry or other vessel, so that the passengers or goods be thereby endangered, such keeper of the said ferry shall for every such offence forfeit and pay ten dollars, to be recovered as herein after mentioned, and shall also be liable to an action for damages at the suit of the party aggrieved.

Redress to the party grieved.

Penalty for not keeping good boats.

SECT. 4. *And be it further enacted,* That every keeper of the said ferry, who shall not provide good and sufficient boats, wherries or other vessels, suited to such ferry, with good and sufficient sails, oars setting poles or other necessary implements aforesaid, and such number of men qualified according to this act, to attend the boats as the condition of the passage may require, for the safe and speedy transportation of passengers, horses, cattle, carriages, and goods over the said river, shall for every default therein forfeit and pay five dollars, to be recovered as herein after mentioned.

SECT. 5. *And be it further enacted,* That every

keeper of the said ferry shall give constant and diligent attendance at the same, and shall not deny or unnecessarily delay the carrying over of any passenger, horses, cattle, carriages or goods, under the penalty of five dollars, to be recovered as herein after mentioned; and such keeper of the said ferry, shall for any default herein, be also liable to an action for damages at the suit of the party aggrieved by such denial or delay. *Provided always*, that the person keeping the said ferry, shall not be obliged to put off from his wharf and pass the said river, when it manifestly appears to be hazardous or dangerous for him so to do, on account of any storm, tempest or ice.

Penalty on delaying passengers, &c.

Proviso.

SECT. 6. *And be it further enacted*, That all persons and goods shall be received into the ferry boats, and carried over the said river, according to their arrival at, or first coming to the said ferry, and every keeper of the said ferry acting contrary to this rule, shall for every violation thereof, forfeit and pay three dollars, to be recovered as herein after mentioned.

Passengers and goods to be carried according to priority of arrival.

SECT. 7. *And be it further enacted*, That the keeper of the said ferry shall have authority to keep or put out of his ferry boat, any person who shall attempt or press to enter or stay therein, contrary to his order, when the said boat shall be laden or occupied by other persons or goods having a prior right of passage, according to the sixth section of this act, and every person so doing contrary to his order, shall for every such offence forfeit and pay one dollar, to be recovered as herein after mentioned.

Penalty on persons attempting to pass in a disorderly manner &c.

SECT. 8. *And be it further enacted*, That the keeper of the said ferry shall have, take and receive, for ferriage over the same, the rates and prices following, to wit, for every

Rates of ferriage.

Single man, - - - sixty cents.  
Two or three persons, each - fifty cents.

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Or more persons - - thirty-three cents.  
 A man and horse - - one dol. & twenty-five cents.  
 A horse and chair - - one dollar & fifty cents.  
 A waggon, pair of horses and passengers, two dollars  
 and fifty cents.  
 A coachee with pair of horses and passengers, three  
 dollars.  
 Ditto, with four horses and ditto, three dollars and fifty  
 cents.  
 One or more horned cattle, each, - fifty cents.  
 A cart with yoke of oxen or two horses, two dollars.  
 And for all and every kind of merchandize at the rate of  
 thirty three cents for every hundred weight, so  
 carried or ferried across said river, and no more.

Table of rates  
to be set up at  
the ferry.

SECT. 9. *And be it further enacted,* That every keeper of the said ferry shall set up and constantly keep in public view, at the said ferry house, a table of the rates aforesaid, fairly written, printed, or painted, in large letters, so that the same shall be open and visible for the inspection of passengers, under the penalty of one dollar for every day that he shall neglect so to do. And if any keeper of the said ferry, or his servant, shall take a greater sum for ferriage than the rates allowed by this act, he shall for every such offence forfeit and pay three dollars, to be recovered as herein after mentioned.

Penalty for extortion.

Penalty on other persons carrying over passengers, &c.

Proviso.

SECT. 10. *And be it further enacted,* That from and after the twenty-fifth day of March next, it shall not be lawful for any person, except the keeper of the said ferry, to take or carry over the river Delaware, from the aforesaid wharf, or from any place on the shore of the said river, within one mile of the said wharf, any person or persons who reside out of the town of New-Castle aforesaid, under the penalty of five dollars for every person so carried over, contrary to the provision of this section, to be recovered as herein after mentioned; *Provided,* that nothing in this act shall be construed, so as to prevent any person or persons, who may come from the State of New-Jersey to the town of New-Castle, from returning in the boat or boats in which they came, or if such persons have come to the town aforesaid for the purposes of trade or traffic, they

shall not be prevented from returning in the boats in which they came, or in any other boats, at their election, nor shall the inhabitants of the said town be prevented from crossing the said river in such boats as they may choose; and further, nothing in this act shall be construed to prohibit any commercial intercourse between the State of New-Jersey and the town of New-Castle, but that the same may be continued as heretofore without interruption.

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SECT. 11. *And be it further enacted,* That the several fines and penalties in this act mentioned, shall and may be sued for and recovered before any justice of the peace, in any of the counties of this State, in the same manner as debts under forty shillings may be sued for and recovered by the laws of this State, together with costs of suit, by any person who will sue for the same.

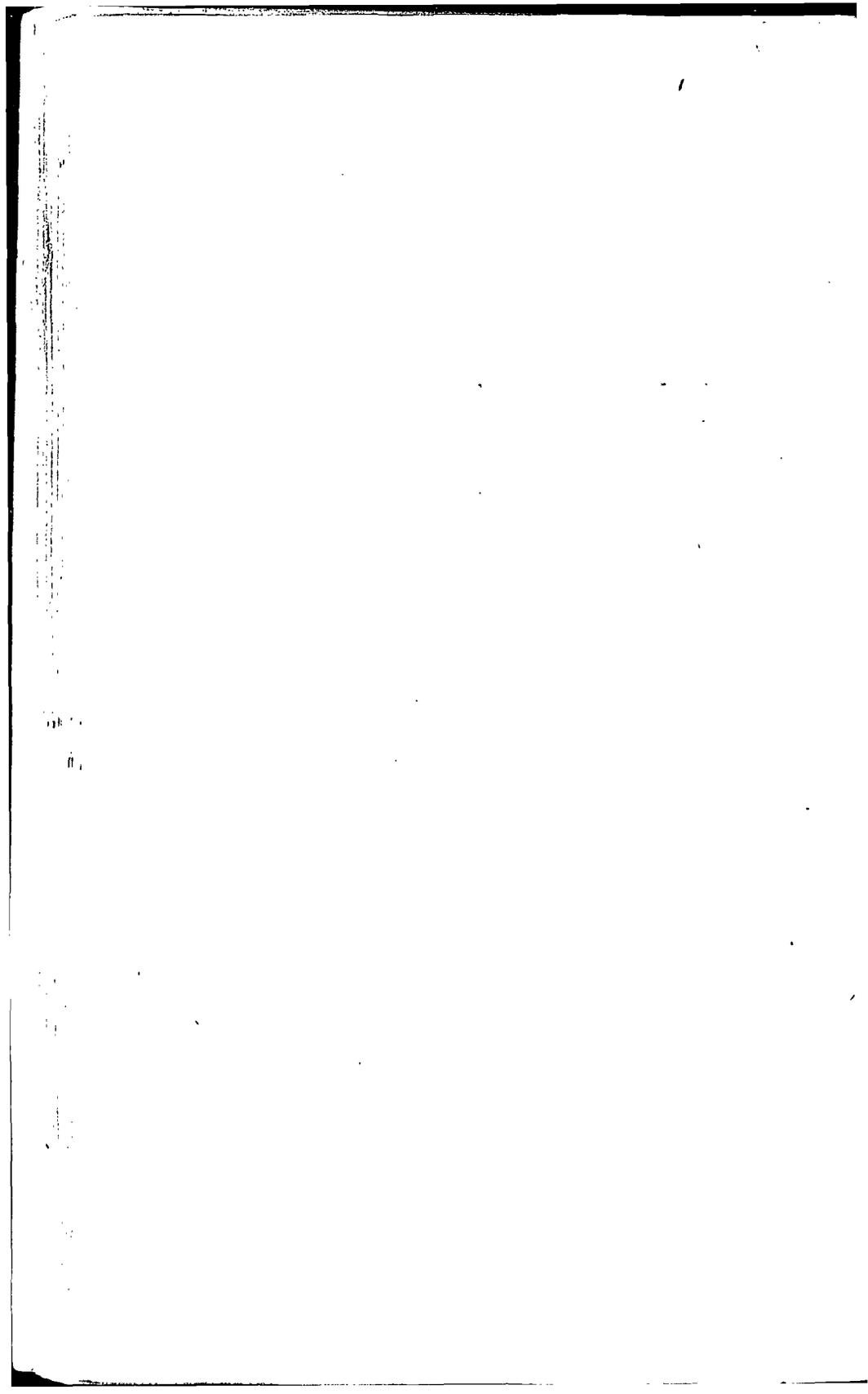
The penalties in this act, how to be recovered.

SECT. 12. *And be it further enacted,* That this act shall continue and be in force for the space of twenty-one years from the twenty-fifth day of March next ensuing, and no longer.

Limitation.

SECT. 13. *And be it enacted,* That the said James M'Calmont, his heirs or assigns, shall within one year after the passing of this act, procure from the secretary of this State, a copy of this act of Assembly, duly certified under his hand and the seal of the State, and shall cause the said copy so authenticated, to be recorded in the office for recording of deeds in the county of New-Castle, and that a copy thereof, certified by the recorder of deeds, under his hand and the seal of office, shall be evidence in all cases whatsoever.

*Passed at Dover, January 21, 1803.*



C H A P.  
CXLI.  
1804

C H A P. CXLI.

*An additional Supplement to an act, entitled, "An act to establish an uniform militia throughout this State."*

Repealed 4th vol. 158.

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 officer, non-commissioned officer or private, shall be subject to any fine or forfeiture, by reason of their non-attendance or being absent on company or regimental days of meeting, required by any militia laws of this State.

No officer, non-commissioned officer or private, finable for absence.

SECT. 2. *Be it enacted by the authority aforesaid,* That in regiments of militia of this State, where there are no field-officers, it shall and may be lawful for any two justices of the peace, residing in or near the district of any such regiment, upon application to them made, to allow whatever fine or fines as delinquencies they may believe the commissaries of the several counties of this State, or their collectors have not collected, nor can be able to collect or recover, giving them a certificate of the particulars, and the amount in writing, of all such fine or fines allowed as delinquencies aforesaid; and the said justices, who shall make such allowances, shall transmit to the auditor of accounts, a duplicate certificate of the delinquencies allowed by them, for which the auditor shall give the said commissaries credit in the settlement of their accounts.

Two justices may allow delinquencies, and

give certificate of their amount.

Shall transmit duplicate certificates to the auditor, &c.

SECT. 3. *And be it enacted,* That the military commissaries in the different brigades of the militia of this State, shall on or before the fifteenth day of October next, appear in the auditor's office, and

Commissaries shall appear before and settle with, the auditor.

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1804

Balances in  
their hands to  
be forthwith  
paid over to the  
State treasurer.

In case of ne-  
glect, auditor to  
sue their bonds.

3d vol. chap. 42.  
p. 97.

there make with the said auditor, a final settlement of their accounts, for all fines and forfeitures, that have been returned to them, in pursuance to the militia laws of this State, and whatever balance or balances may remain in the hands of any of the aforesaid commissaries, shall forthwith be paid over to the State treasurer; and in case any of the aforesaid commissaries shall neglect or refuse to appear and settle their accounts as aforesaid, or after settlement, shall neglect or refuse to pay over whatever balance may be in their hands to the State treasurer as aforesaid, the auditor of accounts is hereby directed and required to cause a suit to be instituted in any court of law in this State, on any such defaulting commissary's bond, in which suit the like sum or sums of money shall be recovered, as is directed in the twenty-third section of the act to which this is an additional supplement.

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C H A P. CXLII.

*An ACT for enabling Benjamin Burton and Isaiah Wharton, to erect a mill-dam across a creek, called Duck-creek, at a place called Water-Melon-Point, on the south side of said creek, and Hard-landing on the north, opposite thereto, in Dagsborough hundred and county of Sussex; and for the condemnation of two acres of upland on the south, and two on the north side of said creek, at the places aforesaid, for the use of a grist and saw-mill.*

*Passed at Dover, Jan. 17, 1804—Private act.*

C H A P. CXLIII.

C H A P.  
CXLIII.  
1804

*A Supplement to an act, entitled, "An act to reduce the price of the bound laws of this State, and for other purposes."*

Chap. 122. 3d  
vol. p. 264.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That in every case of death, resignation or removal from office of any of the prothonotaries in this State, which has already occurred, or which may hereafter occur, it shall and may be lawful for the late prothonotary, or his executors or administrators, and he and they are hereby required forthwith after death, resignation or removal from office, to transmit and deliver over to the person in office such of the bound and other laws belonging to the State as remain unsold, taking three receipts therefor, one of which he may retain for his own satisfaction, and the two others he shall deliver to the secretary of State, whose duty it shall be to deposite one of the said receipts in the office of the auditor of accounts, and the other he shall retain in his own hands.

In case of death, &c. of any prothonotary, the bound laws to be delivered to his successor.

Three receipts to be given therefor

How to be disposed of.

SECT. 2. *And be it further enacted,* That the prothonotary in office, immediately on the receipt of the said laws, shall advertize and proceed to the sale thereof, at the same rates, and transmit duplicate accounts of the sale thereof, and pay over the money arising therefrom, at such times and in such manner as is directed by the act to which this is a supplement, after having retained such allowance or compensation as the late prothonotary would have been entitled to.

Prothonotary in office to act as prescribed in chap. 122. 3d. vol. p. 264—5.

*Passed at Dover, January 18, 1804.*

C H A P.  
CXLIV.  
1804

C H A P. CXLIV.

Chap. 141. c. 2  
vol. 1368. et.  
seq.

*A supplement to the act, entitled, "An act for establishing the boundaries of the town of New-Castle, and for other purposes therein mentioned."*

Commissioners  
empowered to  
make a ground  
plan of the  
town, &c. and

to ascertain the  
places, &c. for  
gutters, foot-  
ways and pave-  
ments.

Owners of front  
lots, &c. to  
make gutters,  
&c. as the com-  
missioners may  
direct.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the commissioners of the town of New-Castle shall have full power and authority to make a ground plan of the said town, ascertaining the ascents and descents of the streets, lanes, and alleys within the same, which may be necessary for the regulation of buildings to be erected in future, so as to determine the elevation of the ground floor above the surface of the streets, and also for carrying off the water by gutters and common sewers, and shall lay out the proper pavements and gutters in front of dwelling houses, and continue the same with a footway on the inside of those gutters, not less than three feet in breadth in front of unimproved lots and parts of lots within the said town, to wit, from Vine-street along both sides of Delaware-street to Front-street, and further if deemed necessary—along both sides of Front-street from Delaware-street to the North-eastern side of Harmony-street, and further if deemed necessary---the whole length of Market-street on both sides thereof---along both sides of Orange-street, from Delaware-street, to Harmony-street aforesaid, and further if deemed necessary---and along such other streets within the said town, as may be deemed necessary by the commissioners aforesaid; and after the said gutters, pavements or footways are laid out, the owner or owners, guardian or guardians of minor owners of any buildings or lots in front of which such gutters, pavements, or footways are laid out, shall cause the same to be made in the manner directed by a majority of the commissioners aforesaid, within ninety days there-

after; and if the owner or owners, guardian or guardians of minor owners as aforesaid, shall neglect or refuse to made the said gutters, pavements or wootways, for the space of time aforesaid, then it shall be lawful for a majority of the commissioners aforesaid, and they are hereby authorized to cause the said gutters, pavements or footways to be made; and the expense of the same shall be paid by the owner or owners, guardian or guardians of minor owners of buildings or lots, in front of which any such gutters, pavements or footways, shall be made by the order of a majority of the commissioners aforesaid, to the person or persons whom they shall have authorized to have made the same; and if the owner or owners, guardian or guardians of minor owners, shall neglect or refuse to pay the person or persons, who may have been authorized in manner aforesaid, for the space of thirty days, then it shall be lawful for a majority of the commissioners aforesaid, and they are hereby authorized, to issue their warrant directed to the Sheriff of New-Castle county, who is hereby authorized and directed after ten days public notice, to sell so much of the goods and chattels of the owner or owners, guardian or guardians of minor owners aforesaid, at public sale, and apply so much thereof to the payment of the expenses of making such gutters, pavements or footways, made by order of a majority of the commissioners aforesaid, and after deducting such legal costs therefrom, as is herein after provided for, return the overplus, if any, to such owner or owners, guardian or guardians of minor owners as aforesaid: *Provided always*, That if a guardian or guardians of minor owners, shall cause such gutters, pavements or footways, laid out by a majority of the commissioners aforesaid to be made in manner directed as aforesaid, the said guardian or guardians of minor owners as aforesaid, shall be allowed the expenses thereof on settlement of their guardianship accounts, before the register for New-Castle county.

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Mode of making gutters, &c. in case the owners, &c. refuse and

mode of recovering the expense thereof.

Proviso.

SECT. 2. *And be it enacted*, That when the said ground plan and elevations as aforesaid, shall be so Ground plan, when complet.

ed, to be re-  
corded, &c.

To be received  
as evidence.

Tenants of de-  
linquent own-  
ers, may dis-  
count expense  
of gutters, &c.  
against their  
landlord's rent.

Remedy where  
owners of front  
lots have no  
goods.

Commissioners  
to provide pub-  
lic lamps, &c.

made and agreed upon by the commissioners aforesaid, and a plot or map thereof made, the same shall be lodged in the recorder's office for the county of New-Castle, there to be recorded or enroled, and be thereafter unalterable; and the said plot or map, or the record thereof, shall be deemed, taken and received in all courts of law, or elsewhere within this government, to be evidence of the ground plan and elevations of the streets, lanes, and alleys within the town of New-Castle.

SECT. 3. *And be it enacted,* That it shall be lawful for any tenant of those lots of a delinquent owner or owners, to pay to the commissioners aforesaid, or their order, the amount of the expense which may be incurred by making the said gutters, pavements or footways, and the same shall be a good discount against his landlord, for any rent which may be due, or thereafter become due.

SECT. 4. *And be it enacted,* That in case sufficient goods or chattels of the owner or owners of the said lots in front of which any such gutters, pavements or footways shall have been made in manner aforesaid, cannot be found within the precincts of the said town, that in such case, after thirty days notice to the owner, if he or she resides within this State, or if out of the State, two months notice given by advertisement in some public gazette, the commissioners aforesaid are hereby authorized to issue their warrant directed to the Sheriff aforesaid, who shall seize, sell at public vendue, and convey the whole, or so much of the aforesaid lots, as the said commissioners by their warrant shall order and direct, to defray the expense which may be incurred by making the said gutters, pavements or footways, and if any surplus, to pay over the same to the owner or owners aforesaid.

SECT. 5. *And be it enacted,* That the commissioners aforesaid, or a majority of them, are hereby authorized to provide for erecting such number of public lamps in the said town as they may deem

needful, and for lighting and keeping the same in repair; and after the said lamps shall be erected, if any person or persons shall wilfully and maliciously, break, pull down, or otherwise destroy any of the said lamps, or extinguish the same when lighted, he, she or they, so offending, shall forfeit and pay any sum not exceeding thirty-two dollars for each and every such offence, upon due proof thereof being made before any justice of the peace within the county of New-Castle, who is hereby authorized and directed to issue his warrant to any constable of the said county, directing him to levy the amount thereof on the goods or chattels of the offender or offenders, or for want of goods or chattels to commit him, her or them to the work house in the town aforesaid, for any term not exceeding three months, there to be kept at hard labour.

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Penalty for wilfully destroying them.

Mode of recovery.

SECT. 6 *And be it enacted*, That the commissioners of the town aforesaid, or a majority of them, are hereby authorized to appoint, annually, in the month of May, an inspector of flour and a corder of wood for the town of New-Castle aforesaid, and upon the death, removal from the town, misbehaviour, or refusal to serve as inspector or wood corder as aforesaid, to appoint others in their place; and all such inspectors or wood corders appointed as aforesaid, shall take an oath or affirmation, that they will discharge the duties of their respective appointments faithfully and impartially.

Commissioners may appoint an inspector of flour, and wood corder.

Their oath.

SECT. 7. *And be it enacted*, That the inspector of flour shall receive for inspecting flour, one cent per barrel, and the corder of wood shall have and receive for cording each cord of wood, the sum of twelve and an half cents, all which sums shall be paid equally by the buyer and seller; and if any inspector of flour or corder of wood, shall take or demand any greater fees than are herein specified, such inspector or corder shall forfeit and pay for every such offence, the sum of thirty dollars, upon due proof thereof, before a majority of the commissioners aforesaid, to be recovered by warrant

Compensation to the inspector and corder.

Penalty for exacting more than legal fees.

How recover-  
ed.

under their hands and seals, directed to the Sheriff of the county aforesaid, who is hereby authorized to levy the same on the goods and chattels of the offender, and after ten days public notice to sell so much thereof as will pay the said fine and his legal costs.

Commissioners  
to lay a tax, &c.

SECT. 8. *And be it enacted*, That the commissioners of the town aforesaid, or a majority of them, are hereby authorized and empowered to lay a tax on the inhabitants and estates within the said town for carrying into effect the provisions of this act.

Treasurer of the  
town to give  
bond.

SECT. 9. *And be it enacted*, That the treasurer of the town of New-Castle aforesaid, hereafter to be appointed by the commissioners aforesaid, shall before he enters on the duties of his office, give bond in the name of the said commissioners, with warrant of attorney thereto annexed, in double the amount of the tax by him to be collected, with at least one good and sufficient freeholder, to be approved by a majority of the commissioners aforesaid, as surety for the faithful performance of his duty as treasurer.

How surplus of  
taxes, &c. shall  
be appropriat-  
ed.

SECT. 10. *And be it enacted*, That the surplus of any taxes heretofore laid upon the inhabitants and estates, within the town of New-Castle aforesaid, by virtue of the act to which this is a supplement, together with all the penalties that may be incurred under this act, shall be appropriated by the commissioners aforesaid, to the objects contemplated herein.

Penalty on  
shooting within  
the limits of the  
town,

SECT. 11. *And be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons whatsoever, to shoot, or discharge any loaded musket, fowling piece, fuzee, or pistol within the limits of the town of New-Castle aforesaid, under the penalty of forfeiting and paying for every such offence by him or them, so committed, the sum of one dollar, to be recoverable on the view of any one justice of the peace within the

How recover-  
ed.

said town, or on the information of one or more reputable witnesses: *Provided always*, That nothing herein contained shall be construed to prevent the firing of cannon and small arms on days of public rejoicing; or on the days and times of military parade. Proviso.

SECT. 12. *And be it enacted*, That the Sheriff of the county of New-Castle, shall have and receive for the performance of the duties enjoined on him by this act, the like fees as he is entitled to for similar services, by the laws of this State; and that the bond given by him for the faithful execution of his office, be extended for the due performance of the duties herein enjoined on him. Fees to the Sheriff, &c.

*Passed at Dover, Jan. 20, 1804.*

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C H A P. CXLV.

*An ACT to authorize the owners and possessors of the marsh or low grounds, commonly called and known by the name of Merridith's Branch, in the forest of Murderkill hundred, in Kent county, to cut a ditch or drain through the same.*

*Passed at Dover, Jan. 20, 1804—Private act.*

C H A P.  
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## C H A P. CXLVI.

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

*Passed at Dover, Jan. 21, 1804—Private act.*



## C H A P. CXLVII.

*An ACT to confirm the title of a certain tract or parcel of land, situated in Brandywine hundred and county of New-Castle, in the State of Delaware, to Harman Tally, his heirs and assigns.*

*Passed at Dover, January 21, 1804—Private act.*



## C H A P. CXLVIII.

*An ACT for the relief of John Palmore.*

*Passed at Dover, Jan. 21, 1804—Private act.*

## C H A P. CXLIX.

C H A P.  
CXLIX.  
1804

An ACT for incorporating the Union Fire Company,  
in the town of New-Castle.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That those persons, who at the time of the passing this act, and those who shall hereafter be and become members of the said Fire Company, be, now are, hereafter shall be one body politic and corporate, in deed and in law, to all intents and purposes, and be known as such by the name and style of, "the Union Fire Company of the town of New Castle."

Members incor-  
porated.Style of the  
corporation.

SECT. 2. *And be it enacted by the authority aforesaid,* That the members of the said corporation shall meet on the second Monday of February, in the present year, at the court-house in the town of New-Castle, between the hours of two and five o'clock in the afternoon of said day, and then and there proceed to elect by ballot, a president, treasurer, secretary and four engineers, out of the members of said company, who shall continue in office for one year; and until an election shall be held for new officers; and on every second Monday of February, the members of the said corporation shall elect by ballot, a president, treasurer, secretary and four engineers; and the members of the said corporation, for the better ordering and directing the affairs thereof, shall hold four quarterly meetings in every year, to wit, on the second Monday of February, May, August and November, at such place as they may deem proper; and also such other meetings as the president of the said corporation may deem requisite; and in case of death, removal, or refusal to act of any of the officers, the corporation may at any meeting supply such vacancy, and at such meetings, all such rules, regulations and bye-laws, for the government and direction of the said corporation and the officers and members thereof,

Powers.

CHAP  
CXLIX.  
1804

Proviso.

as a majority may judge necessary and expedient, shall and may be made, ordained and established, provided that a majority of the members be present. *Provided always nevertheless,* That nothing herein contained shall be construed to authorize the said company to exercise any powers repugnant, or contrary to the laws and constitution of this State.

May hold property, and dispose of the same.

SECT. 3. *And be it further enacted,* That the said corporation are hereby declared and made capable in law and in equity, to hold, take, purchase, receive, possess and enjoy, any land, tenements, and hereditaments, goods, chattels, rights, credits, and effects of what nature, kind and quality soever, to the amount of six thousand dollars lawful money of the United States of America, and no more; and to sell, grant, dispose, alien, or demise the same in such manner and form, and to such use, as they shall and may deem proper, to and for the purposes in this act expressed, and to and for no other purpose whatsoever.

Limitation of stock.

Capacity to sue, &c.

SECT. 4. *And be it further enacted,* That the said corporation be, and hereafter shall be capable and able to do and execute, all and singular such matters and things as bodies politic and corporate may or can lawfully do, and to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, and otherwise howsoever, and to have and use a common seal, and to break and alter the same, and establish another, with such device or devices as they shall or may deem proper.

May have a common seal.

Treasurer shall give bond.

SECT. 5. *And be it further enacted,* That the treasurer to be appointed by this act, shall enter into a bond, with one or more good and substantial freeholders, in a sum double the amount of the stock on hand at his appointment, for the faithful performance of his said office, and payment over of any money, that may be in his hands, to his successor in office.

*Passed at Dover, January 23, 1804.*

## C H A P. CL.

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CL.  
1804

An ACT to incorporate the *Wilmington Spring Water Company*.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That those persons who now are, and those who shall hereafter be, and become subscribers to, and holders of stock in the association or company, now called and known in the borough of Wilmington, by the name of the "Wilmington Spring Water Company," be, now are, and hereafter shall be, one body politic and corporate, in deed and in law, to all intents and purposes, by the name and style of the "Wilmington Spring Water Company."

Members incorporated.

SECT. 2. *And be it enacted*, That the said company or corporation shall have full power and authority, to have and use a common seal, and to break and alter the same, and to establish another or others, with such device or devices, as they shall think proper: and all acts certified under the seal of the said corporation, shall have full faith and credit, in and before all and every the courts and jurisdictions within this State.

May have a common seal.

of seal and certificate, the effect.

SECT. 3. *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 fifteen thousand dollars, and no more; and to sell, grant, dispose, alien or demise the same, in such manner and form as they shall think proper, for the purposes expressed in this act.

May hold property, and

dispose of the same.

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

Continuance of officers.

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CL.  
1804

who shall hereafter be chosen and appointed, in pursuance of the powers hereby 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 twelve directors, one of whom shall be president, shall be of the number of their officers.

Proviso.

Capacity to sue,  
&c.

SECT. 5. *And be it enacted*, That the said corporation be, and shall hereafter 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 may lawfully do.

Powers.

SECT. 6. *And be it further enacted*, That the stockholders of the said corporation, shall annually meet, at such time and place within the said borough, as now is or hereafter may be appointed by the rules or ordinances of the said corporation, and proceed to elect twelve directors and a treasurer by ballot; at which elections, no stock-holder shall be entitled to more than one vote, which may be given by proxy: and the said directors, when so elected, shall immediately proceed to ballot for and elect one of their own number to be president; and the treasurer, before he enters into the performance of the duties of his said office, shall give bond with one or more competent sureties, in a sum not less than double the amount of the stock of the company, conditioned for the faithful discharge of the duties of his office; and he shall be entitled to receive compensation for his service, as the directors may order, not more than an half per centum, on the monies which by him shall have been disbursed.

President to be  
chosen.

Treasurer shall  
give bond, &c.

His compensa-  
tion.

Powers of the  
president and  
directors.

SECT. 7. *And be it enacted*, That the president and directors of the said company, shall be capable of exercising such powers for the well governing and ordering of the same, and the affairs and busi-

ness thereof, and of holding such occasional meetings for that purpose, as have been or shall be fixed, described and determined, by the rules, laws, regulations, and ordinances of the said corporation.

C H A P.  
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SECT. 8. *And be it enacted,* That the rules already established by the said company for the government thereof, shall be taken and considered as regulations and ordinances of the said corporation; and the said corporation shall and may annul and repeal the same, or any part thereof, and make, ordain and establish such other laws, rules and regulations for the government thereof, as to them may seem necessary and convenient. *Provided always nevertheless,* That nothing herein contained shall be construed to authorize the said corporation, to exercise any powers repugnant or contrary to the laws or constitution of this State.

Rules heretofore established, good till altered.

Proviso.

SECT. 9. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said company, from time to time, and at all times, as the extension and improvement of their water-works may require, to convey water by means of pipes or conduits, and to dig, sink, make and establish fountain heads, wells and reservoirs, in, through, under or along all and any of the public streets, lanes and alleys of the borough aforesaid, and of the public roads within one mile of the said borough; and the said company, their officers or agents, shall and may from time to time, and at all times, dig, break up, or plough the said streets, lanes, alleys and roads, and any of them, and therein lay, sink, make and establish, and alter, repair or amend, all such pipes, conduits, fountain-heads, wells, and reservoirs, and other works by them deemed necessary, for the collection, reception and conveyance of spring-water. *Provided always nevertheless,* That it shall not be lawful for the said company, its officers or agents, to erect any permanent work or works, so as to raise above the level or surface of any of the said streets, lanes, alleys or roads, except however, such pumps, hydrants,

How far the company may extend their water-works.

Proviso.

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cocks, or jet d'eaux, as may be found necessary for supplying the inhabitants of the borough aforesaid, with water; and which may be, and are hereby directed to be fixed, raised, erected and established, at or near the junction of the pavements or foot-ways, with the said streets, lanes, alleys and roads.

The streets, alleys, &c. not to be longer obstructed than necessary, and

SECT. 10. *And be it enacted*, That whensoever the said company shall proceed to dig, open or plough any of the said streets, lanes, alleys or roads, for any of the purposes aforesaid, the said streets, lanes, alleys and roads shall be kept by the said company as passable as the nature of the work will admit, and shall not be obstructed for any longer space of time than may be found absolutely necessary, and when the work is finished, the said streets, alleys, lanes or roads which may have been so dug, opened or ploughed, shall be by the said company, and at their cost and charge, immediately repaired, amended, and reinstated in the same order in which they shall have stood, at the time the said company began to work thereon.

when the water work is finished, company shall repair the streets, &c.

The water-works, now or hereafter erected, vested in the company.

SECT. 11. *And be it further enacted*, That the well or fountain-head opened, sunk, made and established by the said company, in or near the middle of High-street, between Tatnal-street and West-street; the reservoir by them sunk, made and established in Shipley-street, above the intersection of the said street with Third-street, and the several pipes, conduits, hydrants, pumps, cocks and jet d'eaux connected therewith, and used or intended for the conveyance of spring water therein and therefrom, and all such other wells or fountain-heads, reservoirs, pipes, conduits, hydrants, pumps, cocks or jet d'eaux, which the said company shall hereafter open, dig, sink, make, erect or establish, in, through, under, or on any of the said streets, lanes, alleys or roads, now are and shall be vested in, and held and considered, both in law and equity, as the property of the said Wilmington Spring-water Company, and their assigns forever.

SECT. 12. *And be it enacted,* That if any person or persons, with intent to injure the said company, shall break up, uncover, obstruct or otherwise do damage to any of the water-works of the said company, which are now or may at any time hereafter be made, laid, erected or established, within the borough aforesaid, or within one mile thereof, agreeably to the powers by this act vested in the said company, the person or persons so offending, and being thereof legally convicted, before any one of the burgesses of the said borough, or before any justice of the peace for the county of New-Castle, by the testimony of one or more credible witness or witnesses, shall forfeit and pay a sum of money, equal to three times the amount of the damage done, to be ascertained by three freeholders, to be summoned and qualified by one of the burgesses of the borough of Wilmington, or any one justice of the peace for that purpose, who shall neither of them be one of the company, which said forfeiture, in case the same does not exceed twelve pounds, may be sued for and recovered before the same persons, and in the same manner, that debts under twelve pounds, may or can be sued for and recovered under the laws of the State; and in case the same shall exceed twelve pounds, then by action in either of the the superior courts of the State.

Penalty on persons damaging the water-works.

Mode of recovery.

SECT. 13. *And be it enacted,* That it shall be lawful for the said company by agreements to be made in writing, and to be signed by the president, to contract with any person or persons and their assigns, for the sale, use or supply of the said water, for such period of time, in such manner and upon such terms as may be agreed upon, which shall be obligatory upon the respective parties, according to the true intent and meaning of the agreement. *Provided always,* That no dividend, or dividends, shall at any time be declared or made by the said company, whereby the stockholders therein shall become entitled to, or receive more than nine per centum per annum on their stock therein, on the average from the time the shares by them sub-

Agreements may be made for the use of the water, &c.

Proviso.

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scribed shall have been respectively paid into the hands of the treasurer, until the time of declaring a dividend or dividends, including the dividend then declared; and in case the nett profits arising from their water works, should at any time increase, so as to admit a larger dividend, then the price or rate, for the use and privilege of water, shall by the said company be reduced, so as to keep the nett profits aforesaid within or not exceeding nine per centum per annum; and in case of a larger dividend being made or declared, the whole thereof shall be forfeited, and shall be recoverable from the said corporation by an action on the case, one moiety to the use of the person who shall sue for the same, and the other moiety to the use of the poor of New-Castle county.

What persons  
may use the  
water.

Penalty on per-  
sons using the  
water, without  
right.

How recovered.

Proviso.

SECT. 14. *And be. it further, enacted,* That it shall not be lawful for any person or persons, without an agreement or permission in writing as aforesaid, other than such who are employed in the service of a person or persons, who may rightfully do the same, by virtue of an agreement in writing as aforesaid, to draw, vent, or in any manner make use of, or waste any of the water contained in any of the water works of the said company; and in case any person or persons, not having right, nor being authorized as aforesaid, shall wilfully draw, vent, make use of, or waste any of the said water, each and every such person, for every such offence, shall forfeit and pay to the said company, the sum of one dollar, to be recovered in like manner as a debt of that amount may be recovered by the laws of the State, upon complaint made in writing, signed by the president and any two of the directors, on their own testimony, or the testimony of either of them, or the testimony of any credible witness, by them produced: *Provided always,* That nothing herein contained, shall extend to the case, where any house or other building shall be on fire, and the water shall be necessary, or used to extinguish the same; but on all such occasions, and for such purposes, the said water may be freely used by all persons, without incur-

ring any forfeiture, or becoming liable to any charge.

SECT. 15. *And be it enacted,* That it shall and may be lawful for the said company to purchase from the owner or owners thereof, such lands within the said borough, and within one mile thereof, as they may deem necessary, for the purpose of sinking, laying, making and establishing a fountain-head and reservoir, to collect and receive spring water, and pipes and conduits for the conveyance thereof; and in case of disagreement, or in case the owner or owners thereof shall be feme covert, under age, non compos mentis, or out of the State, upon application to either of the burgesses of the borough aforesaid, or any justice of the peace for the county, the said burgess or justice, shall issue his warrant to the Sheriff of the county, to summon a jury of eighteen freeholders, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the said warrant, not less than seven, nor more than ten days thereafter; and the Sheriff, upon receiving the warrant, shall forthwith summon the jury, and when met, shall administer an oath or affirmation, as the case may require, to every jurymen who shall appear, "That he will faithfully and impartially value the land, and all damages the owner or owners thereof may sustain by the opening, sinking, laying down, making and establishing such water-works therein (as the business of the said company shall require) without fear, favour or affection, according to his best skill and knowledge;" and the inquisition thereupon taken and signed by any twelve, or more of the said jurymen, with a plot and description of the said lands, and returned to the "Court of common pleas," and being approved by the said court, shall be by them certified accordingly, and thereupon shall be recorded in the office of the recorder of deeds for the county; and thenceforth shall be binding on the said parties: and upon the payment, or lawful tender of the damage or value so assessed as

Company may purchase lands within certain bounds, for their water-works.

In case of disagreement, or incapacity of the owner to sell, what proceedings shall be adopted.

C H A P.  
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aforesaid, the said corporation, their officers and agents, shall have full right and power to enter into, and upon such grounds as shall be condemned for the use of the corporation, as aforesaid, at all times afterwards, when they shall deem it necessary, for the purpose of sinking, laying, making, altering, or repairing any of the works aforesaid; and it shall be lawful for them to do all such acts and things, as shall be necessary for the said purposes.

When, and on what terms, the water-works, &c. may become vested in the Corporation of the Borough.

SECT. 16. *And be it further enacted by the authority aforesaid,* That if after the expiration of fifty years from the passing of this act, the Corporation of the borough of Wilmington, do pay, or cause to be paid, unto the stock-holders of the said company, the amount of the stock by them respectively owned and held in the said company, with so much interest money, as together with the respective dividends paid by the company, will amount to nine per centum per annum on the stock subscribed and paid, from the time the same has been paid, until the expiration of the said fifty years, then and in that case, all the right, title, property, claim, interest and demand whatsoever of the said stock-holders, to and in the said company, shall be and become vested in the said Corporation of the borough of Wilmington, and all the estate, water-works, improvements, tenements, hereditaments, rights, liberties, privileges, and immunities whatsoever of the said company, shall be and become vested in the said corporation and its successors, forever; and the said Wilmington Spring-Water Company, shall cease to be, determine and become absolutely void and extinct, any thing herein before contained to the contrary, notwithstanding.

SECT. 17. *And be it further enacted,* That no suit or proceeding shall be brought or instituted for any penalty or forfeiture given by this act, after the expiration of one year from the time the cause of such action or proceeding accrued.

*Passed at Dover, January 23, 1804.*

## C H A P. CLI.

C H A P.  
CLI.  
1804

*An ACT to repeal an act, entitled, "An act to prevent swine running at large in the town of New-Port, and within the limits therein prescribed," passed at Dover, on the twenty-ninth day of January, one thousand seven hundred and ninety-one.*

**W**HEREAS the aforesaid act hath been found not to answer the purposes therein contemplated, therefore,

*BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the before recited act, and every part thereof, be, and the same is hereby repealed, made null and void.*

Preamble.  
Repeal of chap.  
224. b. 2. vol.  
p. 1009.

*Passed at Dover, January 23, 1804.*

## C H A P. CLII.

*At ACT to enable William Derrickson, Richard Clarke, Ebe Walter, and James Fossett, to erect a mill-dam across a creek called Assawaman-creek, at or near a place, called Sloop-point, in Baltimore hundred, and county of Sussex; and for the condemnation of two acres of upland on the north, and two on the south side of said creek, for the use of a grist and saw-mill.*

*Passed at Dover, January 24, 1804.---Private act.*

CHAP.  
CLIII.  
1804

## CHAP. CLIII.

*An ACT making provision for the support of government, for the year one thousand eight hundred and four, and for other purposes.*

10,500 dols. to  
be raised and  
paid into the  
treasury.

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 ten thousand five hundred dollars shall be raised and paid into the treasury of this State, within the time and in the manner directed by an act of assembly, entitled "An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government, for the year of our Lord, one thousand seven hundred and ninety-eight," and shall be assessed and levied 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.

7,000 dols. ap-  
propriated for  
the purchase of  
stock.

State-treasurer  
authorized to  
purchase stock,  
and

enter the same  
in his books.

SECT. 2. *And be it enacted,* That the sum of seven thousand dollars, part of the sum now in the treasury of the State, shall be and the same is hereby appropriated to the purchase of bank-stock, or other stock in the United States of America; and 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 said money, the said bank or other stock in the United States; and the said stock, when so purchased, shall be entered by him in the treasury books of this State, specifying therein, the number and amount of each certificate, the date thereof, to whom the same issued, of whom bought, and the price paid for the same; and the State treasurer is hereby directed, to return to the auditor, in his quarterly settlement with him, an account of such purchase of stock, with a specification thereof, as before mentioned.

SECT. 3. *And be it enacted,* That the aforesaid sums, together with all sums of money, which now are, or may hereafter come into the treasury of this State (not otherwise appropriated) 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 salaries due and to become due to the governor, chancellor, judges of the Supreme court, judges of the Court of common-pleas, attorney general, secretary, and auditor of accounts, up to the first day of January, which will be in the year of our Lord, One thousand eight hundred and five; and so much thereof, as may be necessary, shall be applied to the payment of the daily allowance of the members of the General assembly, their clerks and other expenses, 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, shall be applied to the payment of any sums of money, due to the citizens of this State, for which provision shall be made by law.

Appropriation for payment of salaries, &c.

Residue for payment of debts due to citizens.

SECT. 4. *And be it further enacted,* That the State treasurer be, and he is hereby directed and required, to pay the principal and interest of all such depreciation certificates, as have been issued by this State, and are still due and unpaid, out of any money which he may hereafter receive for mortgages due and undischarged in the loan offices of the several counties of this State.

Money due on loan-office mortgages, appropriated to payment of depreciation certificates.

*Passed at Dover, January 24, 1804.*

CHAP.  
CLIV.  
1804

## C H A P. CLIV.

See chap. 70.  
198. 215 a.  
1st vol. 451. 522.

*An additional Supplement to an act, entitled, "An act for regulating fences within this government."*

Preamble.

**W**HEREAS by an act of the General assembly, entitled, "An act for regulating fences within this government," power is given to the justices of the Courts of general quarter sessions of the peace, to be held in the month of May, in every year, to nominate and appoint so many proper persons as they shall think fit, for each hundred in each county, respectively, as fence viewers, but have not defined any particular number that may have power to transact or do business, under the directions of said act, whereby many of the citizens of this State have sustained considerable injury, by not being able to convene all the fence viewers appointed for a hundred, at one time and place; and also by reason of procuring two justices of the peace to carry into effect some parts of the above recited act, for remedy whereof,

Three fence viewers may hereafter act, &c.

**SECTION 1.** *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That any three fence viewers, or a majority of them, appointed or hereafter to be appointed, under the direction of the act to which this is an addition supplement, be, and they are hereby empowered to do and perform all and every act, matter and thing, enjoined upon the fence viewers in said act, and that any one justice of the peace, is hereby vested with the full powers to do and perform all the duties enjoined upon two justices of the peace in said act.

Reports under L.12. cognizable before justices of the peace.

**SECT. 2.** *And be it enacted,* That all reports to be made by the fence viewers to any justice of the peace, to the amount of thirty-two dollars and under, shall be proceeded on in the same manner that debts under twelve pounds are recoverable.

SECT. 3. *And be it enacted,* That the fence viewers shall be allowed, for their services, the sum of thirty-three cents, over and above the sum allowed them in the act to which this is an additional supplement.

Fence viewers, their compensation.

SECT. 4. *And be it enacted,* That the clerk of the peace in each of the counties of this State, is hereby required to issue a warrant, under his hand and seal, to each of the fence viewers, that may be hereafter appointed in the hundreds of the counties, respectively; and shall also write and sign a number of advertisements equal to the number of fence viewers appointed in each hundred, giving notice of the persons appointed in the hundreds respectively, who shall have for his services a reasonable compensation, to be adjudged of and allowed by the Levy court.

Clerks of the peace, to issue warrants to them when appointed, &c.

*Passed at Dover, Jan. 24, 1804.*

—\*—  
C H A P. CLV.

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

Chap. 138. 3d. vol. p. 301.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the commissioners of the roads in the several hundreds in the county aforesaid, shall and they are hereby required, at the first, or some subsequent meeting after the passing of this act, by writing under their hands, or any two of them, to demand from the justice or justices, constable or constables, collector or collectors, overseer or overseers of the roads,

Additional powers of the commissioners of the roads.

1st. vol. 402.  
410. 411. 3d vol.  
343. 4th vol.  
407.

C H A P.  
CLV.  
1804

them or either of them, their heirs, executors or administrators, the books, papers, vouchers and other documents, relating to or in any wise appertaining to the levying, collecting and settlement of the taxes for the support of the roads in the respective hundreds of such commissioners, and the said justice or justices, or any other persons having such books, papers, accounts, settlements, or other vouchers, or any of them, are hereby required, forthwith, to deliver the same to the said commissioners, whole, entire, and undefaced, taking a receipt for the same, and the said books, accounts and papers so received, by the said commissioners, shall be by them filed, kept and preserved, in like manner as the books and papers directed to be provided under the act to which this is a supplement.

Commissioners  
to adjust the  
claims of the  
overseers under  
former laws,  
and

SECT. 2. *And be it enacted by the authority aforesaid,* That the commissioners in the respective hundreds shall be, and they are hereby authorized and required to settle and adjust the claims and demands of the several overseers of the roads or other persons, for labour performed, articles furnished, or money expended in supporting the roads in their respective hundreds, under the former laws of this State (where a final settlement shall not already have been made) and the balances found due to the individuals respectively, to pay by orders on the collector, as in other cases.

to pay the same  
by order on the  
collector, &c.

Commissioners,  
their duty in  
case of deficiency.

SECT. 3. *And be it further enacted,* That if the balances remaining in the hands of the collectors of the road taxes, for the preceding years, in any of the hundreds of the said county, after a final settlement of their accounts, shall be found inadequate to the discharge of the sums found due to the several persons acting under the former road laws, the commissioners of such hundreds shall, and they are hereby required, in addition to the sum necessary for the support of the roads for the ensuing year, to levy and collect so much as will satisfy the debts due from said hundred, under the former road laws

and discharge the same, by orders on the collector as aforesaid.

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SECT. 4. *And be it further enacted,* That the commissioners of the roads in the respective hundreds in the county aforesaid, making the rate for the respective hundreds, to form a fund in the hands of the collector for supporting the roads as before mentioned, shall annually certify the proceedings therein, and carefully transmit the same to the auditor of accounts, within one month after making the same rate; and also it shall be the duty of the commissioners aforesaid, drawing orders under the authority of the act to which this is a supplement, annually to certify and carefully to transmit to the said auditor of accounts, on or before the second day of the spring term of the Court of common pleas for the said county, a true and correct list of each and every order so drawn, specifying its number and date, the sum drawn for, the name of the person to whom to be paid, and the name of the collector required to pay the same.

Commissioners to certify certain of their proceedings, annually, to the auditor.

SECT. 5. *And be it enacted,* That in the month of April, annually, the collector of the road-tax of the preceding year, in every hundred of the county aforesaid, shall appear at a place to be appointed by the commissioners of the respective hundreds, with his books and vouchers, and shall lay before them a statement of his accounts, which shall be adjusted by the said commissioners, who shall allow him for his trouble for collecting and paying over the said tax, a sufficient compensation, not less than five, nor more than ten per centum, on the nett sum collected or accounted for; which with their other proceedings, the said commissioners shall transmit to the auditor of accounts.

Collectors shall settle annually with the commissioners.

Settlement to be transmitted to the auditor.

SECT. 6. *And be it enacted,* That the aforesaid collectors shall annually, during the spring term of the Court of common pleas, or at any other time the auditor of accounts may appoint, attend at the town of New-Castle, and lay before him a full state-

Collector shall annually settle with the auditor.

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In case of their neglect, how to proceed.

Balance in hands of collector, to be paid to his successor.

Mode of proceeding, in case of refusal.

Commissioners to appoint overseers of highways, &c. annually.

Powers of the overseers.

ment of their accounts, who shall proceed to settle the same, as directed by the act extending his powers to the settlement of the county, poor and road taxes within the State; and if any of the aforesaid collectors, shall refuse or neglect to attend and settle their accounts as aforesaid, the auditor is hereby authorized and required to compel their attendance, by summons or subpoena, as he is directed in like cases of debtors to the State.

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

SECT. 8. *And be it enacted,* That the commissioners of the roads in the respective hundreds, or any two of them, shall hereafter in every year, on or before the first day of April, appoint one or more fit person or persons in the several hundreds, to be overseer or overseers of the public highways, roads and bridges in the several parts thereof for the ensuing year, by certificate under the hands and seals of said commissioners, or any two of them; and the said overseer or overseers, so to be appointed, shall upon receiving such instructions, as the commissioners of the roads for the respective hundreds shall think proper to give them in writing, for the repair and support of the roads and bridges, proceed to execute the duties required of them, and to employ labourers and workmen to repair and mend the public roads and bridges, within the

limits of their appointments respectively, in the manner by the said commissioners directed.

SECT. 9. *And be it further enacted*, That so much of said act, as is herein altered and supplied, is hereby repealed, made null and void.

Repeal—Sec  
chap. 138. 3d.  
vol. p. 301.

*Passed at Dover, Jan. 24, 1804.*

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C H A P. CLVI.

*An ACT to divorce William Robbins, and Tamsey the wife of the said William, from the bonds of matrimony.*

*Passed at Dover, January 25, 1804—Private act.*

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C H A P. CLVII.

*An ACT vesting in Thomas Boulden, the title to a certain parcel of land, therein mentioned, for a term of years, in trust for Mary Bantem, an infant.*

*Passed at Dover, Jan. 25, 1804—Private act.*

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Repealed 4th  
vol. 222.

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*An ACT to prevent swine running at large within the village of Milford, and certain bounds therein prescribed.*

Preamble.

**W**HEREAS a number of the inhabitants of the village of Milford, and the bounds thereof, have represented, that the laws to prevent swine from running at large therein, have not answered the purposes thereby intended:

Swine shall not run at large within certain limits.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, 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 'Tanners' Branch, and running with the several courses thereof, dividing Joseph Oliver's lands from Peter Caverley's, to the line of the lands late of William Bradley, deceased, then with the said lands to the line of John Draper's lands, thence with the line of said Draper's lands, to Mispillion creek, thence with the said creek, to the place of beginning.*

Made of proceeding, in case of swine running at large.

SECT. 2 *And be it enacted, That from and after the passing of this act, upon complaint and information made, by any person or persons, inhabitants of the aforesaid village and limits before mentioned, before any justice of the peace in Kent county, against any person or persons residing within the prescribed limits aforesaid, 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 thirty-three cents for each and every such swine or hog so running at large, to be recovered in manner and form as debts under forty shillings are recoverable, together with costs of suit.

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SECT. 3. *And be it enacted,* That all forfeitures received by the said justice of the peace, in pursuance of this act, shall be paid over by him to some one of the commissioners of the Milford bridge, for the time being, which shall be applied by the said commissioners for the keeping up and repairing said bridge.

Appropriation  
of forfeitures.

SECT. 4. *And be it enacted,* That the first and second sections of an act, entitled, "An act to prevent swine running at large in the village of Milford," passed January the twenty-fourth, seventeen hundred and ninety-eight, be, and the same are hereby repealed, made null and void.

Repealed—See  
chap 209, b.  
2d vol. p. 970. 1.  
3d. vol. 32.

*Passed at Dover, Jan. 25, 1804.*

CHAP. CLIX.

*An ACT to authorize the owners and possessors of the marsh or low ground, commonly called and known by the name of Swan-Creek Marsh and Cripple, situate in Mispillion hundred, Kent county, to ditch, drain and bank the same.*

*Passed at Dover, Jan. 26, 1804—Private act.*

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C H A P. CLX.

*An ACT for the better regulation of private roads in Kent county.*

SECTION 1. **B**E it enacted, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Levy court, and Court of appeals of Kent county, are hereby empowered and required, at the time and place at which overseers of the roads, causeways and bridges in the said county are annually nominated and appointed, on the application of any person, or persons whatever, to nominate and appoint an overseer of any private road in any hundred in the county aforesaid, which heretofore hath been or hereafter shall be laid out, agreeable to the laws of this State, for which such application shall be made, and in like manner an overseer or overseers for all or any other private roads in any of the said hundreds, on application as aforesaid, by warrant under the hand of the clerk of the peace and the seal of his office, which said warrant shall specify the road or roads, for which each and every overseer as aforesaid, shall be appointed, and shall be delivered to every overseer as aforesaid, by the clerk of the peace, at the expense of such applicant, on or before the first day of March next, and on or before the first day of March in every year: *Provided*, That no person shall be compelled to accept the said office, but shall be at liberty to reject the same.

Overseers of private roads to be appointed, &c.

Proviso.

Breadth of private roads, causeways, and bridges.

Duties of the overseer.

SECT. 2. *And be it enacted*, That all private roads which have been, or hereafter shall be laid out, agreeable to the laws of this State, shall be of the breadth of twenty-five feet, twenty feet whereof, shall be grubbed and cleared, and every causeway in every such road shall be of the width of fifteen feet, and every bridge situate as aforesaid, of the width of twelve feet; and it shall be lawful for every overseer of any such private roads, as soon as

conveniently may be, after his appointment, to grub, clear and open the said road, and to erect and repair bridges and causeways over the same, and to remove all fences, trees, and other obstructions from the same, and to do and perform all and every other act and thing necessary from time to time, for the opening, clearing, amending and repairing the said roads, bridges and causeways.

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SECT. 3. *And be it enacted,* That it shall and may be lawful for any overseer of any such private road, or any other person or persons by his order, to enter upon any lands adjoining to, or lying near, any such private road, and to cut or open such drains or ditches through the same, as he shall judge necessary to carry off and drain the water from such road: *Provided* the same be done with as little injury as may be to the owners of such lands, which drains and ditches so cut or 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 as herein after is directed.

Overseer may open ditches on adjoining lands, to carry off water.

Proviso.

SECT. 4. *And be it enacted,* That every such overseer of any private road as aforesaid, shall have full power and authority in any lands adjoining any such private road, to dig or cause to be dug, any dirt, gravel, sand or stones, or to gather any loose stones lying on said lands, as may be thought necessary for amending and repairing any such road, *Provided,* the same be done with as little injury 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 overseer shall pay to the owner or owners the value of the said materials, and for any damage done by digging and removing the same, as may be agreed on; but where they cannot agree, so much money shall be paid as any two freeholders of the county, one to be chosen by each party, shall estimate the materials and damage to be worth,

May dig dirt, &c. and collect materials on adjoining lands.

Proviso.

Shall pay the owner for dirt, &c.

Mode of ascertaining the value of materials, and damage done.

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Penalty on ob-  
structing, &c.  
any private  
road.

Made of reco-  
very, and

appropriation

Persons sued,  
may plead the  
general issue,  
&c.

Private roads  
to be made and  
repaired by vo-  
luntary contri-  
bution only.

so wanted, for the repairing the said roads, bridges, and causeways.

SECT. 5. *And be it enacted,* That if any person or persons shall obstruct any private road, 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 in any other manner, and do not remove the same forthwith, such person or persons shall forfeit and pay twelve dollars, for every such offence, to be recovered by indictment in the Court of general sessions of the peace, to be held for the county aforesaid, and be paid to the overseer of the road at the time of such recovery, to be applied by him to the amending and repairing such road.

SECT. 6. *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 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; 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. 7. *Provided nevertheless, and be it enacted,* That all such private roads and bridges, and causeways thereon, shall be opened, cleared, grubbed, erected, amended and repaired, at the expense of such person or persons, as will voluntarily contribute to the same; and that no person shall be compelled to aid and assist in so doing, either by money or labour.

*Passed at Dover, January 26, 1804.*

C H A P. CLXI.

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CLXI.  
1804

An ACT to incorporate a school in the village of Christiana-Bridge, in New-Castle county.

**W**HEREAS it appears to this Legislature, Preamble.  
that the institution of a school at Christiana-Bridge, for teaching the English language and other branches of knowledge therewith connected, would tend greatly to the advantage of the inhabitants of that village, and its vicinity, and contribute to promote the general welfare of this State ;

*BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* School estab-  
lished in the  
village of  
Christiana.  
That there be established in the village of Christiana, in the county of New-Castle, in the State of Delaware, a school for the education of youth in the English language, Arithmetic, and such other branches of knowledge as are most useful and necessary in completing an education in that language, the name, style and title of which said school, and the constitution, powers and capacity thereof, shall be, and are hereby declared to be, as is hereinafter mentioned and defined, that is to say :

1. The said school shall be forever hereafter called and known by the name and style of "The Christiana School." Style.

2. The said school shall be under the management, direction and government of six trustees, or a quorum, or board thereof, as herein after mentioned. Trustees.

3. The first trustees of the said school shall consist of the following persons, to wit, Maxwell Bines, David Nivin, James Couper, senior, Robert L. Smith, Joel Lewis, and John M'Kinley, which said trustees, and their successors, to be elected in the manner hereinafter mentioned, shall forever Trustees ap-  
pointed, and

incorporated  
with certain  
powers.

hereafter be established and declared to be one body politic, with perpetual succession in deed and in law, to all intents and purposes whatsoever, by the name, style and title of "The trustees of Christiana School," by which name and title, they the said trustees and their successors, shall be able and capable in law and equity, to take to themselves and their successors, for the use of the said school, any estate in any lands, tenements and hereditaments, goods, chattels, monies, or other effects, by the gift, grant, bargain, sale, conveyance, assurance, devise or bequest of any person or persons, or bodies politic whatsoever, and the same lands, tenements and hereditaments, and estate, real and personal, to convey, demise and to farm, let, and place out on interest, or otherwise dispose of, or invest for the use of the said school, in such manner, as to them, or a majority of them, shall seem most beneficial for the institution, and to receive the rents, issues, profits, income and interest of the same, and to apply the same to the use and support of the said school; and by the same name to sue, commence, prosecute and defend, implead and be impleaded, in any courts of law or equity, and in all manner of suits and actions whatsoever, and generally by and in the same name, to do and transact all and every the business touching or concerning the premises, or which shall be incidentally necessary thereto, as fully and effectually, as any natural person or body politic or corporate within this State, have power to manage their own concerns, and to hold, enjoy and exercise all such powers, authorities and jurisdictions as are customary in other schools of the same nature and description in America.

Capacity to sue,  
&c.

Corporate seal.

4. That the said trustees shall cause to be made for their use, one common seal, with such devices and inscriptions thereon as they shall think proper, under and by which all deeds, certificates, acts and ordinances of the said corporation shall pass and be authenticated.

5. That the said trustees or a majority of them, shall meet at the village of Christiana, on the first Monday in March next, for the purpose of concerting and agreeing to such business, as in consequence of this act, shall be proper to be laid before them, at the commencement of the work they have undertaken, and shall have power to adjourn from time to time, as they shall see cause, for perfecting the same.

First meeting.

6. That there shall be stated meetings of the said trustees, held quarter yearly, in each year, at least, at the village of Christiana, at such times as the said trustees, or a majority of them, shall appoint and limit, of which public notice shall be given, after the first meeting, at least ten days before the time of such intended meeting, and there shall be occasional meetings of the said trustees, whenever the president for the time being to be appointed by them, shall deem it necessary, and cause the secretary for the time being, to give due notice thereof, which he is hereby authorized to do, and if at such stated or occasional meetings, a majority of the said trustees shall not be present, then such of them as may be present, shall have power to adjourn the meeting to any other day, but if a majority of the said trustees shall meet at the times of stated, occasional or adjourned meetings, then such majority, or the whole number if met, shall be a quorum, and a majority of the votes of them, shall be capable of doing and transacting all the business and concerns of the said school, and particularly for making all deeds, certificates, doing all acts, and enacting ordinances, and causing the common seal to be thereto affixed, of appointing a preceptor or preceptors, tutor or tutors, of the said school, of agreeing with them for their salaries or stipends, and removing them for misconduct or a breach of the laws of the institution, of appointing committees of their own body, to carry into execution the resolutions of the board, of appointing a president, treasurer, secretary and other necessary and customary officers, for the taking care of the estate, and

Stated and occasional meetings.

Quorum, of what number to consist, &c.

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managing the concerns of the corporation, and generally a majority of the voices of the said trustees, or of the majority of them convened together, at any of the said meetings, shall determine matters and things, that may arise and be transacted by the said trustees: *Provided always*, That no ordinances shall be of force, which shall be repugnant to the laws of the State.

Proviso.

What persons  
may be elected  
trustees, &c.

7. Persons of every religious society or denomination among Christians, shall be capable of being elected trustees, nor shall any preceptor, tutor or pupil, be refused admittance into the said school, for his conscientious persuasion in matters of religion; provided he demean himself in an orderly manner, and conform to the ordinances, rules and regulations of the school.

Their continu-  
ence in office.

8. That the trustees herein before named, shall continue in office for the period of one year, from and after the first Monday in March next, and no longer; and their succession shall be kept up and continued by annual elections in each and every year thereafter; and elections shall at any intermediate period or periods, of any future year, be directed by the trustees or a majority of them, and held to supply vacancies, that may be occasionally produced or arise, which vacancies may arise or be produced, as well by death, resignation or removal from the said village or its vicinity, as by the annual termination of office; *Provided*, That the first annual election for trustees, shall be holden at the school-house in the said village, on the first Monday in March, eighteen hundred and five, and so on the first Monday in March, in each and every year thereafter, to perpetuate the succession of trustees, and all intermediate elections, shall be holden at the same place: *Provided further*, That the trustees of the school for any preceding year, shall continue in office for the subsequent year, in case no annual election should be holden at the time and place prescribed by law, and until such annual election of trustees be held thereafter.

Vacancies, how  
supplied.

Proviso.

9. Those of the inhabitants of the village of Christiana, or its vicinity, who shall send a child or children to the school, and the contributors to the amount of twenty dollars, to the enlargement of the funds of the institution by gift or otherwise, shall have power and are hereby authorized, to assemble together and choose, annually, at the time and place herein before prescribed, six persons as trustees of the said school, for the then ensuing year, and also hold intermediate elections at the same place at any time or times, and as often as may be prescribed and appointed by the said board of trustees or a majority of them, that may at any time or times be assembled together.

By whom the trustees shall be chosen.

10. No misnomer of the said corporation shall defeat or annul any gift, grant, conveyance, demise or bequest to or from, the said corporation, provided, the intent of the parties, shall sufficiently appear on the face of the gift, grant, will, or other writing, whereby an estate or interest was intended to pass to or from the said corporation, nor shall any misuser or nonuser of the rights, liberties privileges, jurisdictions and authorities hereby granted to the said corporation, or any of them, create or cause a forfeiture thereof.

Misnomer, &c. not to create forfeiture.

11. The said trustees or a majority of them, shall from time to time, and at all times hereafter, when assembled and met together, have full power and authority to make all necessary ordinances, bye-laws, rules and regulations for the arrangement, regulation and government of the said school, and of and concerning all matters and things, direct or incidental with respect to the well ordering and support of the said school, and the said trustees shall have all further and other powers requisite to carry into full effect, continue and perpetuate the institution, and for its benefit.

Trustees may make bye-laws, &c.

12. That the books, acts, ordinances, statutes and minutes of the trustees of the said school and their successors, shall be competent evidence in all

Ordinances, &c. of the trustees, to be evidence, in certain cases;

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courts of justice and elsewhere, of the accounts, matters, things and transactions, which they import on the face of them, touching and relating to the affairs and business of the said corporation, or to whatsoever their powers may extend.

*Passed at Dover, January 26, 1804.*

CHAP. CLXII.

Chap. 97. c. 2.  
vol. 1240. et.  
seq.

*A Supplement to the act, entitled "An act to prevent the exportation of flour not merchantable."*

Flour made of  
rye or Indian  
corn, how to be  
packed.

Dimensions of  
the hogseeads.

SECTION. 1. **BE** it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the first day of June next, all flour made of rye or Indian-corn, which shall be brought to any port or place, within the county of New-Castle, for exportation to any port or place, other than the city of Philadelphia, shall be packed in strong tight hogshheads, made of good seasoned white-oak, bound and tightened with sixteen good and sufficient hoops, and well secured with not less than four nails in each chine hoop, and three wooden pegs or plugs at the upper edge of each upper bilge hoop; and to be of the following dimensions, to wit, the staves to be of the length of forty-one inches, and the diameter at the bung or bilge to be thirty-one inches, and to contain eight hundred pounds nett weight: or otherwise to be packed in casks, made, hooped, nailed, branded, and marked in like manner (except as to cask No. 1. and except as to the brand expressing the quality thereof) as in and by the said act to which this is a supplement, is directed and specified with respect to merchantable flour, and under the like penalties and for-

features. And moreover each cask and hogshead shall be branded with the words "Fine Rye Flour," "Rye Flour," or "Kiln dried Corn Meal" at length, as the contents may be, together with the name or names of the manufacturer or manufacturers, in a fair and a distinguishable manner, before it leaves the mill or bolting house, where the same shall have been first packed, with the addition of No. 1. 800, and the tare marked upon each hogshead.

How to be  
branded and  
marked.

SECT. 2. *And be it enacted,* That from and after the said first day of June next, no merchant or other person whomsoever, shall lade, or ship any flour made of rye or Indian-corn, on board of any ship or vessel for exportation from the county of New-Castle (except to the city of Philadelphia) before the same shall be offered to the view and examination of the inspector of the port or place from whence the same shall be intended to be exported; and before the same shall be inspected, approved and adjudged, by the said inspector, or one of his deputies, or by the three persons to be appointed by one of the magistrates, in the manner directed by the act to which this is a supplement; and the said inspector, or his deputy, shall try and search the same, and plug up the holes he shall make therein, in the same manner, and shall have the same reward for every cask, as by the said act is directed concerning merchantable flour, and the sum of three cents for every hogshead so by him inspected.

Such flour not  
to be exported,  
before inspect-  
ed.

Compensation  
to the inspect-  
or.

SECT. 3. *And be it enacted,* That if the inspector or his deputies, or the three persons to be appointed by a magistrate as aforesaid, shall adjudge and determine that any such flour of rye or Indian-corn (which shall be so branded) shall not be of a due fineness, and of a quality in all respects fit to be exported as merchantable, he or they shall cause the words "fine" in the brand of fine rye flour, the words "Rye Flour," or "Kiln dried Corn Meal," so branded as the case may be, to be scratched out,

In case such  
flour shall not  
be of good qua-  
lity, inspector  
to obliterate  
the brands.

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and obliterated: 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.

Regulations,  
&c. relating to  
flour, to be ex-  
tended to rye  
flour and Indian  
corn-meal.

SECT. 4. *And be it enacted,* That all and every the regulations, fines, penalties and forfeitures in and by the act to which this is a supplement, made, imposed and inflicted on any person or persons, who shall grind, bolt, make casks for, pack, brand, after the same shall have left the mill or bolting-house, transport, export, or otherwise have any thing to do with common or superfine flour, shall from and after the said first day of June next, extend to and be construed to extend to such person and offences, in the case of flour made of rye or Indian-corn, as fully and effectually as if the articles, "Fine Rye Flour," "Rye Flour," and "Kiln Dried Corn Meal," were inserted with flour in the said act, or as if the said regulations, penalties, and forfeitures, were herein repeated: And all and singular the said fines, forfeitures and penalties imposed and directed by this act, to be levied, as aforesaid, shall be sued for, recovered and applied in the same manner, by the same persons, and to and for the same uses, as directed in and by the act to which this is a supplement, in the case of merchantable flour.

Adulterated  
flour to be con-  
demned and  
forfeited.

SECT. 5. *And be it enacted by the authority aforesaid,* That from and after the first day of June next, if in any flour in casks, branded, "Superfine," or "Common," be brought to any port or place within the county of New-Castle, for exportation to any port or place other than Philadelphia, and shall be found on inspection, to contain any part or proportion of Indian corn-meal, or be otherwise mixed and adulterated, all and every such cask or casks so found to be mixed or adulterated, shall by the inspector appointed agreeably to the law to which this is a supplement, or his deputy, be condemned and seized, and shall be forfeited to the use of the

State; and each and every cask so condemned, shall by the said inspector, or his deputy, be marked on the head thereof with a circle in black paint, with lines crossing the same at right angles.

How to be marked.

SECT. 6. *And be it enacted,* That the said inspector shall, as soon as conveniently may be, after seizure and condemnation of any flour as aforesaid, and after ten days notice given thereof, and of the time of sale, in some one or more public news-papers, sell the same by public vendue, to the highest bidder, and upon sale being so made thereof, (after deducting the charges of sale, and of portorage, storage and inspection, with two and an half per centum for his trouble therein) the said inspector shall pay over the monies arising from such sales, unto the treasurer of the State, within thirty days thereafter.

Condemned flour to be sold, and proceeds paid into State treasury.

SECT. 7. *And be it enacted,* That in case any dispute should arise between the said inspector or his deputy, and the owner or possessor of any flour, "Fine rye flour," "Rye flour," or "Kiln dried corn meal," inspected as aforesaid, concerning the goodness or quality of the same, or respecting the materials whereof the casks are made, the same shall be adjudged, settled and determined in the same manner and form, as is prescribed and directed by the ninth section of the act to which this is a supplement, for the cases therein mentioned.

How disputes concerning the quality of "Fine Rye Flour," &c. shall be adjusted.

*Passed at Dover, January 26, 1804.*



C H A P. CLXIII.

*An additional Supplement to an act, entitled, "An act for the valuation of real and personal property within this State."*

Chap. 98. c. 2d vol. 1247. ct. seq.

**W**HEREAS it hath been represented to this General assembly, that the assessors in the

Preamble.

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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 the act to which this is an additional supplement ;

Time of making valuation, extended to 1st Tuesday of February.

Commissioners of the tax to arrange the valuations.

Clerks of the peace to publish lists, &c.

Commissioners of the tax may adjourn until, &c.

Proviso.

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 making such valuations shall be, and hereby is extended to the first Tuesday of February next, at which time the commissioners of the tax shall meet at the court-houses of their respective counties ; and the said assessors shall also then and there attend on the said commissioners, and return to them 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 to be done and performed on the first Tuesday in December ; and the clerk of the peace shall set up and publish in the manner directed by the act of the General assembly, passed the nineteenth day of January, seventeen hundred and ninety-seven, immediately after such arrangements, alphabetical lists, with notice as is by the said act directed, and for neglect or refusal so to do, to be punished as the said act prescribes ; 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 next, 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 in 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 the act above mentioned, and the act to which this is an additional supplement.

Levy court,  
when to meet  
and hear ap-  
peals.

*Passed at Dover, Jan. 27, 1804.*

C H A P. CLXIV.

*An ACT authorizing the treasurer of this State to pay certain claims therein mentioned.*

**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 hereby is authorized and directed, to pay to William Black, printer, or to his order, for printing three quires of hawkers' licences, one ream of marriage licences, and one ream of marriage bonds, the sum of thirty-five dollars; to Philips Kollock, or his order, for a book furnished the auditor of accounts, containing a copy of all receipts heretofore returned into his office, by persons to whom those receipts had been given for vacant and unlocated lands, the sum of twenty dollars; to John Fisher, secretary of State, or his order, for expenses incurred in conveying the bound laws of this State to the respective prothonotaries in this State, the sum of fifty-three dollars and thirteen cents; to David Lockwood, or his order, for dividing the papers obtained from the Commonwealth of Pennsylvania, and conveying them to the respective recorders' offices of this State, the sum of thirty-eight dollars; to James Wilson, printer, or his order, for inserting a proclamation respecting the proposed canal, and for inserting the Governor's proclamation of the election of Representatives to Congress, the sum of seven dollars; to the heirs or representatives of

State treasurer  
authorized to  
pay William  
Black.

To P. Kollock.

To the secreta-  
ry.

To D. Lock-  
wood.

To James Wil-  
son.

To the repre-  
sentatives of W.  
Hurt.

To W. Graham.

State treasurer  
to retain for  
expenses in  
purchasing  
stock.

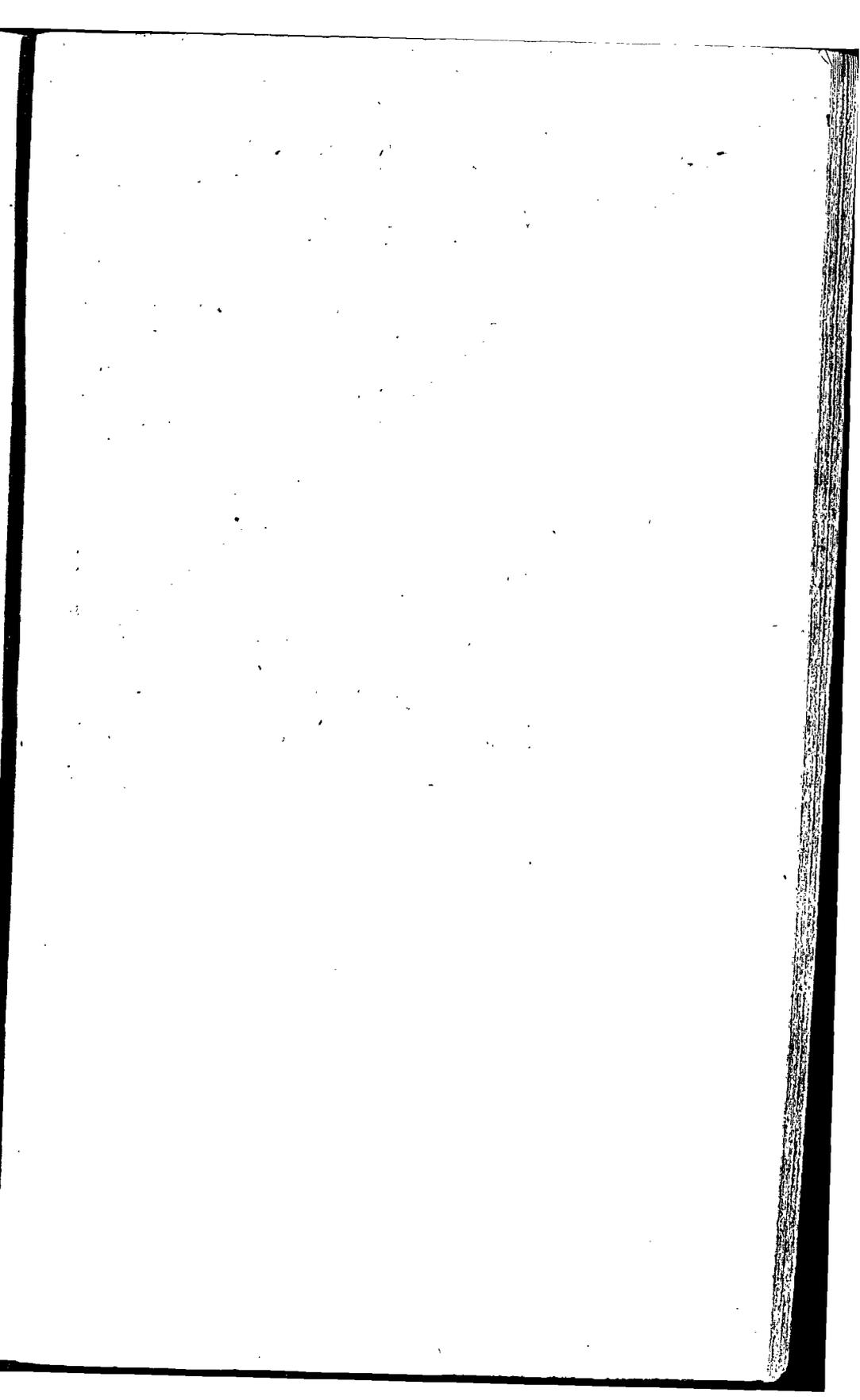
William Hurt, late of Sussex county, deceased, or their order, being so much due him on the books of the office of the auditor of accounts, the sum of three dollars and twenty cents; to William Graham, or his order, for conveying votes and laws to Kent and Sussex counties, in the years seventeen hundred and ninety, and seventeen hundred and ninety-one, the sum of eight dollars and sixty-seven cents; and that John Clarke be authorized to retain in his hands the sum of twenty-five dollars, as State treasurer, and the sum of twenty dollars as trustee of the school fund, for extra expenses in procuring stock as directed by law, out of such public money as is, or hereafter may come into the treasury, not otherwise appropriated by law.

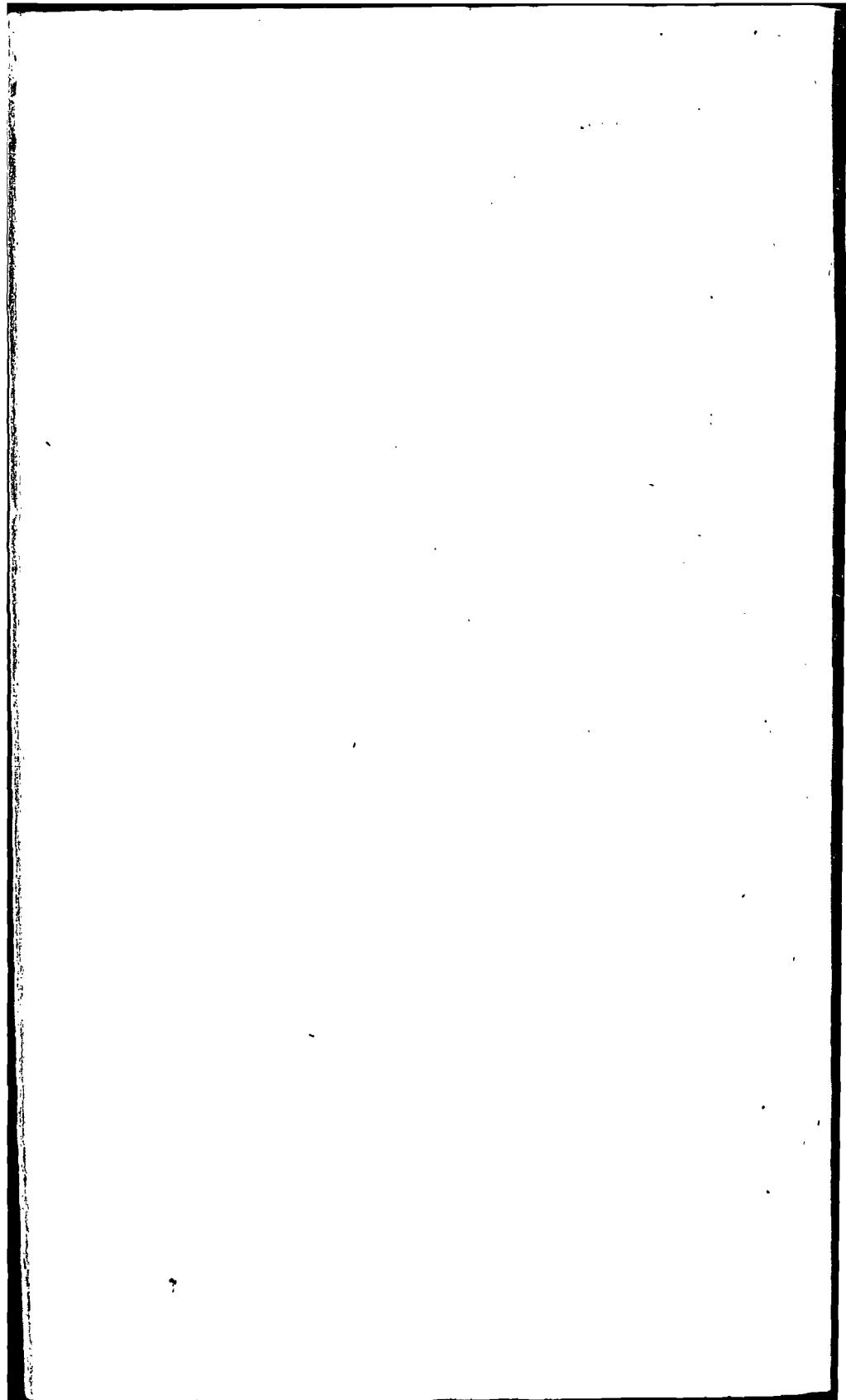
To pay retain-  
ing fee to J. A.  
Bayard, and C.  
A. Rodney.

To the auditor  
of accounts.

SECT. 2. *And be it further enacted,* That the State treasurer be, and he is hereby authorized, to pay unto James A. Bayard, and Cæsar A. Rodney, each, or either of their orders, the sum of one hundred dollars, as a retaining fee for the suits now commenced, or such as shall hereafter be commenced by Thomas and Richard Penn, against such person or persons as may hold any lands under the grant of this State; and to the auditor of accounts, or his order, the sum of one hundred dollars, to enable him to make such preparation for the trial of the said suits, as shall be advised by the said counsel.

*Passed at Dover, January 27, 1804.*





## C H A P. CLXV.

C H A P.  
CLXV.  
1805

*An ACT to confirm the partition made by certain commissioners therein mentioned, and for other purposes.*

*Passed at Dover, January 10, 1805.---Private act.*

## C H A P. CLXVI.

*An ACT to incorporate the owners and possessors of a certain tract of meadow, marsh, and cripple, known by the name of the Brandywine marsh, in the borough of Wilmington, and county of New-Castle.*

*Passed at Dover, January 11, 1805.---Private act.*

## C H A P. CLXVII.

*An ACT to enable the trustees, wardens and vestry of St. Paul's Protestant Episcopal Church, in George Town, Sussex county, to raise by lottery the sum of fifteen hundred dollars, to finish the same, and to enclose the lands thereunto belonging for a burial ground.*

*Passed at Dover, January 15, 1805.—Private act.*

C H A P.  
CLXVIII.

1805

C H A P. CLXVIII.

*An ACT for incorporating the Friendship Fire Company, of the borough of Wilmington.*

Members in-  
corporated.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That all persons, who at the time of passing this act, and all those, who shall hereafter, be and become members of said Fire Company, be, now are, and hereafter shall be one body politic and corporate, in deed and in law, to all intents and purposes, and be known as such by the name and style of "The Friendship Fire Company."

Style of the  
corporation.

Powers.

SECT. 2. *And be it enacted by the authority aforesaid,* That the members of the said Corporation shall meet, on the last Thursday in the month of February next, at such place and house, on said day, as the Corporation, or a majority of them may think proper; and then and there proceed to elect by ballot a president, treasurer, secretary and four engineers, out of the members of the said company, who shall continue in office for one year, and until an election shall be held for new officers for the said company; and on every last Thursday, in the same month, annually, the members shall elect by ballot a president, treasurer, secretary and four engineers; and the members of the said Corporation, for the better ordering and directing the affairs thereof, shall hold six meetings in every year; to wit, on the last Thursday in the months of February, April, June, August, October and December, at such place as they or a majority of them shall direct, and also such other meetings as the president of the said Corporation may deem requisite; and in case of death, removal or refusal to act of any of the officers, the said Corporation may at any meeting supply such vacancy; and at such meetings all such rules, regulations and bye-laws, for the

government and direction of the said corporation and the officers and members thereof, as a majority may judge necessary and expedient, shall and may be made, ordained and established, provided, that a majority of the members be present: *Provided always nevertheless*, That nothing herein contained shall be construed to authorize the said company to exercise any powers, repugnant or contrary to the laws or constitution of this State.

C H A P.  
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1805

Proviso.

SECT. 3. *And be it further enacted*, That the said corporation are hereby declared and made capable in law and in equity to hold, take, purchase, receive, possess and enjoy any lands, tenements and hereditaments, goods, chattels, rights, credits, and effects of what nature, kind and quality soever, to the amount of five thousand dollars, lawful money of the United States of America, and no more; and to sell, grant, dispose, alien or demise the same, in such manner and form, and to such use, as they or a majority of them may think proper, to and for the purposes in this act expressed, and to and for no other use and purpose whatsoever.

May hold property, and dispose of the same.

Limitation of stock.

SECT. 4. *And be it further enacted*, That the said corporation be, and shall hereafter be capable and able to do and execute, all and singular, such matters and things, as bodies politic and corporate may or can lawfully do; and to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, and otherwise howsoever; and to have and use a common seal, and to break and alter the same, and establish another, with such device or devices thereon, as they shall or may deem proper.

Capacity to sue, &c.

SECT. 5. *And be it further enacted*, That the treasurer, to be appointed by this act, shall enter into a bond, with one or more good and substantial freeholders, in a sum equal to double the amount of the stock on hand at his appointment, for the faithful performance of his office, and payment over of

Treasurer shall give bond.

C H A P.  
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1805

any money that may be in his hands to his successor in office, and for the delivery over of all such books and papers that may be in his possession, belonging to the said corporation.

*Passed at Dover, January 15, 1805.*

C H A P. CLXIX.

Chap. 14. c.  
2d vol. p.  
1083.

*A Supplement to an act, entitled, "An act for the cutting of a canal, to begin at or near the mouth of Lewis' ditch, in Cedar creek, and to run into the Delaware bay or Mispillion creek."*

Preamble.

**W**HEREAS it hath been represented to this General assembly, that John Mitcalf, one of the commissioners named in the act, to which this is a supplement, is dead; and that an additional number of commissioners is deemed necessary, to carry into effect the design of the above recited act:

Additional  
number of  
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 Daniel Burton, John Bennett, Jonathan Fowler, Adam Black and John Deputy, be and they are hereby appointed commissioners, to act with the commissioners heretofore appointed, and also with the same powers and authority, as are given and delegated by the said act to the surviving commissioners therein named; subject nevertheless to the same duties and penalties, to be recovered in the same manner, and to the same uses as are enjoined, imposed and directed to be recovered and applied in the act, to which this is a supplement.*

Subject to cer-  
tain duties and  
penalties.

*Passed at Dover, January 16, 1805.*

C H A P. CLXX.

C H A P.  
CLXX.  
1805

*An ACT authorizing certain commissioners therein named, to view the road leading over Appoquinimink bridge and causeway, and to alter and change the same.*

**W**HEREAS it hath been represented to this Preamble.  
General assembly, that the present bridge and causeway over Appoquinimink creek and marsh are in bad repair, and doubts having been suggested whether the said causeway can be raised so as to remain permanently secure from being overflowed by the tide water of the said creek; and it being further represented, that there is great danger of destroying the navigation of the said creek, above the bridge, should it be suffered to remain where it is now placed :

**SECTION 1.** *BE it therefore enacted, by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That William Cooch, Maxwell Bines, Nehemiah Tilton, James Henry and James Riddle, be, and they are hereby appointed commissioners; who, or a majority of whom, are hereby authorized, empowered and required to view, ascertain and determine whether the public convenience requires, that the State road leading over Appoquinimink bridge and causeway should be altered and changed, and a new bridge and causeway be erected higher up the creek; and if upon the said view they should be of opinion, that it would be to the public advantage to alter and remove the said road, then they are hereby authorized, empowered and required, to ascertain and determine the place where the said road shall run, and a new bridge and causeway be erected, so as to be most advantageous to the public, and least injurious to individuals; and also to review the State road leading from Drawyer's bridge to Blackbird Commissioners appointed.  
Their powers in viewing the bridge and causeway;  
and State road from Draw-

yer's bridge to  
Blackbird  
bridge.

Return to be  
made to the  
office of the  
clerk of the  
Supreme court.

What it shall  
contain.

bridge, that it may be made correspondent to the new bridge and causeway so to be erected, as aforesaid, and to lay out the same in the most convenient manner, and to employ such surveyor or surveyors, labourers and workmen, as they shall think necessary in plotting and laying out the same; and that the said commissioners, or a majority of them, shall make a return thereof into the office of the clerk of the Supreme court, for the county of New-Castle, describing the said road in writing under their hands, with courses and distances, and the place where the said public bridge shall be erected as aforesaid, with a fair map or plan of the same; which said return, the said clerk shall enter on record in the said office without delay, and the same shall from thenceforth be deemed, taken and allowed to be a State road.

Commissioners  
to assess the da-  
mages done to  
improved lands.

SECT. 2. *And be it enacted*, That if the said road, so to be laid out and established as aforesaid, shall pass through the improved lands of any person or persons, then and in such case, the said commissioners, or a majority of them, shall truly and faithfully assess the damages sustained by the owner or owners of such improved lands, by reason of the said road being laid out through the same, and report the said damages so to be assessed in their return to be made as aforesaid.

The road when  
established, to  
remain unalter-  
able.

Expenses and  
damages, how  
defrayed.

SECT. 3. *And be it enacted*, That the said road, when so as aforesaid recorded and established, shall remain unalterable as other parts of the said State road within the said county; that the expense of laying out, returning and recording the same, together with the damages aforesaid, if any, shall be defrayed by the said county, and shall be adjusted by the Levy court, and paid as other public debts; and that the same road shall afterwards be opened, cleared, made and supported in the same manner that other State roads within the said county are by the laws of this State; and that from and after the said road, so to be laid out, shall be opened and

put in good order, that part of the present State road, in lieu of which the said road shall so be laid out by the said commissioners, shall be vacated.

The old road to be vacated.

SECT. 4. *And be it enacted,* That the Levy court of the said county of New-Castle, at their meeting in March next, or as soon as may be, shall provide for the making and erecting without delay, a good and sufficient bridge over Appoquinimink creek aforesaid, at the place designated by the commissioners in their return, which shall be deemed to be a public bridge, and shall be of the same breadth and sufficiently railed in, as other public bridges within the same county are directed to be by the laws of this State, and in like manner shall be afterwards supported and maintained, and the expenses thereof shall be raised as other county rates and levies are by law.

Levy court of New-Castle county to provide for erecting a bridge over Appoquinimink.

How to be maintained and supported.

SECT. 5. *And be it enacted,* That if any of the commissioners herein named, shall be rendered incapable or refuse to act, remove out of the State, or happen to die before the duties hereby enjoined them be performed, then and in every such case, the commissioners, who continue to act, or a majority of them, shall nominate and appoint by some writing under their hands, some other suitable person or persons, in the room of such as shall be rendered incapable, refuse, remove, or die as aforesaid; which said person or persons, so to be nominated and appointed, are hereby empowered and required to act in the premises, as fully as any person or persons herein mentioned and appointed commissioners, may or can do.

Vacancies, how supplied.

SECT. 6 *And be it enacted,* That each of the commissioners, hereby appointed or to be appointed as aforesaid, for the services herein or hereby required of him, shall receive for his trouble and services in attending to the said business, two dollars per day; the surveyor, two dollars, while attending on the commissioners, and five dollars for his

Compensation of the commissioners,

Surveyor,

chain-carriers,  
and other ne-  
cessary work-  
men.

plot; and the chain-carriers and other necessary workmen, each one dollar per day, to be allowed and settled by the Levy court and Court of appeals, as aforesaid.

Penalty for  
committing nu-  
sances on said  
road, and

SECT. 7. *And be it enacted,* That if any person or persons shall obstruct the aforesaid State road, to be laid out and returned as aforesaid, or shall turn or 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 any sum not exceeding fifty dollars, to be applied for the removing of such nuisances, and repairing the public roads within the hundred where the offence shall be committed; and if any person or persons shall wickedly and maliciously cut down, break or injure the aforesaid public bridge, and shall be duly convicted thereof, in the Court of general quarter sessions of the peace for the said county, every such person so offending, shall be fined in any sum not exceeding two hundred dollars, and shall moreover be compelled to pay such further sum or sums of money, as may be sufficient to repair the damage done to the said bridge.

for cutting or  
damaging the  
bridge.

Old road to  
remain if most  
to the public  
advantage.

SECT. 8. *And be it enacted,* That if the said commissioners, or a majority of them be of opinion, upon the said view, that it will be best and most to the public advantage, that the old road should remain as it now runs, over the present bridge and causeway, they are also hereby required to make return thereof to the office of the clerk of the Supreme court, for the county of New-Castle, which said return, the said clerk shall enter on record in the said office without delay; and that the same road shall afterwards be repaired and supported in the same manner, as other State roads within the said county are, by the laws of this State; and that the said bridge shall also be deemed and taken to be a public bridge, free from toll, and shall be repaired and supported, as other public bridges

Bridge declared  
a public bridge,  
free from toll,  
and to be sup-  
ported as other  
public bridges.

within the said county are, by the laws of this State; and that any person or persons, who shall obstruct the said road, or commit any nuisance therein, and do not remove the same forthwith, or shall wilfully and maliciously cut down, break or injure the said public bridge, and shall be duly convicted thereof in the Court of general quarter sessions of the peace for the said county, every such person so offending, shall suffer the like penalty for the said offences respectively, as are mentioned and declared in the preceding section, and to be applied as aforesaid.

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Penalty for committing nuisances thereon.

SECT. 9. *And be it enacted,* That the commissioners herein appointed, or to be appointed as aforesaid, shall, before they enter upon the duties by this act enjoined them, respectively, take an oath or affirmation, before some judge of this State, or some justice of the peace of the county, for the true and faithful performance of the same; and shall also cause ten days notice to be given, of the time they shall meet and proceed in the discharge of the said duties, by affixing three or more advertisements in the most public places in the hundreds of St. George's and Appoquinimink, in the said county of New-Castle.

Commissioners to be qualified.

Notice to be given of the time of meeting.

*Passed at Dover, January 19, 1805.*

CHAP. CLXXI.

*An ACT making provision for the support of government, for the year One thousand eight hundred and five.*

**W**HEREAS there is now in the treasury a sufficient sum of money to defray all the expenses of the government for the present year;

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and the legislature, taking into consideration the distressed situation of their fellow-citizens in many parts of the State, owing to the failure of the crops of the last season, and wishing to alleviate their calamities as much as possible, have deemed it proper to omit the laying of a tax for the present year.

All sums of money, which now are or hereafter may come into the treasury, appropriated for the payment of salaries, &c.

Residue for the payment of debts due the citizens.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That all sums of money, which now are or hereafter may come into the treasury of this State, 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, Judges of the Court of common pleas, Attorney general, Secretary of State, and Auditor of accounts, up to the first day of January, which shall be in the year of our Lord, One thousand eight hundred and six; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the General assembly, their clerks and other expenses, 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, shall be applied to the payment of any sums of money due to any person or persons, for which provision shall be made by law.

*Passed at Dover, Jan. 21, 1805.*

## C H A P. CLXXII.

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1805

*An ACT to enable the trustees of the College of Wilmington, to raise a certain sum by lottery, for the purposes therein mentioned.*

*Passed at Dover, January 21, 1805.---Private act.*

## C H A P. CLXXIII.

*An ACT for the appointment of Escheators, and to declare and regulate Escheats.*

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the governor may and shall commission a person of integrity and ability in each of the counties of this State, to be escheator of the county, who shall hold his office for the term of five years, if so long he shall behave himself well; and each of the said escheators, before he enters upon the duties of his office, as is hereinafter required by this act, shall give bond with two sufficient sureties, to be approved by the auditor of accounts, who is hereby empowered to take the said bond, in the sum of five thousand dollars, to and in the name of the State of Delaware, for the faithful performance of the trust reposed in him by this act, but no action shall be brought on the said bond unless commenced within seven years after the expiration of his said office. And the governor, when any vacancy shall happen in either of the counties of this State by the death, resignation, or otherwise, of any escheator, shall supply the said vacancy by the appointment of some other person of integrity and ability, who shall continue in office and give bond as aforesaid; and

Governor to appoint escheators in each county.

Their term of office.

Shall give bond, with two sureties, to be approved by the auditor.

Limitation of action thereon.

Governor to supply vacancies.

Form of qualification.

the said escheators shall moreover take the following oath or affirmation: *I, A. B. do solemnly swear (or affirm) that I will well and sufficiently execute the office of escheator for the county of \_\_\_\_\_ and diligent inquest make for all property, which hath escheated or shall escheat to the State within my jurisdiction, according to the true intent and meaning of the act, in that case made and provided.*

Persons seized or possessed of real or personal estate, dying intestate without heirs, who can inherit the same, such estate shall escheat to the State, subject to all legal demands.

Proviso.

SECT. 2. *And be it further enacted,* That from henceforth if any person, who at the time of his or her death was seized or possessed of any real or personal estate within this State, die intestate without heirs or any known kindred, who can inherit and hold the same, such estate shall escheat to the State, subject to all legal demands on the same: *Provided,* That nothing in this act contained, shall be deemed or taken to extend to effect the right of the widow of such deceased to such share of his real and personal estate as she may be entitled to by law.

Escheator, on his own knowledge, or information given him on any person dying intestate as aforesaid, shall cause an inquest to be summoned before him,

[Sec. 4 vol. 53.]

at some public & convenient place, not less than ten nor more than twenty days thereafter, to enquire, &c.

SECT. 3. *And be it further enacted,* That each of the said escheators, upon his own knowledge, or so often as information shall be given to him in his proper county, of any person dying intestate and without heirs or any known kindred as aforesaid, and who was at the time of his or her death seized, or possessed of any real or personal estate within such county, the said escheator shall forthwith issue his precept directed to the Sheriff or coroner of the county, as the case may require, thereby commanding such Sheriff or coroner to empanel and summon twenty-four good and lawful men of the county, to come before the same escheator at some public and convenient place within the same county, not less than ten nor more than twenty days thereafter, to enquire whether, as shall be alledged, the said person hath died without heirs or known kindred as aforesaid, and whether such person was at the time of his or her death seized or possessed of any and what estate real or personal in the same county, and also in whose hands or possession the same

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shall be ; and when the said twenty-four persons, so empannelled and returned as aforesaid, or any twelve or more of them, shall appear according to the summons aforesaid, they shall, not exceeding twenty-three in number, be sworn or affirmed as an inquest, to enquire concerning the matters in the said precept set forth ; and the said escheator and the said inquest, shall thereupon proceed to enquire by the testimony of competent witnesses, duly sworn or affirmed, and other lawful evidence, concerning the matter in the said precept set forth, and shall permit witnesses upon oath or affirmation made before him (which he is hereby empowered to administer) and other lawful evidence to be heard and adduced ; and if any twelve or more of the said inquest shall find that any such estate, real or personal, within the said county hath escheated to the State, an inquisition thereof shall be made, signed and sealed by the escheator and twelve or more of the inquest that find the same, setting forth that the intestate person, in the same precept named, hath died without heirs or any known kindred as aforesaid, and specifying the estate, real or personal, if any, of which such intestate died seized or possessed, and also the person or persons in whose hands or possession the same shall be ; which inquisition to be taken as aforesaid, shall be certified and transmitted by the said escheator, as soon as conveniently may be, after the holding of such enquiry into the office of the clerk of the Supreme court.

Of the enquiry and evidence before the escheator and inquest.

Inquisition thereof to be made, signed and sealed.

What it shall contain.

Certified and to be transmitted to the office of the clerk of the Supreme court.

Escheator to cause the goods and chattels escheated to be seized ;

or if eloiigned, other goods and chattels of the person, who eloiigned them

SECT. 4. *And be it further enacted by the authority aforesaid,* That immediately upon the finding of such inquisition, the escheator shall issue his writ, directed to the Sheriff or Coroner of the county, as the case shall require, commanding him to seize, attach and secure the goods and chattels so found, to be escheated as aforesaid, in whose hands soever the same shall be found ; or if it be found by the said inquest, that the said goods and chattels be eloiigned, then to seize and attach so much of the goods and chattels of the person or persons, who

equal in value,  
to be seized,

unless the per-  
son in possessi-  
on give bond  
and security to  
appear and tra-  
verse the inqui-  
sition, &c. &c.

Inventory and  
appraisement  
to be returned.

Goods and chat-  
tels to be sold  
at public aucti-  
on, after ten  
days notice, and  
the money to be  
paid to the  
treasurer.

Duplicates of  
the proceedings  
to be transmit-  
ted to the audi-  
tor.

Escheator to  
lease the lands  
escheated.

Persons in pos-  
session claiming  
title, shall give  
bond to prose-  
cute their claim,  
and to

pay rent, in case  
the title of the  
State be estab-  
lished.

shall have cloigned the same, as shall be equal in value to the goods and chattels, which be cloigned, unless the person or persons, in whose hands or possession such goods and chattels be found, give bond to the State, with sufficient surety to appear at the next Supreme court thereafter to traverse the said inquisition, and likewise in case the same be confirmed, to render to the State the same goods and chattels found to be in his or her hands or possession; which writ so to be issued, shall be duly returned to the escheator, together with an inventory and appraisement of the goods and chattels, if any, which be seized and attached by virtue thereof; and the said Sheriff or coroner shall thereupon sell the same goods and chattels at public auction after ten days public notice of such sale, and shall without delay pay over the money therefrom arising to the treasurer of the State; a copy of which return, inventory and appraisement, together with the account of sales of the same goods and chattels, shall without delay be transmitted by the escheator to the auditor of accounts; and the said Sheriff shall be accountable to the said treasurer, as in other cases, for the money, which by virtue of this act shall come to his hands; and in case of lands or hereditaments, which may be found to be escheated to the State, the said escheator shall lease the same for any term not exceeding three years, to the person or persons, who, at the time of finding the inquisition concerning the same, shall be in possession thereof, provided he or they give a reasonable rent therefor; and if the person or persons, so in possession, claim title thereto, he, she or they shall give bond, with sufficient surety as aforesaid, to be taken and approved by the escheator, to prosecute his, her or their claim before the Supreme court in manner herein after directed, and also to pay to the State a reasonable rent for the annual profits of the same lands and hereditaments, in case the judgment of the said court shall establish the title of the State; and in case such tenant or tenants in possession, will not accept of a lease as aforesaid,

and give such bond as aforesaid, the escheator shall lease the same lands and hereditaments during the term aforesaid, to some other tenant or tenants of sufficient ability, and issue his writ in the nature of an *habere facias possessionem*, directed to the Sheriff or coroner of the county, as the case may require, commanding him to remove the tenant or tenants off the premises, out of possession, and to deliver possession thereof to such lessee or lessees.

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Habere facias possessionem to be issued to remove the tenant, and deliver possession.

SECT. 5. *And be it further enacted by the authority aforesaid,* That after the return of such inquisition as aforesaid, into the office of the clerk of the Supreme court as aforesaid, if there be any that claim the estate, real or personal, so as aforesaid found to be escheated, he, she or they shall be heard without delay, upon a traverse to the office *monstrans de droit*, or petition of right, and the testimony taken in writing, on finding of the inquisition concerning the same land, shall be admitted as legal evidence on the part of the State; but if no such claim be made to the lands so found to be escheated as aforesaid, within seven years next after the inquisition concerning the same, be returned into the office of the clerk of the Supreme court, or if upon claim, the title of the State be established to any lands which are found to be escheated as aforesaid, in such case the clerk of the Supreme court shall certify to the escheator, that no claim had been made, or that if such claim had been made, judgment thereupon had been rendered against the same, and the title of the State to the said land established; whereupon the said escheator shall proceed to make sale, by public auction, of the premises to him, her or them, who will offer the best and highest price for the same.... such sale to be after public notice of the time and place of holding thereof, and together with the conditions thereof advertised, at least one month in one or more of the news-papers of this State, (if any there be at the time,) and also by advertisements in the most public places in the county where the lands lie; and immediately after the sale as afore-

Persons claiming title, how to be heard.

What shall be legal evidence for the State.

If no claim within seven years, or if upon claim the title of the State be established, the lands shall be sold.

Public notice thereof to be given.

Name of the purchaser, &c. to be certified to the Governor.

How a deed shall be made to the purchaser

Subject to certain claims and incumbrances.

Provided the persons entitled had exhibited their claim previous to the sale of the lands.

Persons, within seven years after sale of any lands, establishing their claim to the same, shall receive from the treasurer what the State received after deducting all charges.

Provision for those, who claim personal property.

said shall be made, the escheator shall certify the name, surname and addition of the purchaser of the lands, sold by him as herein before directed, to the governor, who on filing such certificate in the office of the secretary of State, together with an acquittance from the State treasurer for the price bid or offered as aforesaid, shall by deed under the great seal, grant the same lands and hereditaments to the purchaser thereof to hold to him or her, his or her heirs and assigns forever; subject nevertheless to any reversion, remainder, lease, rent, common mortgage or incumbrance on the said lands, as the said lands, respectively, were subject to before the finding of the inquisition touching the particular land so sold: *Provided always*, That the person or persons, who were entitled to such reversion, remainder, lease, rent, common mortgage or incumbrance, had previously to the sale of the said lands, exhibited his, her or their claim to the Supreme court, and established his, her or their title to the same, in default of which they shall forever be debarred from recovering the same.

SECT. 6. *And be it further enacted by the authority aforesaid*, That if any person shall, within seven years next after the sale of any lands as herein before directed, appear and make claim thereto in manner aforesaid, and establish his, her or their claim to the same as herein after directed, in such case, and not otherwise, such person shall be entitled to receive from the treasurer of this State, by virtue of a warrant for the same, signed by the Governor, all such money as the State shall have received on the sale of such lands, after all charges thereon be deducted; and if any person, within five years next after the sale of such goods and chattels as aforesaid, shall make his or her claim in manner herein before directed, and establish his or her right thereto as herein after provided, he or she shall, in like manner as in the case of real estate, by warrant of the Governor, receive all such money as had been received by the State for the same goods and chattels, after all charges thereon deducted.

SECT. 7. *Provided always,* That if at the time of sale as aforesaid, any person having claim to the goods and chattels, or to the lands so sold as aforesaid, be out of this State, covert baron, imprisoned, an infant or insane, such person, if an inhabitant of this State, shall be allowed, in the case of goods and chattels, two years, and in case of real estate, four years, to be computed from and after the return of such claimant into this State, becoming discoverd, at large, attaining of full age, or recovering sound mind and memory, as the case may be, to make his or her claim to such estate respectively; and that any person having claim to such real or personal estate, who at the time of such sale shall not be an inhabitant of this State, yet be of full age and of sane mind and memory, such person continuing to reside elsewhere, shall be allowed to make his or her claim as aforesaid; within seven years, to be computed from and after the sale of the goods and chattels, and seven years, to be computed from and after the sale of the lands by such person so claimed.

Proviso as to minors, &c. &c. inhabitants of the State at the time of sale.

And as to persons, &c. who are not inhabitants of the State at the time of sale.

SECT. 8. *And be it further enacted by the authority aforesaid,* That if any person, at the time of the death of any intestate as aforesaid, shall be indebted to such intestate, or if any part of the estate, real or personal, which was of such intestate, and not mentioned and included in such inquisition, be in the hands or possession of any person dwelling within this State, the same shall be recovered to the use of the State by action of debt, trover, or upon the case for money received for the use of the State, or such action or suit as the case may require, in which proceedings respectively, the inquisition touching the estate of such intestate shall be admissible evidence, to prove that the same intestate died without heirs or known kindred as herein before described.

How debts due to the intestate, and property not included in the inquisition as aforesaid, may be recovered.

What shall be evidence therein.

SECT. 9. *And be it enacted by the authority aforesaid,* That the person, who shall first inform the go-

The person, first giving information to

the Governor of any escheat, and

establishing the title of the State, shall be entitled to

one fifth of the price of the goods and chattels, or one tenth of the price of the lands respectively sold.

Bond and security to be given to refund before payment of the said one fifth or one tenth as aforesaid.

Escheats, which have happened, or which shall hereafter happen, shall be enquired of and decided, and sold in like manner as is provided for escheats for want of heirs.

Fees to the escheators.

vernor, after six months from the passing of this act, by writing signed by such person in the presence of two subscribing witnesses, of any escheat, which has or may hereafter happen within this State, and who shall procure necessary evidence to substantiate the title of the State to the same, and shall prosecute the right of the State thereto with effect, such person shall be entitled to one fifth part of the price, which such goods and chattels, or one tenth part of the price, which such lands respectively shall have produced, after all costs of prosecution and charges of sale be deducted therefrom.

SECT. 10. *Provided nevertheless,* That before such fifth part be paid to the person, who shall first give information as aforesaid, his or her heirs or representatives (which payment shall be by warrant for the same, signed by the Governor, on the treasurer of the State) bond, with sufficient freehold security to be taken and approved of by the Governor, shall be given to the State, conditioned to refund the same, or any part thereof, as the case may be, if any claimant to the estate, upon which one fifth or one tenth part shall become payable, appear within the time herein before limited, touching such estate, and establish his or her title to the goods and chattels or lands respectively, which shall have been sold as aforesaid.

SECT. 11. *And be it enacted by the authority aforesaid,* That in all cases where escheats have heretofore happened or shall hereafter happen, they and each of them shall be enquired of by the escheator, decided upon like traverse and claim, and under the like limitations of time for making such traverse and claim, exposed to sale, and sold in like manner as is herein before provided as to escheats for want of heirs, and the money thence arising shall belong and go as is herein before directed.

SECT. 12. *And be it further enacted by the authority aforesaid,* That the fees and reward of the escheators shall be as follow :

For receiving and filing each information, two dollars and sixty-seven cents.

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For issuing writs or precepts to the Sheriff or Coroner, two dollars.

For filing return, fifty cents.

For every subpœna for witnesses, (four to be named in each, if so many there be,) seventy-five cents.

For calling and attesting the jury of enquiry, and holding, drawing and filing the inquisition, five dollars.

Attesting each witness, twenty-five cents.

For examining witnesses and reducing their testimony to writing, for each line of twelve words, four cents.

For all copies, (besides the certificate,) for each line of twelve words, two cents.

For a certificate, (besides the copy,) one dollar.

For drawing bond to traverse the inquisition, if necessary, one dollar.

For filing the same, fifty cents.

Executing every lease, and filing the counterpart, (the expense of drawing the same to be paid by the lessee,) two dollars.

And that the fees of the clerk, Sheriff and other officers of the court, and witnesses, shall be the same as they are entitled to receive for similar services in the same court.

To the clerk, Sheriff and other officers of the court, and witnesses.

To jurors.

And that each juror shall receive for his services, one dollar per diem, and three cents a mile for travelling charges.

All gifts, grants, conveyances and devises, heretofore made to aliens, confirmed.

And all deeds & conveyances made by them confirmed.

SECT. 13. *And be it further enacted by the authority aforesaid,* That all gifts, grants, bargains, sales, conveyances and devises of any lands, tenements, and hereditaments within this State, heretofore made to any person or persons, who at the time of making the same was or were an alien or aliens, shall be good and effectual, and shall be construed and taken to be good and effectual, to vest in the grantee or grantees, bargainee or bargainees, devisee or devisees, such estate and interest, and as good a right and title in and to the same, as he or they could have taken by the same gift, grant, bargain, sale, conveyance or devise, if he or they had been legally naturalized at the time of making the same; and all deeds and conveyances, made of any lands, tenements and hereditaments within this State, by any such alien or aliens, or his or their legal representatives, or by virtue of any legal process directed to the Sheriff or Coroner, shall be as good and effectual, and shall be construed and taken to be as good and effectual to vest in the grantee or grantees, bargainee or bargainees, devisee or devisees, such estate, and as good a right and title in and to the same lands, tenements and hereditaments, as such grantee, bargainee or devisee could have taken by the same, if the grantor, bargainor or devisor had been legally naturalized at the time of making such grant, bargain, sale, conveyance or devise last mentioned.

*Passed at Dover, January 23, 1805.*

## C H A P. CLXXIV.

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*An ACT authorizing certain conveyances of real estate between Richard Cooper, Esq. and Sarah M<sup>c</sup>Clyment, and John Torbert, administrators of James M<sup>c</sup>Clyment, late of Kent county, deceased.*

*Passed at Dover, Jan. 23, 1805—Private act.*

## C H A P. CLXXV.

*An ACT to vest in Nathaniel Drew, an undivided moiety of a lot of ground, with the improvements thereon, in the town of Dover, which a certain William Drew, his brother, died seized and possessed of.*

*Passed at Dover, January 23, 1805—Private act.*

## C H A P. CLXXVI.

*An ACT authorizing Major Anderson, his heirs or assigns, to alter or change a road therein mentioned.*

**W**HEREAS it hath been represented to the General assembly of the State of Delaware, Preamble. by the petition of Major Anderson, that much good would accrue to the said Major Anderson, and the public in general, by an alteration of the road leading from Vincent's causeway, by Stephen Lewis', to Milford.

**SECTION 1.** *Be it therefore enacted by the Senate and House of Representatives of the State of Dela-* The road from Vin-

cent's causeway by Stephen Lewis', to Milford, to be altered.

In what manner.

By whom done and supported.

So much of the road as runs through the land of Major Anderson, to be shut up.

At whose expense the bridges and causeways shall be built.

*ware, in General Assembly met,* That the said Major Anderson, his heirs or assigns, from and after the passing of this act, shall have power and authority, and they are hereby authorized and empowered to alter the said road, leading from Vincent's causeway, by Stephen Lewis', to Milford, in the manner and form following: that is to say, the alteration of the said road shall begin at its intersection with the road below Stephen Lewis', and running thence south eighty-seven degrees and three fourths of a degree, west thirty-two perches, and thence south fifty-eight degrees, west one hundred and twenty-eight perches, until it comes into the first aforesaid road leading from Vincent's causeway, by Stephen Lewis', to Milford.

SECT. 2. *And be it enacted,* That the aforesaid Major Anderson, his heirs or assigns, shall make and lay out, at his or their own proper cost and charge the said road, and put the same in good order, making it as wide and as good as other public roads within this State by law are required to be.

SECT. 3. *And be it enacted,* That the aforesaid Major Anderson, his heirs or assigns, as soon as he or they shall make or cause to be made the alteration aforesaid, shall have full power and authority to stop and shut up so much of the aforesaid road, leading from Vincent's causeway, by Stephen Lewis', to Milford, as runs through the land of the said Major Anderson, his heirs or assigns, between the places of its intersection.

SECT. 4. *And be it enacted,* That the aforesaid Major Anderson, his heirs or assigns, at his or their own proper cost, charge and expense, shall build or cause to be built, all such bridges and causeways as may be necessary on the said road, hereby, in the first section of this act, particularly described and granted to the prayer of his petition.

*Passed at Dover, Jan. 24, 1805.*

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C H A P. CLXXVII.

*A Supplement to an act, entitled, "An act for the supporting, maintaining and keeping in good repair, the bridge over the north-west fork of Nanticoke River."*

Chap. 23. c. 2d.  
vol. p. 1095.

**W**HEREAS by the act, to which this is a Preamble. supplement, provision is made for the supporting a bridge over the north-west fork of Nanticoke river; but no provision is made for the supporting and keeping in repair the causeway adjoining said bridge :

**SECTION 1.** *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That Charles Turner and Zachariah Prichard, of the county of Kent, and Oliver Jump and Ennalls Adams, of the county of Sussex, gentlemen, are hereby appointed commissioners, one or more of them from each county attending, to go upon and view the said causeway, and divide the said causeway into two equal parts, having regard to the situation, so that the expense of keeping in repair each part may be as nearly equal as possible; and after the said causeway is so laid off in two equal parts, the moiety or part nearest the said counties of Kent and Sussex, respectively, shall be supported and kept in repair in the same manner as the bridge is directed to be supported and repaired in the act, to which this is a supplement. Commissioners appointed. Their duty. How the causeway shall be supported.

**SECT. 2.** *And be it enacted,* That the commissioners herein appointed, shall make duplicate returns of their proceedings, one of which shall be delivered to the Levy court and Court of appeals of the county of Kent, and the other to the Levy court and Court of appeals of the county of Sussex; and shall be allowed such compensation for their services, as the Levy court and Court of appeals of Duplicates to be delivered to the Levy court and Court of appeals. Compensation to be allowed by the Levy court and Court of appeals.

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the counties, in which they respectively reside, shall deem reasonable.

*Passed at Dover, January 24, 1805.*

CHAP. CLXXVIII.

*An ACT to enable Samuel Coombe, administrator de bonis non of John Purden, deceased, to convey and assure unto Sarah Maxwell and John Maxwell, a certain tract of land, in Murderkill hundred, in Kent county.*

*Passed at Dover, January 24, 1805—Private act.*

CHAP. CLXXIX.

Chap. 123. a. 1st  
vol. p. 302.

*A Supplement to an act, entitled, "An act for preventing accidents that may happen by fire, in any of the towns or villages within this government."*

Preamble.

**W**HEREAS an act for preventing accidents that may happen by fire in any of the towns and villages within this government, passed in the year of our Lord, One thousand seven hundred and fifty-two, hath not been found fully to answer the purposes thereby intended :

Appropriation  
of the penalties  
incurred by fir-  
ing chimnies.

**SECTION 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, the penalty incurred by firing of chimnies, as provided by the act before recited,*

shall be recovered before any justice of the peace, by and for the use of any incorporated fire company, prosecuting for the same, within any town or village in this State where the offence may occur; and in such of the towns or villages where no such fire company doth or shall not hereafter exist at the time, the fine or penalty may be incurred in the same manner, and for the same use as is provided by the act, to which this is a supplement.

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*Passed at Dover, January 24, 1805.*

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C H A P. CLXXX.

*An ACT to incorporate the proprietors and holders of Pothooks marsh in Sussex county.*

*Passed at Dover, January 24, 1805.---Private act.*

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C H A P. CLXXXI.

*An additional supplement to an act, entitled, "An act for the valuation of real and personal property within this State."* 2d vol. 1247.  
1313.

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, as often as any owner or possessor of any real property or landed estate, shall make it satisfactorily appear to the Levy-court and court of appeal of any county of this state, wherein such real property or landed estate may

The assessment of real property, which by accident has become less profitable after its assessment, may be lowered by the levy-court & court

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the counties, in which they respectively reside, shall deem reasonable.

*Passed at Dover, January 24, 1805.*

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*An ACT to enable Samuel Coombe, administrator de bonis non of John Purden, deceased, to convey and assure unto Sarah Maxwell and John Maxwell, a certain tract of land, in Murderkill hundred, in Kent county.*

*Passed at Dover, January 24, 1805—Private act.*

C H A P. CLXXXIX.

Chap. 123. a. 1st  
vol. p. 302.

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Preamble.

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Appropriation  
of the penalties  
incurred by fir-  
ing chimnies.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, the penalty incurred by firing of chimnies, as provided by the act before recited,*

shall be recovered before any justice of the peace, by and for the use of any incorporated fire company, prosecuting for the same, within any town or village in this State where the offence may occur; and in such of the towns or villages where no such fire company doth or shall not hereafter exist at the time, the fine or penalty may be incurred in the same manner, and for the same use as is provided by the act, to which this is a supplement.

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*Passed at Dover, January 24, 1805.*

CHAP. CLXXX.

*An ACT to incorporate the proprietors and holders of Pothooks marsh in Sussex county.*

*Passed at Dover, January 24, 1805.---Private act.*

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*An additional supplement to an act, entitled, "An act for the valuation of real and personal property within this State."*

2d vol. 1247.  
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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, as often as any owner or possessor of any real property or landed estate, shall make it satisfactorily appear to the Levy-court and court of appeal of any county of this state, wherein such real property or landed estate may

The assessment of real property, which by accident has become less profitable after its assessment, may be lowered by the levy-court & court

of appeal, in proportion to its decrease.

Or in case it has become wholly unproductive by accident after assessment, the whole rate thereof may be taken off.

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

*Passed at Dover, January 25, 1805.*

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C H A P. CLXXXII.

*An ACT for the better regulation of the gaols within this State, and for other purposes.*

Preamble.

**W**HEREAS the constitution of this State hath enjoined the general accommodation of prisoners; and it being represented to this General assembly, that a due regard is not had in the care of the persons confined in the gaols of this State, to their cleanliness, their health and their morals; and divers citizens of said State having petitioned this General assembly, that the grievances suffered by persons confined in the said gaols may be alleviated and remedied:

**SECTION 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the Supreme court of this State, or either of the judges in vacation, be and they are hereby authorized, empowered and required, immediately after the passing of this act, to nominate and appoint, under their hands and seals, five judicious, sober and discreet persons in each county, three of whom shall reside within six miles of the towns of New-Castle, Dover and George-town, and two shall reside in the said towns, as a board of inspectors of the common prison or gaol of each county; which said inspectors, when so nominated and appointed, shall serve not longer than two in any term of three years, unless they or any one or more of them shall signify their willingness so to do, in which case the Supreme court or either of the judges thereof, may reappoint such inspector or inspectors for a longer time.

Board of inspectors of gaols to be appointed.

How long they shall serve, &c.

**SECT. 2.** *And be it enacted,* That the said board of inspectors, when so appointed as aforesaid, shall have full power and authority, and are hereby authorized and required to visit and view the inner apartments and places of the said gaols or common prisons of the counties aforesaid, at all times hereafter as occasion or necessity may require; and two of the said inspectors are hereby required to visit and view the inner apartments and places of said gaols on some one day of each and every week; and the whole number of the said board of inspectors (except in case of sickness or inability of the whole, or any part thereof to attend) shall and may visit and view the same once every month, or oftener if they or a majority of them shall think fit and proper so to do; and at the close of each and every quarter year, to report to the Supreme court or either of the judges thereof in vacation, the state and condition of the said gaols, of the prisoners therein confined, and the conduct and behaviour of gaolers, or keepers of the same.

Inspectors to view the inner apartments of the gaols.

Two of them to view the inner apartments of said gaols once a week, and the whole number once every month or oftener if a majority think fit.

To report quarterly to the Supreme court or either of the judges, &c.

What it shall contain.

If the conduct of the gaoler is disapproved of, information shall be given by the court or either of the judges thereof to the sheriff, in writing, and demand made of his removal.

Penalty on Sheriff for neglect or refusal.

How recovered.

Inspectors to provide articles of clothing and bedding for prisoners when necessary.

Orders to be drawn on county treasurer for amount of articles purchased,

and to be presented to the Supreme court or either of

SECT. 3. *And be it further enacted;* That in case the report so to be made as aforesaid, and which shall be signed by a majority of said board of inspectors, shall in the opinion of the Supreme court, or either of the judges thereof in vacation, disapprove and condemn the conduct and behaviour of the said gaolers or keepers of said prisons, then and in every such case, the Supreme court, or either of the judges thereof, are hereby authorized and required forthwith to give information or notice thereof to the Sheriff of said county in writing, and request and demand of him the removal from said prison of the gaoler or keeper of the same; and on refusal or neglect of said Sheriff to comply therewith for the space of one month after notice or information, demand and request shall be made, he shall forfeit and pay the sum of forty dollars, lawful money of the United States, for every such neglect or refusal, to be recovered by bill, plaint or information in any court of said counties having cognizance of the same.

SECT. 4. *And be it further enacted,* That whenever the said board or boards respectively or a majority of them, shall discover from actual view, and determine that any prisoner or prisoners confined in said gaols, is or are not sufficiently supplied with, or in possession of clothing or bedding to preserve his or their cleanliness and health, in every such case the said board or a majority of them, shall and may purchase or otherwise procure for the use and accommodation of such prisoner or prisoners, such articles of clothing or bedding as in the judgment of the said board, or the judgment of a majority of them, may be sufficient to answer or supply the wants of such prisoner or prisoners, and thereupon to draw an order or orders on the treasurer of such county for the amount of the same, in favor of the person or persons from whom the said articles of clothing and bedding were purchased or procured, which order or orders when presented to the Supreme court, or either of the judges thereof, and

being approved, shall be allowed by the Levy-court of such county, and shall be paid and discharged by the said treasurer as other orders are by him paid and discharged.

the judges thereof for approbation.

How paid, &c.

SECT. 5. *And be it further enacted,* That no bill or bills of fees shall, at any time after the passing of this act, be demanded of any prisoner or prisoners confined in said gaols by the gaoler or keeper thereof, until the said bill or bills of fees shall have been inspected and allowed by at least one member of the said board of inspectors, whose residence shall be within the towns of New-Castle, Dover and George-town; and if any such gaolers or keepers of said gaols shall demand from any prisoner or prisoners any bill or bills of fees, and receive the amount thereof, which bill or bills shall not have been so inspected and allowed as aforesaid, such gaoler or keeper thereof, shall forfeit and pay the sum of one hundred dollars, lawful money of the United States, to be recovered before any court before whom penalties are recoverable for the extortion of unlawful fees; and the said gaolers or keepers of said gaols, shall thereafter be reported by the said board of inspectors or a majority of them, to the Supreme court of this State, or either of the judges thereof in vacation, as unworthy and unfit to hold the said office of gaoler or keeper of the same prison.

Gaoler's bills of fees to be inspected and allowed by at least one of the board of inspectors, resident within the towns, &c.

Penalty for demanding and receiving payment of said bill, before inspection and allowance.

How recovered.

Report to be made to the Supreme court or either of the judges thereof.

SECT. 6. *And be it enacted,* That the said board of inspectors be, and they are hereby authorized and required, within a convenient time after the passing of this act, to make out and put up in some convenient place of said gaols or prisons, a printed or written list or table of rates and fees, which table or list of rates and fees may be altered or amended by the said board of inspectors, or a majority of them, from time to time as occasion may require

Board of inspectors to put up in the gaols a list of rates and fees,

and may alter or amend the same, as occasion may require.

SECT. 7. *And be it enacted,* That all fines and forfeitures incurred by this act, shall be applied to

Appropriation of fines and forfeitures.

C H A P.  
CLXXXIII.  
1805

and for the use of the poor in the respective counties in this State, where they may happen or occur.

*Passed at Dover, January 25, 1805.*

C H A P. CLXXXIII.

*An ACT to authorize the owners and possessors of Hudson's branch and low grounds adjacent, situate in the forest of Murderkill hundred in Kent county, to cut a ditch or drain through the same.*

*Passed at Dover, January 25, 1805.---Private act.*

C H A P. CLXXXIV.

*An ACT to vacate a road, and for other purposes.*

Preamble.

**W**HEREAS it hath been represented to this General assembly, that much of the State road, leading from the Horse-head road to Peter Miller's mill, established in pursuance of an act passed on the ninth day of February, one thousand seven hundred and ninety-six, passes through swamp and low grounds, the opening of which would be attended with great expense; and whereas the old road is on higher and better ground, and has lately been improved at the expense of the public by and with the consent of the owners of said land:

Commissioners  
appointed.

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

John Clarke and John Miller, be, and they are appointed commissioners; who are authorized, empowered and required to view the aforesaid road, and lay out and survey the same, as now used, to employ such surveyor and labourers as they may think necessary in surveying, laying out and plotting the same, and shall cause a correct survey and plot of the courses and distance of the said road to be made, and return the same under their hands and seals, to the Court of general sessions of the peace, to be held for the county of Kent, which shall from thence forward be taken, deemed and established as part of the State road aforesaid, and shall be kept up and repaired hereafter as other State roads in Kent county are kept up and repaired.

Their duty.

SECT. 2. *And be it enacted*, That all the expense and charge of laying out, returning and recording the said road shall be borne by Kent county, and be provided for by the Levy Court; and that the commissioners, surveyor and labourers, shall be allowed the same compensation for their services as was allowed the commissioners, surveyor and labourers in the above recited act.

Expenses, how paid.

SECT. 3. *And be it enacted*, That that part of the road laid out by the commissioners, pursuant to the above recited act, which lies between Peter Miller's mill and the Horse-head road, be, and the same is hereby vacated and made void.

Road lying between Peter Miller's mill and the Horse-head road vacated.

*Passed at Dover, January 25, 1805.*

CHAP  
CLXXXV.

1805.

C H A P. CLXXXV.

*An ACT authorizing the treasurer of this State to pay certain claims therein mentioned.*

SECTION 1. **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 authorized and directed to pay to John Fisher, Esquire, or his order, the sum of nineteen dollars and fifty-three cents, for expenses incurred, relating to the freight and portorage of the portrait of general Washington, and other expenses incurred by him, as secretary of State, for repairs done to the screw of the secretary's office, and sending to each of the counties a certified copy of the supplement of the valuation act, passed at the last session of the General assembly of this State, and also for cash paid James Wilson, printer, for publishing resolutions relative to the Appoquinimink bridge and causeway; to Jonathan Manlove, Esquire, the late Sheriff of the county of Kent, or his order, for attending the Court of appeals, the sum of fourteen dollars and twenty-five cents; to the legal representatives of George Mitchell, Esquire, deceased, the sum of forty-four pounds, ten shillings and eleven pence one farthing, being the sum paid by the executrix of said George Mitchell, over and beyond the sum actually due the State, from the estate of the said George Mitchell; to Hannah Learmouth, administratrix of John Learmouth, deceased, or her order, the sum of ten pounds, seven shillings and six pence, for a balance due the said John Learmouth, on a depreciation certificate; to Wootten & Allee, printers, or their order, for printing half a ream of hawkers' licences, and one ream of tavern licences, for the State, the sum of twenty-four dollars; and that John Clarke be authorized to retain in his hands the sum of seven dollars and fifty cents, for three days attendance on the sale of George Polk's

State treasurer  
authorized to  
pay to John  
Fisher, Esq.

To Jonathan  
Manlove, esq.

To the repre-  
sentatives of  
Geo. Mitchell,  
deceased.

To Hannah  
Learmouth,  
adm'x of John  
Learmouth,  
deceased.

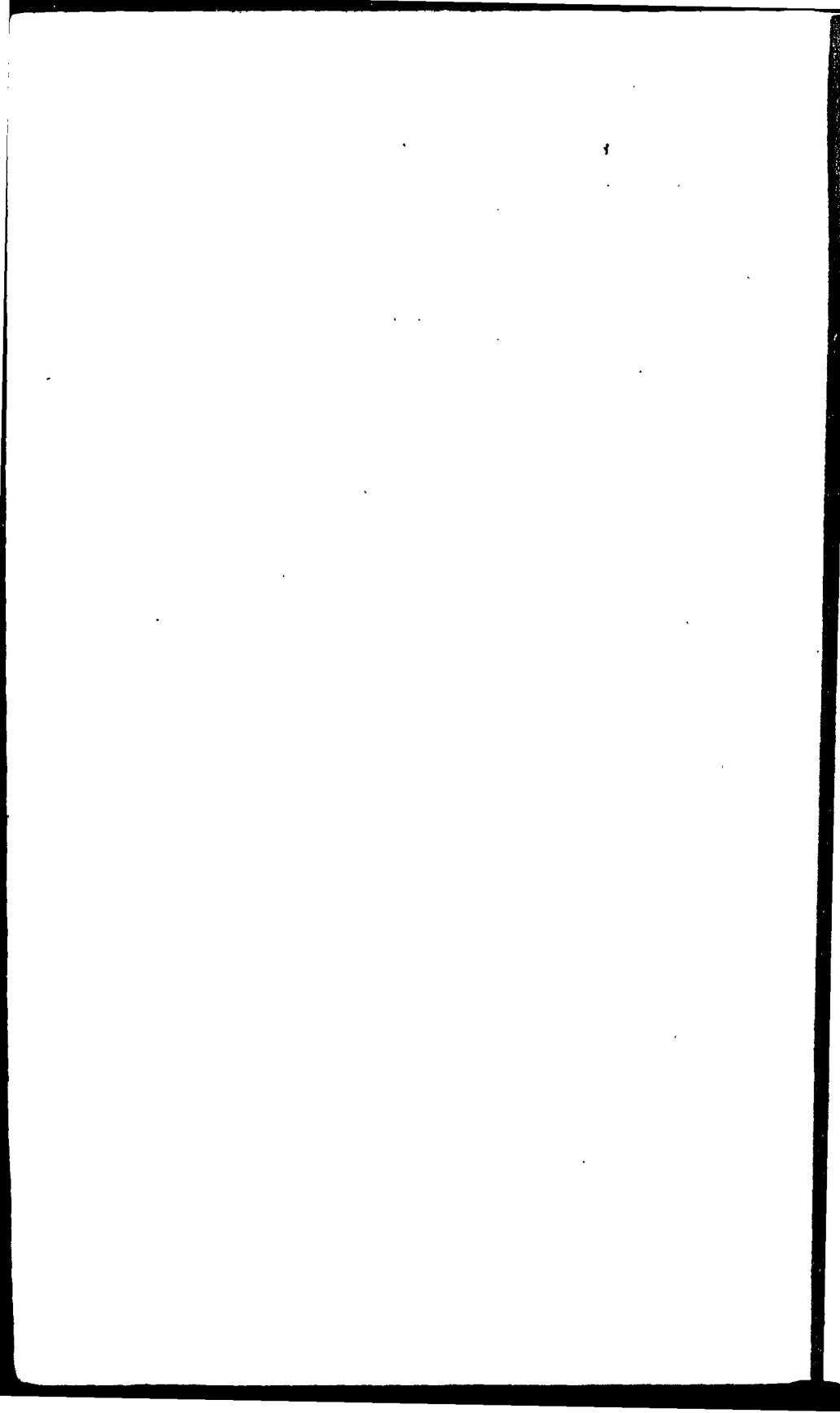
To Wootten  
& Allee.

The treasurer  
authorized to  
retain, &c.

land, a delinquent collector, and twenty-five dollars for expenses incurred in procuring stock for the State, and the further sum of twelve dollars and fifty cents, as trustee of the school fund, for extra expenses in procuring said stock as directed by law, out of such public money as is, or hereafter may come into the treasury, not otherwise appropriated by law:

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*Passed at Dover, January 25, 1805.*



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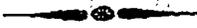
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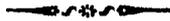
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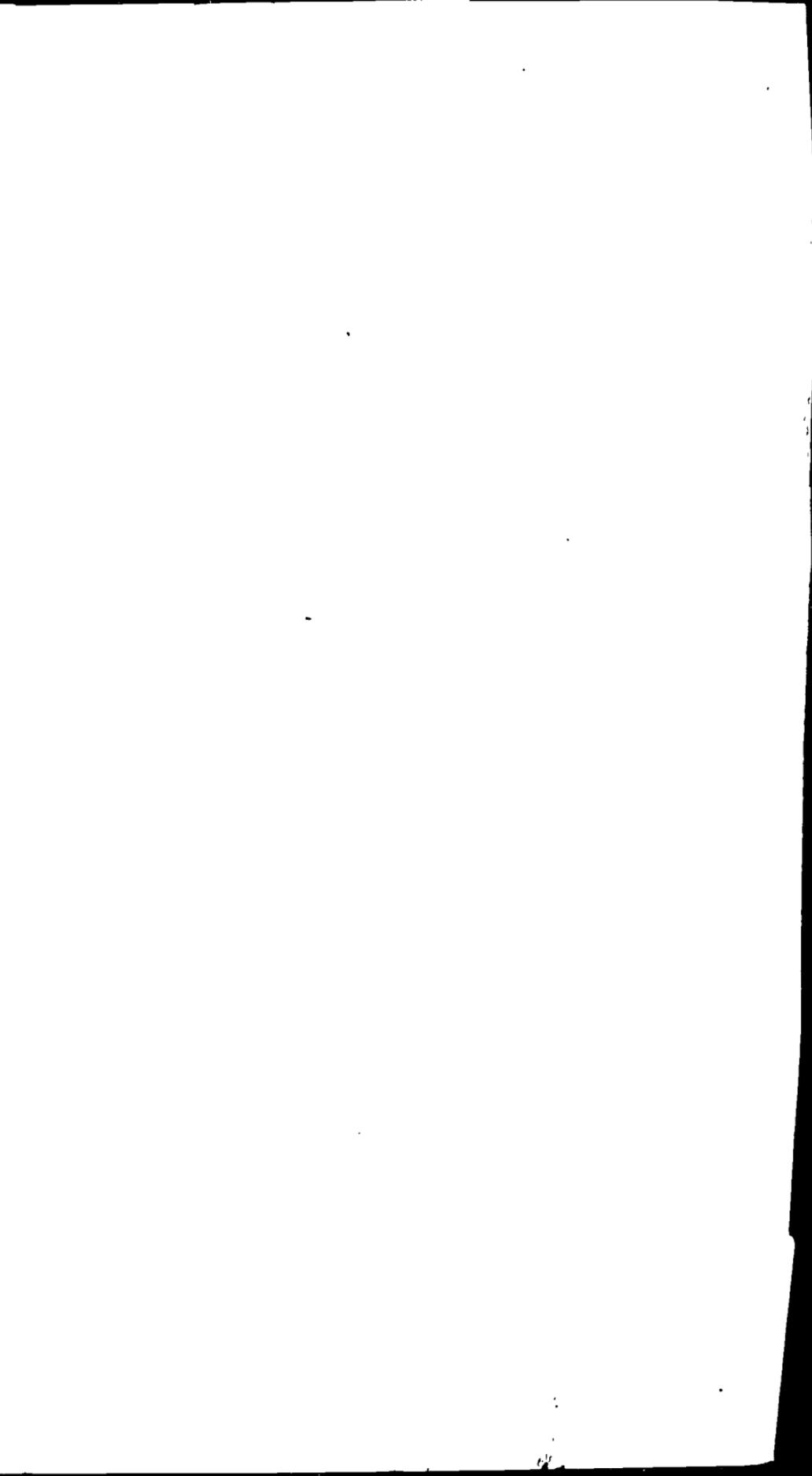
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