

LAWS

OF THE

STATE OF DELAWARE,

TO THE YEAR OF OUR LORD, ONE THOUSAND EIGHT HUNDRED AND TWENTY
NINE INCLUSIVE : TO WHICH ARE PREFIXED THE DECLARATION
OF INDEPENDENCE AND CONSTITUTION OF
THE UNITED STATES.

REVISED EDITION.

ARRANGED AND PUBLISHED UNDER THE AUTHORITY

OF THE

GENERAL ASSEMBLY.

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ERRATA.

Page 463—*Title*—erase the words *Religious Societies*.

Page 539—on the top in bracket—erase *Lancaster* and substitute *Elkton*.

Page 732—erase this line, *power of two commissioners* 552, and insert the same in page 734, as the third line.

PREFACE.

IN the year 1797, an edition of the Laws of this State was published in two volumes (1376 pages,) comprising the Acts of Assembly to that year *inclusive*. The Acts of the subsequent years to 1805 *inclusive*, were bound in a third volume of 399 pages; and the Acts of the following years to January Session 1813 *inclusive*, were bound in a fourth volume of 671 pages. A fifth volume of 487 pages, and a sixth volume of 763 pages have since been bound; and 496 pages of a seventh volume have been published. A part of the sixth volume and a great portion of the seventh volume consist of Acts passed in the course of revising Acts contained in the preceding volumes.

Soon after the binding of the fourth volume, the General Assembly directed their attention to the state of the Acts of Assembly. These had become intricate. The law in force was to be gathered from a mass, a great part of which was obsolete or had been repealed or altered. On many subjects, it required great diligence and care to search out the law, and skill to distinguish what was in force from what had been annulled, varied or supplied. It was seen, that every year would increase this evil.

The original design of the General Assembly was to procure a Digest of the Acts of Assembly. The plan of this Digest was understood to be—that the Acts should be arranged under proper heads; the language pruned of redundancy; and all parts not in force omitted; so as to compress the laws into the least practicable space, retaining the useful and avoiding all useless matter. Upon examining this subject, with a view to execute the intention of the General Assembly, it was seen, that a part of this plan (to wit pruning the language,) must be relinquished. The enacting clauses, *unless declarative*, not entering into the construction, could without detriment be omitted; but unless the very language of the provisions were retained, the book would be of no authority and unsafe. Departing therefore from this part of the plan and proceeding upon the residue, a Digest was prepared, and at the session of 1824 was reported to the General Assembly, for publication.

There was however in this Digest, a great and essential defect. The Acts of Assembly commenced in the year 1700: and there had never been an entire revision of the law on any subject. The manner of legislation had been,—to frame an Act supposed to contain the proper provisions. If experience discovered a deficiency, or change in circumstances required an alteration, whatever was wanted, was supplied by supplemental provisions. In this manner, several supplementary Acts on some subjects were passed in succession. The law upon a subject, thus consisting of an original Act and several supplements, was on many points a matter

of construction ; and to determine it a careful comparison of all the Acts was necessary. In this state of the Acts, a Digest could only have modified the evil. To remove this, one plain measure presented itself. This was, to revise the law upon the subjects, on which difficulty existed, and, repealing the Acts occasioning the embarrassment, incorporate in a revised Act the provisions proper to be retained with other provisions requisite to supply any defects. Upon this measure, the General Assembly in 1824 determined ; and in execution of it several Acts were passed at the sessions in 1825, 1826, 1827 and 1829. In the last session, this preparatory measure having been completed, "an Act directing a new edition of the laws" was passed ; and in pursuance of this Act the present edition has been published.

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The object of the General Assembly, that this edition shall contain the law, as it stands in force upon our Acts of Assembly, has been carefully observed. Sections amended have been published, as amended. Acts and clauses not in force have been omitted, unless the publication has been rendered necessary by connexion with other matter, and then the law, as it stands, has been stated or directly referred to : the instances are few ; the matter is plain. Sections as well as clauses, not in force, have been omitted entirely, without any notice : the numbers of such sections not being inserted. But the sections in force retain their original numbers : thus an Act consists of sections 2, 3, 5, 7, 12—(pa. 104, 105) ; the other sections not being in force. So of others.

The omission of the enacting clauses, *unless declarative*, is in conformity to the original intention. These clauses, *when declarative*, have been invariably retained ; in no other case could the retaining of them answer any useful purpose. In respect to this point, advice was received, upon which it was deemed perfectly safe to rely.

Under the title *Banks*, besides public Acts, are inserted certain statements, in pursuance of the provision in this particular of the Act directing this edition. The statements are included in brackets.

Several private Acts contain clauses imposing penalties. These clauses are required, by the Act directing this edition, to be published. They are collected under a Title (pa. 425—430, and pa. 639.) In relation to some of these, it has been thought best to make explanatory, statements : every such statement is included in brackets.

Many of the provisions of the Acts incorporating Turnpike Companies, are strictly of a private nature. Other provisions of these Acts are of general concern and require publication. These Acts appear to have been drafted, one from another or from the same original ; so that the law for one company may be applied to others ; most of the companies being under the same law substantially, although there is an Act for each. In consequence, this provision—"if there be in different Acts a clause substantially

PREFACE.

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the same proper to be published, it need not be published in relation to each Act, but may be connected with each Act by a statement," of the Act directing this edition—has been followed under the Title, Turnpikes (pa. 520—540.) The statements thus made, are included in brackets or parenthesis.

The Acts in PART II., which begins 565, are local. Of some of these Acts, and of particular sections or clauses of others, a summary is published instead of the words. The sections or clauses, of which a summary is given, are included in brackets.

In this part, under the TITLE *Bridge*, are special provisions concerning particular bridges. Under the TITLE *Bridges* are two special Acts concerning travelling over certain bridges in New-Castle county. Under the TITLES—*Roads in New-Castle county, Roads in Kent county, Roads in Kent and Sussex, Roads in Sussex county*,—are special provisions concerning particular roads in these counties,—for laying out, altering, vacating, or erecting gates in such roads. The general law in respect to roads and bridges, (whether it regulates the charges, the laying out, the repairing, &c. either throughout the State or in particular counties) is in PART I, under the TITLE, ROADS AND BRIDGES.

WILLARD HALL.

Nov. 10, 1829.

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[The marginal notes are numbered for the sake of reference; the numbers commencing with each Title. The numbers included in parenthesis or brackets in the margin refer to these numbers: when number only is included, the reference is to that number of the marginal notes under the same Title; when the reference is to another Title, the Title as well as the number is included in the parenthesis or brackets.]

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DECLARATION
OF
INDEPENDENCE.

In Congress, July 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES
OF AMERICA.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

Propriety of
the Declara-
tion.

We hold these truths to be self-evident—that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former system of government. The history of the present king of Great Britain, is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

Unalienable
rights of the
People, &c.

Absolute ty-
ranny the ob-
ject of the
king of Great
Britain.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them. He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation, in the legis-

Recitation of
injuries and
usurpations
on the part of
the British
crown.

DECLARATION OF

Recitation of
injuries and
usurpations
on the part of
the British
crown.

lature—a right inestimable to them, and formidable to tyrants only. He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise, the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign merce-