

LAWS

OF THE

STATE OF DELAWARE

ONE HUNDRED AND EIGHTH
SESSION OF THE GENERAL ASSEMBLY

COMMENCED AND HELD AT DOVER

On Tuesday, January 7, A. D.

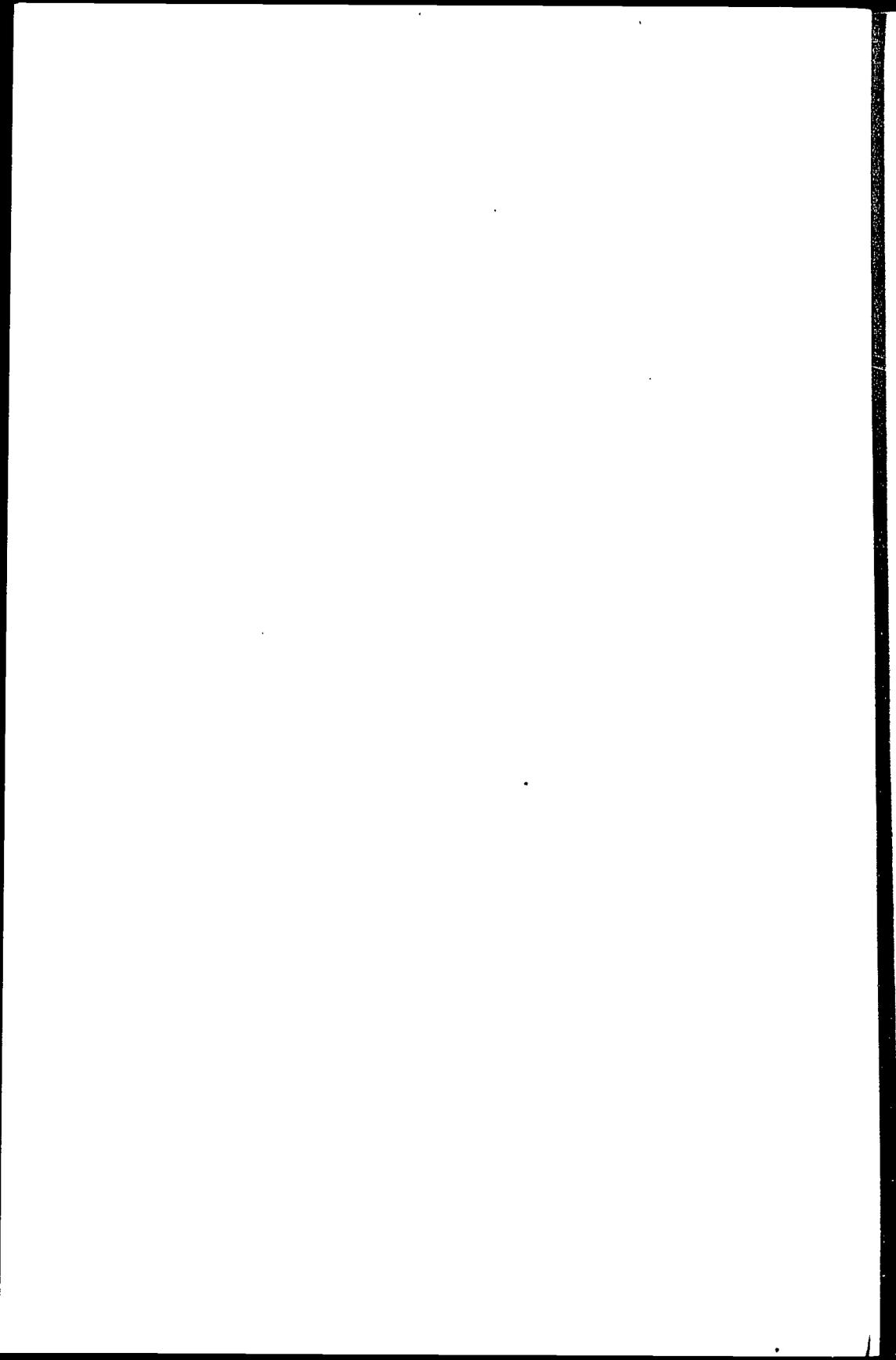
1941

AND

IN THE YEAR OF THE INDEPENDENCE OF THE UNITED STATES
OF AMERICA, THE ONE HUNDRED AND SIXTY-FIFTH

VOLUME XLIII

Printed by
WILLIAM E. TAYLOR, INC.
Wilmington, Delaware



LAWS OF DELAWARE

Constitution of the State of Delaware

CHAPTER 1

AMENDMENT TO CONSTITUTION

AN ACT PROPOSING A CERTAIN AMENDMENT TO ARTICLE V OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO ELECTIONS.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of all the members elected to each House agreeing thereto) :

Section 1. That Article V of the Constitution of the State of Delaware be amended by adding immediately after Section 4 thereof, a new Section to be styled Section 4A as follows:

Section 4A. The General Assembly shall enact general laws providing that any qualified elector of this State, duly registered, who shall be unable to appear to cast his or her ballot at any general election at the regular polling place of the election district in which he or she is registered, either because of being in the public service of the United States or of this State, or because of the nature of his or her business or occupation, or because of his or her sickness or physical disability, may cast a ballot at such general election to be counted in such election district.

Approved May 9, 1941.

CHAPTER 2

AMENDMENT TO CONSTITUTION

AN ACT PROPOSING AN AMENDMENT TO SECTION 15 OF ARTICLE 2 OF THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO THE COMPENSATION OF THE MEMBERS AND PRESIDING OFFICERS OF THE GENERAL ASSEMBLY, AND FIXING THE MAXIMUM NUMBER OF EMPLOYEES THEREOF.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of all the members elected to each House concurring therein) :

Section 1. That Section 15 of Article 2 of the Constitution of the State of Delaware, as amended by Chapter 15, Volume 30, Laws of Delaware, be amended by striking out all of the first paragraph of the said Section 15 of Article 2, and inserting in lieu thereof the following:

The members of the General Assembly, except the presiding officers of the respective Houses, shall receive as compensation for their services a per diem allowance of Fifteen Dollars (\$15.00), and the presiding officers a per diem allowance of Seventeen Dollars (\$17.00), for each day of the Session, not exceeding sixty days; and should they remain longer in Session they shall serve without compensation. In case a special or extra session of the General Assembly be called, the members and presiding officers shall receive like compensation for a period not exceeding thirty days.

In addition to the per diem compensation next hereinabove provided for, each Member living within a radius of twenty miles of the corporate limits of the City of Dover shall receive One Hundred Dollars (\$100.00) to cover such Member's traveling expenses in full, and each Member living more than twenty miles from the corporate limits of the City of Dover, but not more than forty miles therefrom, shall receive Two Hundred Dollars (\$200.00) to cover such Member's traveling expenses in full, and each Member living at a greater distance than forty

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miles from the corporate limits of the said City of Dover, shall receive Three Hundred Dollars (\$300.00) to cover such Member's traveling expenses in full.

Except as in this Section 15 expressly provided, the members of the General Assembly shall receive no allowance or payment for services, traveling expenses, supplies or other expenses while attending or in connection with Sessions of the General Assembly.

The maximum number of employees of the General Assembly shall be forty-eight (48), to be equally divided between the two Houses. Such maximum number of employees shall not be altered, except by a vote of three-fourths of all the members elected to each House of the General Assembly.

Approved May 9, 1941.

CHAPTER 3

AMENDMENT TO CONSTITUTION

AN ACT PROPOSING AN AMENDMENT TO SECTION 5 OF ARTICLE 2 OF THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO PLACE WHERE THE GENERAL ASSEMBLY SHALL MEET AND SIT.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of all the members elected to each House thereof concurring therein) :

Section 1. That Section 5 of Article 2 of the Constitution of the State of Delaware be and the same is hereby amended, by adding to the end thereof the following:

Provided further, however, the Governor shall call a special or extra session of the General Assembly, to meet each year in the Old State House in the City of New Castle, for the purpose of commemorating the Colonial Assemblies that met there in former years; and any such session shall be limited to one day, and no legislation of any kind shall be enacted other than such as pertains to such meeting.

Approved May 15, 1941.

Jurisdiction and Property of the State

CHAPTER 4

CESSION OF LANDS TO THE UNITED STATES OF AMERICA

AN ACT TO CEDE CERTAIN LANDS TO THE UNITED STATES OF AMERICA.

WHEREAS, by Chapter 449 of Volume 18, Laws of Delaware, the State of Delaware, by an Act of the General Assembly, ceded to and granted jurisdiction over to the United States of America of a quantity of land belonging to the State of Delaware not exceeding fifteen hundred (1500) feet front and twelve hundred (1200) feet deep from low water mark situate and lying on the Delaware Bay, between the United States Government Iron Pier and the point of Cape Henlopen; and

WHEREAS, by Chapter 1, Volume 42, Laws of Delaware, fee simple title of the State of Delaware to the said land was re-asserted due to abandonment thereof by the United States of America by failure to maintain a quarantine station thereon, and with the consent of the United States of America; and

WHEREAS, the United States of America now desires title to the said above described land for purposes of National Defense, and the State of Delaware being willing to cede said land for such purpose; Now Therefore

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Section 1. That the State of Delaware does hereby cede to and vest in the United States of America in perpetuity all its claim, title and right of soil and jurisdiction into or over all

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OF AMERICA

that quantity of land belonging to the said State of Delaware not exceeding fifteen hundred (1500) feet front and twelve hundred (1200) feet deep from low water mark situate and lying on the Delaware Bay, at or near Lewes, Sussex County, Delaware, between the United States Government Iron Pier and the Point of Cape Henlopen;

Provided, that the sovereignty and jurisdiction of this State shall extend over the land hereby ceded to the United States so far as that all civil and criminal process issued under any laws of this State may be executed in any part of said lands and the buildings or structures thereon erected.

Section 2. That the above session* of land and jurisdiction is made upon the express condition that said land shall be used for National Defense purposes or for quarantine station or other governmental purposes by the United States.

Approved May 5, 1941.

*So enrolled

State Revenue and Supplies

CHAPTER 5

DOMICILIARY DEATH TAXES

AN ACT TO PROVIDE FOR THE SETTLEMENT OF DISPUTES AMONG STATES WITH RESPECT TO DOMICILIARY DEATH TAXES.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Section 1. Definitions:—As used in this act:

(a) The term “executor” means any executor of the will or administrator of the estate of a decedent, except an ancillary administrator;

(b) The term “Taxing official” means the State Tax Commissioner in this state and the officer or body in any other reciprocal state designated in the statute of such state substantially similar to this act;

(c) The term “death tax” means any tax levied by a state on account of the transfer of or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an “inheritance tax”, “transfer tax”, “succession tax”, “estate tax”, “death duty”, “death dues”, or otherwise;

(d) The term “interested person” means any person who may be entitled to receive or who has received any property or interest which may be required to be considered in computing the death tax of any state involved;

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(e) The term "state" means any state, territory, or possession of the United States, and the District of Columbia.

Section 2. Election:—Where this state and one or more other states each claims that it was the domicile of a decedent at the time of his death, and no judicial determination of domicile for death tax purposes has been made in any of such states, any executor, or the taxing official of any such state, may elect to invoke the provisions of this act. Such election shall be evidenced by the sending of a notice by registered mail, receipt requested, to the taxing officials of each such state and to each executor, ancillary administrator and interested person. Any executor may reject such election by sending a notice by registered mail, receipt requested, to the taxing officials involved and to all other executors within forty days after the receipt of such notice of election. If such election be rejected, no further proceedings shall be had under this act. If such election be not rejected, the dispute as to the death taxes shall be determined solely as hereinafter provided, and any proceedings that may have been theretofore taken in this state to determine or assess such death taxes in the courts or otherwise shall be annulled and of no effect.

Section 3. Compromise:—In any case in which an election is made as provided in section two hereof and not rejected, the State Tax Commissioner may enter into a written agreement with the other taxing officials involved and with the executors, to accept a certain sum in full payment of any death tax, together with interest and penalties, that may be due this state. Such agreement shall not be effective unless approved by the State Tax Board. If an agreement cannot be reached and the arbitration proceeding specified in section four is commenced, and thereafter an agreement is arrived at, a written agreement may be entered into at any time before such proceeding is concluded, notwithstanding the commencement of such proceeding. Upon the filing of such agreement or duplicate thereof with the authority which would have jurisdiction or assess the death tax of this state if the decedent died domiciled in this state, an assessment shall be made as therein provided and such assess-