

LAWS
OF THE
STATE OF DELAWARE

PASSED

AT A SESSION OF THE GENERAL ASSEMBLY,

COMMENCED AND HELD AT DOVER,

ON TUESDAY, JANUARY 2d, A. D. 1883,

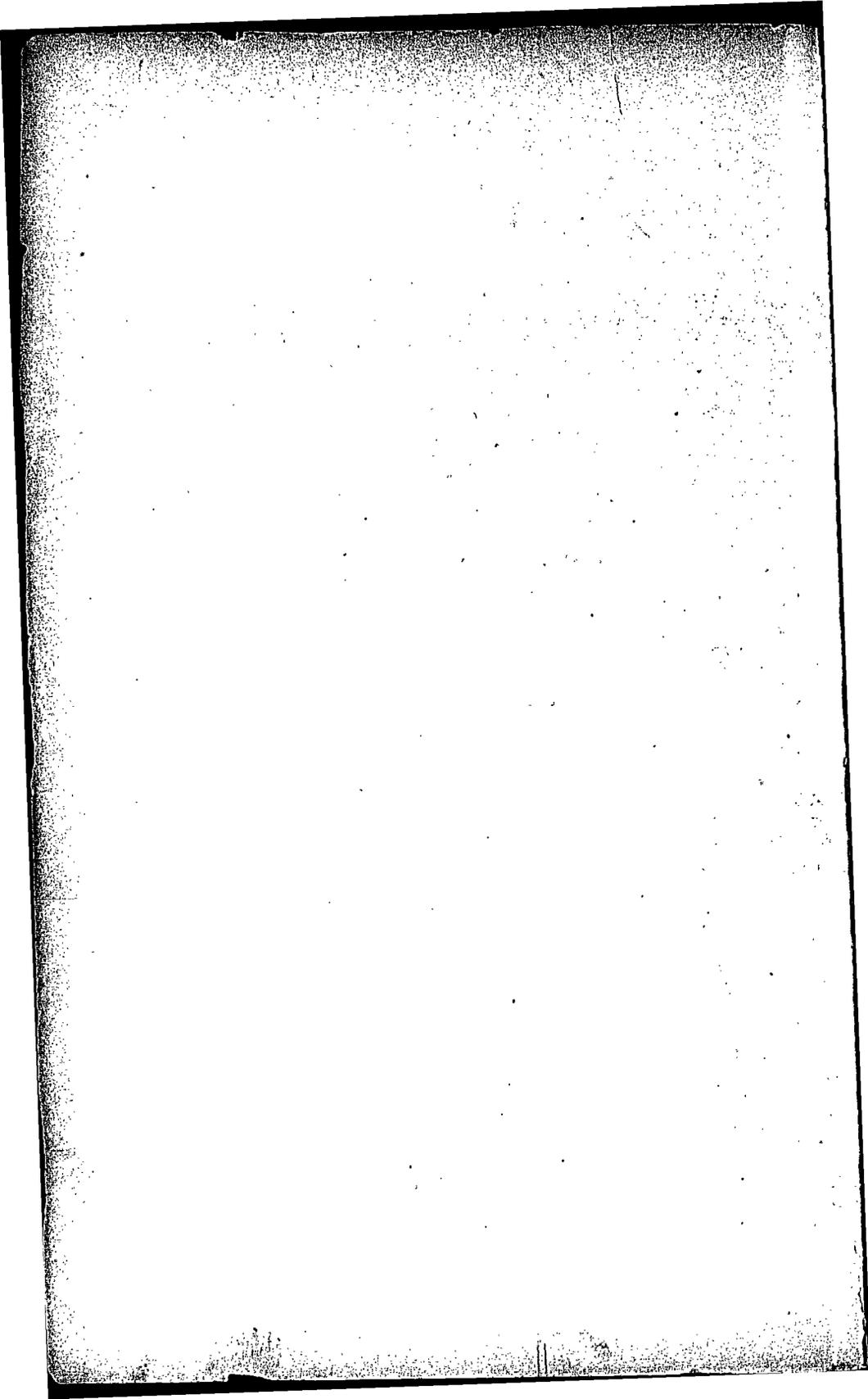
AND IN THE YEAR

OF THE INDEPENDENCE OF THE UNITED STATES
THE ONE HUNDRED AND SEVENTH.

VOLUME XVII—PART I.

1883:

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LAWS OF DELAWARE.

CONSTITUTIONAL AMENDMENTS.

CHAPTER I.

AMENDMENT TO THE CONSTITUTION PROPOSED.

AN ACT to propose an Amendment to Section 17 of Article 2 of the Constitution of this State.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each house deeming it necessary and concurring herein, and by and with the approbation of the Governor):

SECTION I. That the following amendment be and the same is hereby proposed to the Seventeenth Section of Article II of the Constitution of this State, as altered by an amendment proposed in and by an act passed April 3d, 1873, and ratified by an act passed January 28th, 1875, viz:

Amendment to 17th Section of Article 2 of the Constitution proposed.

Strike out of said Section 17, as altered and amended as aforesaid, the words following: "The Legislature shall have power to enact a general incorporation act to provide incorporation for religious, charitable, literary and manufacturing purposes, and for the preservation of animal and vegetable food, building and loan associations, and for draining low lands; and no attempt shall be made in such act or otherwise to limit or qualify the power of revocation reserved to the Legislature in this section."

Chapter 352, Volume 14, Chapter 1, Volume 15.

And insert in lieu thereof the words following:

"The General Assembly shall also have power, by concurrent vote of two-thirds of each branch thereof, to enact general laws providing for the creation of municipal or

Provision for General Incorporation Act.

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Exception. private corporations, excepting railroad and canal companies; *Provided* that the power of revocation in this section reserved shall apply to corporations created under general laws in the same manner and to the same extent as to those created by special acts of the General Assembly; *And provided, also*, that this amendment shall not affect any general incorporation acts heretofore enacted, nor any corporation created thereunder."

Secretary of State to publish the proposed amendment in two or more newspapers.

SECTION 2. That the Secretary of State be and he is hereby directed, after the Governor shall have approved of the above proposed amendment and this act, duly to publish the above proposed amendment and this act in two or more newspapers in this State, for the consideration of the people, at least three and not more than six months before the next general election of representatives in this State.

Passed at Dover, March 28, 1883.

CHAPTER 2.

AMENDMENTS TO THE CONSTITUTION PROPOSED.

AN ACT proposing Amendments to the Constitution for the purpose of Increasing the Number of Senators and Representatives in the General Assembly.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met; (two-thirds of each house deeming it necessary and concurring, and by and with the approbation of the Governor):

Second and Third Sections Article 2 Constitution amended.

SECTION 1. That the following amendments be and the same are hereby proposed to the Second and Third Sections of the Second Article of the Constitution of this State:

First, Strike out the third clause of the said Second Section reading thus: "There shall be seven Representatives chosen in each county, until a greater number of Representatives shall by the General Assembly be judged necessary;

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and then, two-thirds of each branch of the Legislature concurring, they may by law make provision for increasing their number," and in lieu thereof substitute and adopt the following, viz: "The House of Representatives shall consist of twenty-five members, eleven of whom shall be chosen from New Castle County, seven from Kent County and seven from Sussex County. *Provided*, that, of the eleven Representatives from New Castle County, four shall be chosen by the citizens residing in the City of Wilmington, and seven by the citizens residing in the residue of said county. At each biennial session of the House of Representatives, the person who was Speaker of the House of Representatives at the time of its next preceding adjournment *sine die* shall preside, or, if absent or disqualified, the person who was Speaker *pro tempore* at the time of said adjournment, and give a casting vote if the Representatives be equally divided, until its Speaker and other officers shall be duly chosen and qualified." Representatives.
Number increased.

Proviso.
Applicable to New Castle County.

Presiding officer.

Tie.

Second, Strike out the third clause of the said Third Section reading thus: "There shall be three Senators chosen in each county. When a greater number of Senators shall by the General Assembly be judged necessary, two-thirds of each branch concurring, they may by law make provision for increasing their number; but the number of Senators shall never be greater than one-half, nor less than one-third of the number of Representatives," and in lieu thereof substitute and adopt the following, viz: "There shall be four Senators chosen from each county. *Provided*, that of the four Senators from New Castle County, two shall be chosen by the citizens residing in the City of Wilmington and two by the citizens residing in the residue of said county. At each biennial session of the Senate the person who was Speaker of the Senate at the time of its next preceding adjournment *sine die* shall preside, or, if absent or disqualified, the person who was Speaker *pro tempore* at the time of said adjournment, and give a casting vote if the Senators be equally divided, until its Speaker and other officers shall be duly chosen and qualified." Senators.
Number increased.

Proviso.
Applicable to New Castle County.

Presiding officer.

Tie.

SECTION 2. That the offices of such as may be Senators and Representatives at the time of the ratification of the foregoing amendments to the Constitution, shall not be vacated by any of the provisions of said amendments, nor otherwise affected. The first election for Representatives under the Constitution as amended by said provisions, shall be held at the general election, on the Tuesday next after the first Adoption of amendments.

Time of election.

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Terms of office.

Proviso. Applicable to New Castle County.

Meeting of General Assembly.

Monday of November, in the year of our Lord one thousand eight hundred and eighty-six. At the said general election there shall be three Senators elected for each of the counties of this State, by the citizens of said counties respectively, under the provisions of the Constitution so amended as aforesaid, one of whom shall be so elected to serve as a Senator for two years from the day of his election and no longer, and the others to serve as Senators for and during the full term of four years from the day of their election and no longer; *provided*, that of the three Senators for New Castle County so to be elected one shall be chosen by the citizens residing in the City of Wilmington to serve as a Senator for four years as aforesaid, and two by the citizens residing in the residue of said county, one thereof to serve as a Senator for two years as aforesaid, and the other for four years as aforesaid; and two Senators shall be elected from each county biennially thereafter. The first meeting of the General Assembly under the Constitution so amended, as aforesaid, shall be on the first Tuesday in January, in the year of our Lord one thousand eight hundred and eighty-seven, and the meetings of subsequent biennial sessions on the first Tuesday in January in every second year thereafter.

If approved by Governor Secretary of State shall publish in two or more newspapers. When.

SECTION 3. That the Secretary of State of this State be and he is hereby directed, after the Governor shall have approved of the above proposed amendments, duly to publish the above proposed amendments, and this act, in two or more newspapers of this State, for the consideration of the people, at least three and not more than six months before the next general election of Senators and Representatives in this State.

Passed at Dover, March 30, 1883.

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CHAPTER 3.

AMENDMENT TO THE CONSTITUTION PROPOSED.

AN ACT proposing Amendments to Article VI of the Constitution of this State.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, (two-thirds of each house deeming it necessary and concurring herein, and by and with the approbation of the Governor):

SECTION I. That the following amendments be and the same are hereby proposed to Article VI of the Constitution of this State, to wit: Amendments to Article 6 of the Constitution

Strike out Section 2 of said article and insert the following in lieu thereof: Section 2d amended.

“There shall be five judges in the State, who shall be appointed for twelve years and may be re-appointed for any number of like terms. One of them shall be Chancellor and another Chief Justice, who may respectively be appointed from and reside in any part of the State. The other judges shall be Associate Judges, who may be taken from any part of the State, but after appointment each shall reside, during his term, in the county for which he is appointed. The persons in office at the time of the ratification hereof shall hold their several offices without re-appointment for the term of twelve years thereafter, and the Associate Judge then residing in any county shall be the resident judge of that county within the meaning of this amendment. Number of Judges. Term.

“The General Assembly shall have power, with the concurrence of two-thirds of all the members of both houses, to establish a court of law and of record in the City of Wilmington, and to confer such jurisdiction, civil and criminal, as it may deem proper, except of felonious homicide and other capital felonies; and in case of the establishment of such court, a judge therefor shall be appointed by the Governor for the like term as the judges herein mentioned, to reside, during his term, in the said city, and with such compensation as may be provided by law; and the General Assembly may provide for the appointment of such officers as may be needful for such court, and for the regulation of process issuing therefrom, and for granting writs of error from the Court of Errors Municipal Court in City of Wilmington. Jurisdiction. Judge appointed by Governor. Term. Compensation. Appointment of necessary officers.

CONSTITUTIONAL AMENDMENTS.

Writs of error. Appeals.

and Appeals to determine matters of error in its judgments and proceedings or the privilege of appeal to the Superior Court in civil cases, or to the Court of General Sessions of the Peace and Jail Delivery in criminal matters, and generally may provide for all other things rendered necessary by the establishment of such court."

Section 3 amended.

Amend Section 3 of said article by striking out all the first paragraph to the word "business" inclusive, and inserting the following in lieu thereof, to wit :

Superior Court.

"The Superior Court in each county shall consist of the Associate Judge, residing in that county. He shall hold court therein during such terms as may be provided by law, but not fewer than two terms during each year, and may make all rules for expediting business."

Section 4 amended.

Amend Section 4 of said article by striking out the first three periods to the word "court" inclusive, and inserting the following in lieu thereof, to wit :

Court of General Sessions of the Peace and Jail Delivery.

"The Court of General Sessions of the Peace and Jail Delivery shall be composed in each county in the same manner as in the Superior Court. Its terms shall be such as may be prescribed by law, but not fewer than two terms during each year."

Section 6 amended.

Amend Section 6 of said article by striking out the first three periods to the word "court" inclusive, and inserting the following in lieu thereof, to wit :

Court of Oyer and Terminer.

"The Court of Oyer and Terminer shall consist in each county of the resident judge thereof."

Also amend said Section by striking out the last period thereof and inserting the following in lieu thereof, to wit :

Judge shall not charge on matters of fact.

"No judge in any of the courts of this State shall charge juries with respect to matters of fact, but shall only declare the law. In all capital felonies, and in such other criminal cases as the General Assembly shall provide, the accused, after conviction and sentence, shall have the right to a writ of error, to be issued out of the Court of Errors and Appeals, as in other cases, but such writ shall be made returnable to the next session of said court to be held after such sentence and shall have priority in said court over all causes of a civil nature and shall be heard and determined at said session, unless the said court, for cause shown, shall deem that substantial justice requires its continuance. In case any judge

Writ of error in certain criminal cases.

Priority.

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whose duty it shall be to hold the said Superior Court, Court of General Sessions of the Peace and Jail Delivery or Court of Oyer and Terminer, shall be unable or disqualified through interest or otherwise to sit at any term or in any cause, the Chief Justice shall sit in his stead. In the absence of the judge, the clerk of either of the Courts of Chancery, Superior Court, Court of Oyer and Terminer, Court of General Sessions of the Peace and Jail Delivery, and Orphans' Court, may, upon his order, open and adjourn the same." ^{When Chief Justice shall sit.} ^{When Clerk may open and adjourn Courts.}

Amend Section 7 of said article by striking out the first paragraph to the word "absence," inclusive, and inserting the following in lieu thereof, to wit: ^{Section 7 amended.}

"The Court of Errors and Appeals shall have jurisdiction to issue writs of error to the Superior Court, Court of Oyer and Terminer, and Court of General Sessions of the Peace and Jail Delivery in all cases where such writ is given by this Constitution or prescribed by the General Assembly, and to determine finally all matters in error in the judgments and proceedings of said courts, and to receive appeals from the Court of Chancery, and to determine finally all matters of appeal in the interlocutory or final decrees and proceedings in chancery. The Court of Errors and Appeals upon a writ of error shall consist of the Chancellor, the Chief Justice and the Associate Judges who did not sit in the court below. If the resident judge who ought to have tried the cause below did not there sit, he shall sit in the said cause in the Court of Errors and Appeals, unless there be legal exception to him. If the Chief Justice sat in the cause below, he shall not sit in such cause in the Court of Errors and Appeals. Upon a writ of error the Chancellor shall preside, but in case of his absence or disqualification the Chief Justice shall preside, or should he be absent or disqualified, the senior associate present shall preside. Upon appeal from the Court of Chancery, the Court of Errors and Appeals shall consist of the Chief Justice and the Associate Judges. The Chief Justice shall preside, but in case he be absent or disqualified the senior associate present shall preside. Any three of them shall be a quorum, either upon a writ of error or appeal." ^{Court of Errors and Appeals.} ^{Who compose, etc.}

Amend Section 7 of said article further by striking out the word "four" first occurring in paragraph two, and inserting in lieu thereof the following, to wit: ^{Amend Section 7.}

"all the other,"

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Amend Section 7 of said article further by striking out the last paragraph beginning with "Upon appeal" and ending with "quorum," and inserting in lieu thereof the following words, to wit:

Report of
Decisions.

"The General Assembly shall provide by law for reporting the decisions of the said Court of Errors and Appeals, Court of Chancery, Superior Court, Court of Oyer and Terminer, and Court of General Sessions of the Peace and Jail Delivery."

Section 8
amended.

Amend Section 8 of said article by striking out these words, to wit:

"Sitting in the Superior Court without the associate judges."

Amend said Section by inserting after the word "interested" the following words:

"as having been of counsel in the case or otherwise."

Section 10
amended.

Amend said article further by striking out Section 10 thereof and inserting the following in lieu thereof:

Orphans'
Court.

"The Orphans' Court in each county shall be held by the Associate Judge residing in the county, but in case such judge shall be unable or disqualified, through interest or otherwise, to sit at any time or in any matter, the Chief Justice shall sit in his stead. In all matters involving a right to real estate or to the appraised or other value thereof, and also as to such other matters as the General Assembly may provide, there shall be an appeal to the Court of Errors and Appeals. Upon such appeal the said Court of Errors and Appeals shall be composed in the same manner as upon a writ of error. The Orphans' Court shall have all the jurisdiction and powers vested by the law of this State in the Orphans' Court."

When Chief
Justice may
sit.

Appeal to
the Court of
Errors and
Appeals.

Jurisdiction.

Section 14
amended.

Amend Section 14 of said article by striking out the first period thereof to the word "each" inclusive, and inserting the following in lieu thereof, to wit:

Compensa-
tion.

"The Chancellor and judges shall respectively receive for their services an annual compensation which shall be paid quarterly, and shall not be less than twenty-five hundred dollars, but the General Assembly may increase the compensation of all, or any of them, and may regulate and apportion any such increase according to justice."

General As-
sembly may
increase.