

ther lawful conveyance, to any religious society or congregation, or to any person or persons in trust for them, and to their use, before the twentieth day of October, in the year of our Lord One Thousand Seven Hundred and Forty-four, (a) the said congregation, or any person in trust for them, or expressly for their use, having hitherto continued in the peaceable and quiet possession of the same hereditaments and real estate, and for the recovery whereof no action or actions hath, or have, been brought by any person or persons against any such religious societies, or congregations, or their Trustees, shall be, and hereby are declared to be, to and for the use of the same, according to the purport and effect, true intent and meaning of such last will, deed of gift, or bargain and sale, or other lawful conveyance, and to and for no other use, intent or purpose whatsoever.

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1744, to be for  
the use of the  
same.

SECT. 6. *Provided always nevertheless, and be it enacted,* That the yearly rents and profits of the whole real estate to be held or enjoyed by any one of the said religious societies, or congregations, or by any other person or persons for their use, shall not exceed or amount to more than One Hundred Pounds lawful money of this state; and that the yearly interest, value, or income of the personal estate of such religious societies or congregations as aforesaid, shall not exceed or amount to more than Two Hundred Pounds lawful money as aforesaid.

The yearly profits of the real estate of each society not to exceed 100l.

of personal estate 200l.

SECT. 7. *And be it enacted,* That all the estate, right, title, interest, use, possession, property, claim, and demand whatsoever, of the said societies or congregations respectively, or any person or persons whatsoever in trust for them, or for their use, as well in equity as in law, at the time of passing this present act, of, in, and to, any lands, tenements, hereditaments, goods, chattels, effects, sum and sums of money, or other personal estate, shall be and become vested in the said Trustees, to be chosen according to the direction of this act, in trust nevertheless, and

All the estate, &c. of societies, or of persons in trust for them, shall be vested in the Trustees under this act, for the use of their societies.

TO

(a) See chap. 108. a. 17 Geo. II. "An act for the enabling religious societies of Protestants within this government to purchase lands for burying-grounds, churches, houses for worship, schools, &c."

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Corporate powers of Trustees: May grant, demise, &c. for the use of their society:

May sue and be sued, &c.

Shall use a common seal, and may change the same.

Succession of Trustees how perpetuated.

to and for the use of their societies or congregations respectively.

SECT. 8. *And be it enacted*, That the said Trustees of each respective society or congregation, which shall be chosen as aforesaid, and their successors, by the name to be taken and recorded as aforesaid, shall and may give, grant and demise, assign, sell and otherwise dispose of, all or any of their messuages, houses, lands, tenements, rents, possessions, and other hereditaments, and real estate, and all other goods, chattels, and other things aforesaid, as to them shall seem meet, for the use and benefit of the society or congregation to which they shall respectively belong: And also, that the said Trustees of each respective society, or congregation, which shall be chosen as aforesaid, by the name to be taken and recorded as aforesaid, forever thereafter shall be able in law, and capable, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all Courts of Judicature whatsoever; and also, that the said Trustees of each respective society or congregation, to be chosen as aforesaid, for the time being, and their successors, shall and may forever hereafter, have and use a common seal, with such device or devices as they shall think proper, for sealing all and singular deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers, and all and singular other affairs, touching and concerning the said corporation; and also that the said respective Trustees, and their successors forever hereafter, may as often as they shall judge expedient, break, change, and new-make the same, or any other their common seal.

SECT. 9. *And be it enacted*, That for perpetuating a line of succession in the Trustees of each respective society or congregation as aforesaid, it shall and may be lawful for the members of the said respective societies, or congregations, from time to time, to meet and assemble, at any time they may think proper, giving notice of such meeting as herein before directed for electing the first Trustees, and then and there, at such meeting and meetings, to elect other Trustees in the place and stead of those, or either, or any of those before

before elected, in case they shall see cause for removing any of the said Trustees, provided such removal shall not be in less than one year after their appointment; and also to fill up vacancies of their Trustees, occasioned by death, resignation, or removal.

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SECT. 10. *And be it enacted,* That it shall and may be lawful for the Trustees, elected and chosen for each respective society, or congregation, as aforesaid, and their successors from time to time, as they may find it necessary or expedient, to choose a chairman, being one of their members, who shall keep in custody the common seal of their corporation, and all the books, charters, deeds, and writings in any way relating to the said corporation; and shall have power, at all times hereafter, as occasion may require, to call a meeting of the said Trustees for the execution of all or any of the powers hereby given them; and in case of sickness, absence, or death of the Chairman, all the powers, by this act invested in the Chairman, shall be and remain in the eldest Trustee upon record, until the recovery or return of the Chairman, or until a new Chairman shall be chosen in manner aforesaid.

They may chuse a chairman, who shall keep the common seal, &c.

and have power to call meetings of the Trustees;

SECT. 11. *And be it enacted,* That all and every act and acts, order and orders, of a majority of the Trustees of any society or congregation, chosen as aforesaid, but not of a less number, consented and agreed to at such meeting of the said Trustees as aforesaid, shall be, and the same is, and are hereby ratified, made good, valid, and effectual, to all intents and purposes, as if the whole number of the Trustees had consented, and agreed thereto.

a majority of whom must agree.

SECT. 12. *And be it enacted,* That all the proceedings of the Trustees of each society, elected and appointed as herein before directed, shall, from time to time, be fairly entered in a book or books to be kept for that purpose by the Chairman of the Trustees, for the time being, of each respective society; which book or books, together with the common seal of the corporation to which they belong, and all charters, deeds, securities, and writings whatsoever, and also all monies in hand belonging, or in any wise appertaining, to the said corporation, shall be delivered

Proceedings to be duly entered.

Common seal, &c. to be delivered over to each successive Chairman.

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over by the former Chairman to the Chairman of the Trustees of such corporation newly elected for the time being, as such chairman shall from time to time be successively chosen, to be regularly filed, and safely kept, by each Chairman, for the mutual benefit of the society to which he may respectively belong, unto which books and muniments any member of said society shall have free access, at all reasonable times, upon application to the Chairman keeping the same.

Societies consisting of less than fifteen families, not to have the benefit of this act.

SECT. 13. *Provided always, and be it enacted*, That nothing in this act contained shall be construed to authorize any religious society in this state to elect Trustees, become incorporate, or be in any wise entitled to the benefit of this act, unless such society shall consist, at the time of such their election of Trustees for the purposes herein before mentioned, of at least fifteen families, statedly assembling at one place of worship, being supporters of the gospel in said society or congregation.

Repeal.

SECT. 14. *And be it enacted*, That so much of an act, intituled, *An act for enabling religious societies of Protestants within this government to purchase lands for burying grounds, churches, houses for worship, schools, and so forth*, passed in the seventeenth year of the reign of George the Second, (b) as by this present act is altered or amended, is hereby repealed, made null and void.

*Passed February 3, 1787.*

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C H A P. CXLV. b.

1787.

*An ACT to prevent the exportation of slaves, and for other purposes.*

Preamble.

**W**HEREAS the General Assembly have received information, that sundry Negroes and Mulattoes, as well freemen as slaves, have been exported, and sold into other states, contrary to the principles

(b) Chap. 108. 2.

principles of humanity and justice, and derogatory to the honour of this state :

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SECTION 1. *BE it enacted by the General Assembly of Delaware*, That if any person or persons, after the passing of this act, shall export, sell, or carry out for sale, or attempt to export, sell, or carry out for sale, any Negro or Mulatto slave from this state to either of the Carolinas, Georgia, or the West Indies, without a licence or permit first had and obtained therefor, from any three Justices of the Peace in the county where the owner or owners of such Negro or Mulatto slave resides, shall forfeit and pay, for every Negro or Mulatto slave so exported, sold, or carried out of this state for sale, or attempted so to be, the sum of One Hundred Pounds lawful money, one moiety thereof to be applied for the use of the state, and the other moiety to such person or persons who will sue for the same, to be recovered in any Court of Record in this state by action of debt, bill, plaint, or information. (a)

Persons exporting a slave, without permit, shall forfeit 100l.

SECT. 2. *And be it enacted*, That if any person or persons shall seize and export, sell, or carry out of this state for sale, or attempt so to do, any Negro or Mulatto, who either hath by contract enjoyed his freedom and liberty, or is hereafter to enjoy the same, shall, for every such offence, forfeit the sum of One Hundred Pounds lawful money, to be applied to the use aforesaid, and recovered in manner before directed.

Exporting a negro or mulatto, who is or may be entitled to freedom, the penalty.

SECT. 3. *And whereas* some doubts have arose, whether a Negro or Mulatto slave, heretofore manumitted by his master or mistress, by writing, last will, or otherwise, without having entered into the security to indemnify the county, required by the several laws of this state, (b) could be entitled to his or her freedom; to remove all such doubts, *Be it enacted*, That where

(a) See an additional supplementary act hereto, chap. 194. b. sect. 2, passed Feb. 3, 1789, where further and other provision is made—and see also chap. 22. c. sect. 3, passed June 14, 1793, that a permit to export a slave is grantable by the Justices of the Court of General Quarter Sessions of the Peace and Gaol Delivery, or any two of them—and in sect. 5, it is provided that every slave exported, &c. without a permit, is declared free; and in sect. 2, that persons prosecuted for offences under this act (chap. 145. b.) shall give bail, &c.

(b) For which see chap. 77. a. sect. 10.—and chap. 188. a. sect. 2.

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Slaves heretofore  
manumitted,  
without security  
given, declared  
free.

where any master or mistress may have heretofore manumitted and set free any Negro or Mulatto slave, that is now above the age of twenty-one years, and who at the time of such manumission was not above the age of thirty-five years, and who was healthy and no ways decrepit, or rendered incapable of getting his or her living, without having given the securities to indemnify the county, required by the laws of this state, shall and is hereby declared to be absolutely free, in as full and ample a manner to all intents and purposes, as if the security aforesaid, required by the laws aforesaid, had been given.

No such manumission to affect creditors;

SECT. 4. *Provided*, That no manumission made by any master or mistress as aforesaid, shall affect or prejudice his or her creditor or creditors, who are such at the time of manumission, where the master or mistress so manumitting, hath not sufficient real or personal estate to satisfy the *bona fide* debts of such creditor or creditors.

or to discharge the estates of masters from supporting those who are decrepit.

SECT. 5. *Provided also*, That nothing in this act contained shall extend, or be construed to extend, to discharge the estate or estates of such masters or mistresses, who may have manumitted any Negro or Mulatto slave as aforesaid without having given the security required by law, from maintaining and supporting any such Negro or Mulatto, who may now be decrepit, or incapable of getting his or her livelihood; any thing in this act to the contrary notwithstanding.

Future manumissions valid, without giving security.

SECT. 6. *And be it enacted*, That any master or mistress, after the passing of this act, may by any last will in writing, or otherwise, manumit and set at liberty any Negro or Mulatto slave above the age of eighteen years, and under the age of thirty-five years, who is healthy, and no ways decrepit, or rendered incapable of getting his or her living, without giving the security required by any of the laws of this state; any law, usage, or custom to the contrary in any wise notwithstanding.

Persons bringing a slave into this state shall forfeit 20l. and the slave be free.

SECT. 7. *And be it enacted*, That if any person or persons shall, after the passing of this act, bring any Negro or Mulatto slave into this state for sale, or otherwise, the said Negro or Mulatto slave is hereby

by declared free to all intents and purposes, and the person or persons bringing the said Negro or Mulatto slave into the state as aforesaid, shall forfeit and pay the sum of Twenty Pounds, to be recovered in any Court of Record in this state, by action of debt, bill, plaint, or information, one moiety thereof to be applied to the use of the state, and the other to the person or persons who will sue for the same. (c)

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SECT. 8. *And be it enacted,* That no slave manumitted agreeable to the laws of this state, or made free in consequence of this act, or the issue of any such slave, shall be entitled to the privilege of voting at elections, or of being elected or appointed to any office of trust or profit, or to give evidence against any white person, or to enjoy any other rights of a freeman, other than hold property, and to obtain redress in law and equity for any injury to his or her person or property. (d)

Privileges of manumitted slaves and their issue.

SECT. 9. *Provided also nevertheless, and be it enacted,* That any Negro or Mulatto slave, who may obtain his or her freedom, or have the same confirmed by this act, or who have heretofore, or hereafter may, come into this state from any other state or county, and be convicted in any court or jurisdiction impowered to hear, determine, and convict, any Negro or Mulatto of horse stealing, in lieu of the punishment prescribed by the laws of the state for such offences, shall by the said court or jurisdiction, be adjudged to be transported to the West Indies, or some other place where they may be received, and there disposed of for a term not exceeding fourteen years, which adjudication the Sheriff of the county, where the same may happen, is hereby directed to execute within three months after the adjudication, and to pay over to the Treasurer of the state, for the use of the state, the neat proceeds of such sale, after deducting the necessary expences attending such transportation,

Being convicted of horse-stealing shall suffer transportation,

and be there sold for a term of years.

Monies arising from the sale shall be appropriated.

(c) See a supplementary act hereto, chap. 193. b. passed Feb. 3, 1789, with exceptions to the generality of the provision in this section.

(d) See chap. 22. c. passed June 14, 1793, for punishing such persons as shall feloniously kidnap, take, and carry away any free negro or mulatto from this state into any other state, their aiders or assistants.

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portation, and ten *per cent.* on the neat proceeds of such sale for his trouble therein; and in case the Sheriff shall neglect or refuse to account and pay as aforesaid, then the State Treasurer, for the time being, is hereby impowered and directed to recover the same from such Sheriff by action or suit, in the name of the Delaware State, for money had and received as aforesaid.

To whom this act shall not extend,

SECT. 10. *Provided always,* That nothing in this act shall be construed to extend, or affect, any person or persons who may move into this state, from any other state, with his or her family, and become residents thereof, or who may be travelling through the same with his or her servants or slaves, or any inhabitants of this state moving with his or her family into any other state. (*e*)

Repeal of former laws.

SECT. 11. *And be it enacted,* That so much of all and every of the laws of this state, as are hereby altered and changed, are hereby repealed, and made null and void.

*Passed February 3, 1787.*

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C H A P. CXLVI. b.

1787.

*An ACT to compel executors to give security for the faithful discharge of the duty reposed in them by their testators, and for other purposes.*

Preamble.

**W**HEREAS it has been found by experience, that orphans, as well as creditors and others, have and do frequently suffer on account of the undue administration of executors, they not being compelled to give any security, upon obtaining letters testamentary, for their faithfully administering the goods, chattels, and credits of their testator, according to the tenor and effect of the last will and testament, and according to law; for remedy whereof,

## SECTION

(*e*) See also chap. 193. b. Post, for other exceptions there made.



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SECTION I. *BE it enacted by the General Assembly of Delaware, That the Registers of the several counties in this state, having power to grant letters testamentary to any person or persons, appointed and named executor or executrix of any last will and testament, duly proved, approved, and exhibited before them, shall, upon their granting such letters testamentary, take sufficient bond or obligation, with one or more able and sufficient freeholders sureties, in the name of the Delaware State, respect being had to the value of the estate, with a condition, and in manner and form following, viz. The condition of this obligation is such, that if the within bounden*      *execut*      *of the last will and testament of*      *late of*      *county, deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of the said*      *or into the hands and possession of any other person or persons for*      *and the same so made do exhibit, or cause to be exhibited, into the Register's Office of the county of*      *at or before the*      *day of*      *next ensuing, and the same goods, chattels, and credits, and all other the goods, chattels, and credits, of the said deceased, at the time of*      *death, which at any time after shall come to the hands or possession of the said*      *or into the hands and possession of any other person or persons do well and truly administer according to law, viz. shall pay the debts of the said deceased so far forth as the said goods, chattels, and credits will extend, and the law will charge, and do make, or cause to be made, a true and just account of*      *said administration, at or before the*      *day of*      *next; and all the rest and residue of the said goods, chattels, and credits, which shall be found remaining upon the said execut*      *account, the same being first examined, adjusted, and allowed of, by the Orphans Court of the county where the said letters testamentary are granted, do distribute or dispose of according to law, and the true intent and meaning of the last will and testament of the said deceased, then this obligation to be void and of none effect, or else to remain in full force*  
and

Registers to take bond, upon granting letters testamentary.

The condition.

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No suit to be prosecuted on testamentary or administration bonds, unless, &c.

or where other remedy cannot be had;

and shall be commenced within six years; saving, &c.

*and virtue: (a)* Which said bonds are hereby declared and enacted to be good, to all intents and purposes, and may be put in suit, in the name of the Delaware State, against the obligor or obligors for the use of any creditor or creditors, legatee or legatees, or person or persons, who may be interested in the said testator's estate; so always and provided, that no suit be prosecuted on any such testamentary, or on any administration bond, for any debt or damages due from, or recovered against, any testator or intestate, or their effects, before two returns of *non est inventus* upon two writs of *capias ad respondendum* or a *nihil habet* on a summons, be returned against the executor or administrator, or a *feri facias* returned *nulla bona* by the Sheriff of the county where such executor or administrator lives, or where the effects of such deceased lie, or such other apparent insolvency or insufficiency of the person or effects of such executor or administrator, as shall in the judgment of the court that hears the cause, render such creditor or creditors remediless by any other reasonable means, save that of suing such bonds, on pain that such person or persons that shall cause such bonds to be sued, contrary to the true intent and meaning hereof, shall be condemned in full costs of suit, to be adjudged by the said court to the defendant or defendants that shall be so sued, against the person or persons that shall cause the same to be sued, and shall award execution thereof as used in other cases.

SECT. 2. *Provided also*, That all actions upon such testamentary bonds hereafter executed, shall be commenced within six years after the passing the said bonds, and not after; saving the right of any person or persons who shall be within age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond sea, or out of this state, of bringing such action or actions within

(a) See the act to revive and perpetuate this act, passed Feb. 2, 1793, chap. 7. c. wherein further provisions are also made, to wit, that bonds of an infant executor or executrix, being above the age of seventeen, shall be valid.—Also in what manner letters testamentary may be granted to a Feme Covert, &c.—That testamentary guardians shall give bond—and that all such bonds be taken in the name of the State of Delaware.—No judgments against executors or administrators to bind the deceased's real estate but upon report of Auditors confirmed by the court, or on verdict of jury, &c.

within three years after their coming to, or being of full age, discoverture, of sound memory, at large, or returning into this state.

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SECT. 3. *And be it enacted,* That all letters testamentary hereafter to be granted by any Register within this state, to any person or persons, without first having taken a bond, with condition as by this act is directed, are hereby declared to be null and void to all intents and purposes whatsoever.

Letters testamentary granted without bond, to be void.

SECT. 4. *And be it enacted,* That the several Orphans Courts within this state, when petitioned by the sureties in any testamentary bond, or their representatives, and upon making it appear, that they are in danger of suffering by such surety, are hereby empowered and required to cause the executor to give the petitioners sufficient counter security to indemnify them from such bonds, in the same and in as full and ample a manner as administrators can or may be there-to compelled by the act, intituled, *An act for the amending the laws relating to testamentary affairs, and for the better settling intestates estates,* passed the first day of November One Thousand Seven Hundred and Sixty-six. (b)

Remedy for sureties in testamentary bonds.

SECT. 5. *And whereas* several litigious or negligent executors and administrators, having sufficient in their hands to satisfy all the just debts of the deceased, in violation of their duty and the trust in them reposed, have suffered themselves to be sued, presuming that the deceased's estate must be burthened with all the unnecessary cost they vexatiously or negligently occasion, which has too frequently happened to the great delay of many honest creditors, and the great injury of the legal representatives; for remedy whereof in future, *Be it enacted,* That no executor or administrator shall hereafter be allowed any costs of suit, in any action to be recovered against such executor or administrator, out of the deceased's estate, unless the court before whom the action is brought, shall certify that the executor or administrator had just or probable cause or reason for withstanding such suit, or that

Executor or administrator shall not be allowed costs of suit, unless, &c.

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the

(b) Chap. 186. s. sect. 15, 16.

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the same was commenced before reasonable time given to such executor or administrator to discharge the debt thereby demanded, after probate made in common form, and notice thereof.

Limitation.

SECT. 6. *And be it further enacted,* That this act shall continue and be in force for the term of five years, and from thence to the end of the next Session of Assembly, and no longer. (c)

*Passed February 3, 1787.*

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C H A P. CXLVII. b.

1787.

*An ACT for the support of officers, soldiers, or seamen, citizens of this state, who have been disabled in the service of the United States.—Obsolete.* The subjects of this act provided for by the Congress of the United States from March 4, 1789—see vol. I. of their laws p. 149. chap. 24. &c. &c.

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C H A P. CXLVIII. b.

1787.

*An ACT appointing deputies from this state to the Convention, proposed to be held in the city of Philadelphia, for the purpose of revising the Federal Constitution.*

Preambles

**W**HEREAS the General Assembly of this state are fully convinced of the necessity of revising the Federal Constitution, and adding thereto such further provisions as may render the same more adequate to the exigencies of the Union; *And whereas* the Legislature of Virginia have already passed an act of that commonwealth, appointing and authorising certain Commissioners to meet, at the city of Philadelphia, in May next, a Convention of Commissioners or Deputies from the different states: And this state being

(c) Made perpetual in chap. 7. c. with further provisions, see before in note. (a)

being willing and desirous of co-operating with the commonwealth of Virginia, and the other states in the confederation, in so useful a design;

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SECTION 1. *BE it therefore enacted by the General Assembly of Delaware, That* George Read, Gunning Bedford, John Dickinson, Richard Bassett, and Jacob Broom, esquires, are hereby appointed Deputies from this state to meet in the Convention of the Deputies of other states, to be held at the city of Philadelphia on the second Day of May next. And the said George Read, Gunning Bedford, John Dickinson, Richard Bassett, and Jacob Broom, esquires, or any three of them, are hereby constituted and appointed Deputies from this state, with powers to meet such Deputies as may be appointed and authorised by the other states to assemble in the said Convention at the city aforesaid; and to join with them in devising, deliberating on, and discussing, such alterations and further provisions, as may be necessary to render the Fœderal Constitution adequate to the exigencies of the Union; and in reporting such act or acts for that purpose to the United States in Congress assembled, as when agreed to by them, and duly confirmed by the several states, may effectually provide for the same: So always and provided, that such alterations, or further provisions, or any of them, do not extend to that part of the fifth article of the confederation of the said states, finally ratified on the first day of March, in the year One Thousand Seven Hundred and Eighty-one, which declares, that in determining questions in the United States in Congress assembled, each state shall have one vote.

Deputies appointed.

Their powers.

Restriction.

SECT. 2. *And be it enacted, That* in case any of the said Deputies, hereby nominated, shall happen to die, or to resign his or their appointment, the President or Commander in Chief, with the advice of the Privy Council, in the recess of the General Assembly, is hereby authorised to supply such vacancies.

Vacancies happening, how supplied.

Passed February 3, 1787.

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C H A P. CXLIX. b.

*A Supplement to an Act, intituled, "An act for the recovery of One Thousand Five Hundred and Fifty-three Pounds, Eighteen Shillings and Six-pence, due from the estate of John Vining, esq. deceased, formerly one of the Trustees of the Loan Office for the county of Kent."—Original act, chap. 132. b. Ante, repealed by chap. 201. b. Post.*

C H A P. CL. b.

1787.

*An ACT to provide for defraying the expences of the Justices of the Supreme Court and Court of Oyer and Terminer.—Altered and supplied in chap. 6. c. passed Feb. 2, 1793.*

C H A P. CLI. b.

1787.

*An ACT for the settlement of the accounts of the Wilmington lottery.  
Passed February 3, 1787.—Private act.*

C H A P. CLII. b.

1787.

*An ACT to appoint Edward Oldham and Mary his wife Trustees to take care of the property of Joseph Enfor, an idiot.  
Passed February 3, 1787.—Private act.*

C H A P. CLIII. b.

1787.

*An ACT relinquishing the right of this state to the confiscated property late of James Welsh, deceased.  
Passed February 3, 1787.—Private act.*

CHAP.

## C H A P. CLIV. b.

C H A P.

CLIV.

1787.

An ACT for granting and securing to John Fitch the sole and exclusive right and advantages of making, constructing and employing the steam-boat, by him lately invented, for a limited time.

Passed February 3, 1787.—Private act.

## C H A P. CLV. b.

An ACT for enabling Sydenham Thorne to erect a mill-dam across Missillion creek, and for the condemnation of a small piece of fast land, on the Sussex side of the said creek, for the use of a grist-mill.

1787.

Passed February 3, 1787.—Private act.

## C H A P. CLVI. b.

An ACT for raising Ten Thousand Five Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-seven.

1787.

**W**HEREAS Congress, by their resolution of the Preamble. twentieth day of October last, have called upon the United States for their respective quotas of the sum of Five Hundred and Thirty Thousand Dollars, in specie, for the pay and support of the troops of the United States upon the present establishment, this state's computed quota whereof being Seven Thousand Nine Hundred and Fifty Dollars; which quota the General Assembly of this state consider to be much greater, than what the same ought to be on any known and acknowledged principle of Fœderal taxation; nevertheless, in full confidence, that this state will not in future be thus unequally overrated by Congress, it is agreed to provide for the said quota.

SECTION I. *AND* whereas it is necessary to make provision for supplying the wants of the state, which  
added

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Ten Thousand  
Five Hundred  
Pounds to be  
raised.

Each county's  
proportion  
thereof.

Special Court to  
be held to ascer-  
tain the sum on  
the Pound rate.

Warrants to be  
issued to Collec-  
tors.

added to the aforesaid sum is computed to Ten Thousand Five Hundred Pounds; *We* the Representatives of the freemen of this state, taking into our serious consideration the necessity of complying with the requisition of Congress above mentioned, and for making provision to supply the wants of the state, have agreed to give the said sum of Ten Thousand Five Hundred Pounds for the purposes above mentioned: *Be it therefore enacted by the General Assembly of Delaware, That the sum of Ten Thousand Five Hundred Pounds, lawful money of the Delaware State, shall be raised, levied, and paid into the state treasury within the time herein after directed, and shall be assessed and taxed in the several counties of this state in the following proportions, That is to say:* For the county of New-Castle, the sum of Four Thousand Pounds; For the county of Kent, the sum of Three Thousand Five Hundred Pounds; and For the county of Suffex, the remaining sum of Three Thousand Pounds.

SECT. 2. *And be it enacted,* That for the better assessing, ordering, levying, and collecting the aforesaid several sums of money in the counties aforesaid, the Justices of the Peace of each county, or any three of them, are hereby authorized and required to hold a Special Court, on or before the twenty-third day of the present month of February, in the counties aforesaid respectively, at the places in the said counties where the Levy Courts are usually held, and then and there, with the assistance of the Clerks of the Peace, to ascertain the sum in the Pound upon the whole rate of the county, according to the last assessment, necessary to raise, clear of all charges of collection and supposeable delinquencies, the aforesaid several sums herein before directed to be assessed, raised, and levied, in the counties aforesaid respectively; and the said justices, or any two of them, shall thereupon issue their warrants to the Collector of each county herein after named, or who may be appointed agreeable to the directions in this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorizing and requiring him forthwith to demand and receive from the persons



tons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums aforesaid.

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SECT. 3. *And be it enacted*, That Jesse Higgins, of the county of New-Castle, Joseph Taylor, of the county of Kent, and Israel Holland, of the county of Suffex, be, and hereby are appointed Collectors of the tax aforesaid in their respective counties, and each and every of them shall appear before the Justices at the Special Court to be holden as aforesaid, and enter into bond, with good and sufficient securities, such as the said justices, or any three of them, shall approve, in double the sum to be collected, with condition, *That if the above bound shall well and faithfully execute and perform the several duties required of him, as a Collector of the tax for county, according to law, then the above obligation to be void, else to remain in full force*; and the said justices, or some two of them, shall witness the execution of such bond, and immediately after deliver the same to the Clerk of the Peace, who shall record the said bond, and as soon after, as conveniently may be, transmit the same to the Auditor, to be by him safely kept in his office; and an attested copy of the said record shall be as good evidence in law, as if the same bond was actually proved in court; and if any person, appointed a Collector as aforesaid, shall, after five days notice of his appointment, neglect to appear, not having a reasonable excuse in the judgment of the said justices, or appearing, shall refuse to take upon him the office of Collector, or shall refuse or neglect to give bond as aforesaid, the said justices, or any five of them, may remove him from his said office, and shall immediately, on any vacancy by death, or removal, or by refusal to act, neglect to appear, or give bond as aforesaid, appoint some other Collector for their county, who will give bond as aforesaid; and to this end, the Justices of the Peace of each county, or any five of them, are hereby authorized and required, so often as occasion may be, to meet at the usual place of holding Levy Courts in their county, and then and there open and hold a Special Session for the purposes aforesaid.

Collectors appointed;

who shall give bond;

which shall be recorded, and transmitted to the Auditor, &c.

Vacancies how supplied.

SECT. 4. *And be it enacted*, That each Collector may appoint deputies.

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Their powers.

may appoint one or more deputies to assist him in collection, for every of whom he shall be answerable,

SECT. 5. *And be it enacted*, That the said Collectors and their deputies shall proceed, without delay, to collect the assessment imposed by this act; and if any person rated as aforesaid, not having a fixed residence in the county, shall neglect or refuse to pay, and if any person so rated, having a fixed residence there, shall neglect or refuse to pay by the space of ten days after demand made, it shall and may be lawful for the said Collectors respectively, to levy by distress and sale of the goods and chattels of the person or persons so neglecting or refusing to pay as aforesaid, the said several sums of money such person or persons stand charged with; of which sale five days notice, exclusive of the day of notice and sale, shall be given; but if no distress can be found by the Collector or deputy, and the party assessed refuse or neglect to shew goods or chattels of his own forthwith to be levied upon to satisfy such assessment with reasonable charges, then such Collector or deputy shall take the body of every such neglecting or refusing person, and bring him to the county gaol, and deliver him to the Sheriff or Keeper of the said gaol, who is hereby authorized and required to receive and detain him in safe custody, until payment with costs be made.

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

SECT. 6. *And whereas* some owners of lands may not reside in the same county where such lands lie, or may be under the age of twenty-one years, whereby it may be difficult to recover, or collect the tax assessed on the said land; *Be it therefore enacted*, That the tenant or other persons residing on, or having the care of such lands, their goods and chattels, and the goods and chattels of the landlords, if there found, on refusal or neglect to pay, shall be liable to be distrained for the payment of the said tax; and in case the tenant or person having the care thereof, shall pay, or their goods be distrained for the same, then it shall and may be lawful to and for the said tenant to deduct the said tax so paid, out of the rent agreed for; or for the tenant, or persons having the care of the said lands, to recover the same from the owners by an action or suit, in any court where the same shall be cognizable, together with costs of suit; and all parents,

rents, guardians, or tutors, making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts :

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SECT. 7. *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant :

SECT. 8. *And be it enacted*, That in all cases where the Collector can find no effects on the land belonging to the party chargeable with the assessment, or of his tenant, or person having care thereof, sufficient to pay the same if distrained, and no rate can be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of such county, where the land lies, with the approbation of the Court of General Quarter Sessions of the Peace for that county, after thirty days public notice, to sell so much of the said land, or of the timber or grass thereon, at auction, as may be necessary to pay the assessment.

In what cases the Collector may sell land, &c.

SECT. 9. *And be it enacted*, That the said Collectors respectively shall, on or before the last day of June next, pay to the State Treasurer, or to his successor in office, one moiety of the tax, by this act to be raised, and the other moiety thereof on or before the twentieth day of October next ; and each Collector shall, on or before the first day of August next, appear in the Auditor's Office, and then and there lay before the Auditor an accurate and fair account of his collection of the half part of the rate aforesaid, under the penalty of One Hundred Pounds lawful money ; and the said Auditor shall immediately proceed to adjust his said account, and shall, upon such settlement, allow to the said Collector a commission of four per cent. on the whole collection of the assessment then made by him, and paid to the State Treasurer, or on the sum the said Auditor shall then adjudge him to be answerable for ; and each Collector shall, on or before the first day of November next, in like manner appear and lay before the Auditor his account of the collection of the other half part of the rate aforesaid, under the like penalty ; and the Auditor shall forthwith proceed to settle and adjust the said final accounts, charging or crediting therein the

Collectors to pay over the tax to the State Treasurer,

and to account with the Auditor,

who shall allow a commission of four Per Centum,

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Surplusage of  
collection how  
applied.

Collectors char-  
geable with ten  
Per Cent. upon  
failure of pay-  
ment.

Clerks of the  
Peace to trans-  
mit duplicates,  
&c.

Balances to be  
certified to the  
President.

Collectors fees  
upon distress or  
execution.

balance found on the first account aforesaid; and every Collector shall pay to the State Treasurer, on or before the last day of the same month of November next, the whole balance of the quota of his county herein before ascertained and set down, and the surplusage of his collection, if any, shall be paid to the Treasurer of the same county; and the said Auditor shall transmit an account of his settlement with the Collectors aforesaid, to the Clerks of the Peace respectively, who shall file the same, and deliver a copy thereof to the Treasurer of his county, to enable him to receive of the Collector such surplusage as aforesaid, where the same may happen; and each of the Collectors aforesaid, shall attend the Levy Court of his county, at their next sitting after such his settlement with the Auditor, when his account transmitted as aforesaid, together with any list of delinquencies or errors, then to be exhibited by the said Collector, may and shall be finally settled and adjusted by and with the said Levy Court; and upon failure of payment by any Collector, the President or Commander in Chief, being certified thereof by the State Treasurer, shall direct the Attorney General to commence a suit or suits on the bond of such delinquent Collector, to compel the payment of the money due, with an interest of ten *per centum* from the said last day of November next, in which suit or suits there shall be but one imparlance.

SECT. 10. *And be it enacted*, That the Clerks of the Peace of the respective counties in this state, shall, on or before the first day of March next, transmit into the Auditors Office, certified copies of the duplicate of the assessments, and annexed warrant herein before directed to be issued and delivered to each Collector; and the said Auditor shall, forthwith after each settlement made by him with any Collector, transmit an account of the balances, as well to the President or Commander in Chief, as to the State Treasurer; and the State Treasurer shall, on or before the first day of December next, certify and transmit to the President or Commander in Chief how much of such balances are then unpaid.

SECT. 11. *And be it enacted*, That if any Collector shall be obliged to enforce the collection of the assessment

ment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is entitled to by law for the like service: And any person whose property shall be liable to payment of the said assessments, or any part thereof, may discharge the same at any time before sale of the property distrained, and in such case the Collector shall receive for his or his deputy's trouble, one half of the fees he would be entitled to on sale, and no more.

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SECT. 12. *And be it enacted,* That the sum of Two Thousand Nine Hundred and Eighty-one Pounds, Five Shillings, part of the said sum of Ten Thousand Five Hundred Pounds to be raised by this act, shall within twenty days after receipt thereof by the State Treasurer, or any parts thereof, be paid over to the Commissioner of the Continental Loan Office within this state, or to such person as may be duly authorized by the Board of Treasury of the United States to receive this state's quota of the Continental taxes, taking duplicate receipts therefor, one of which receipts shall be a sufficient voucher for the payment of the sum of money therein specified, in the settlement of such Treasurer's account with the Auditor of this state, and the other of which said receipts shall, by the said State Treasurer, be forthwith carefully forwarded to the Board of Treasury of the United States, to the end that the state may have credit for the amount specified therein, and the officer receiving it charged therewith; and the remaining part of the said Ten Thousand Five Hundred Pounds shall be subject to the joint draughts of the Speakers of the two Houses of the General Assembly, the President and Commander in Chief, in pursuance of joint resolutions of both Houses, or the respective draughts of the Council and House of Assembly, entered and certified in the Auditor's Office, agreeable to the laws of this state. And it is hereby declared, that the said State Treasurer shall not, on any pretence whatsoever, apply any part of the monies hereby directed to be paid into his hands, until the aforesaid Two Thousand Nine Hundred and Eighty-one Pounds, Five Shillings, are paid as aforesaid for the use of the United States, nor shall

Two Thousand  
Nine Hundred  
and Eighty-one  
Pounds Five  
Shillings appro-  
priated to the  
use of the Unit-  
ed States.

Residue subject  
to draughts of  
the General As-  
sembly, &c.

Requisition of  
Congress to be  
first satisfied.

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The State Treas-  
urer to account  
with the Audi-  
tor.His commis-  
sions.Monies, books,  
and papers, to  
be delivered up  
to each successive  
Treasurer.Monthly ab-  
stract of monies  
paid to be trans-  
mitted to the  
Board of Treas-  
ury.shall the said sum be subject to any of the draughts  
aforesaid: (a)

SECT. 13. *And be it enacted,* That the said State  
Treasurer shall, once in every three months, trans-  
mit into the Auditor's Office an exact state, as well  
of all the monies by him received, with the names of  
the persons by whom paid, and time of payment, as  
of the monies by him paid, to whom, on what ac-  
count or order, and the time when; and the said  
State Treasurer, at the expiration of each and every  
year, shall appear in the said Auditor's Office, and  
then and there lay a general account, stating all his  
transactions for the year, before the Auditor, who  
shall forthwith proceed to adjust the said account; and  
the said State Treasurer shall discharge himself of all  
monies which shall come to his hands in pursuance  
of his office aforesaid, by virtue of this act, or other-  
wise, and shall be allowed commissions for the monies  
so received, and duly accounted for, at the rate of  
Twelve Shillings and Six-pence for every Hundred  
Rounds, and no more: And where the present or  
any future State Treasurer shall be removed from of-  
fice, he shall deliver up to his successor all monies  
whatsoever in his hands belonging to this state, and  
also all the books and papers, relating to the public  
accounts of the said office, whole, entire, and unde-  
faced; and upon the death of any State Treasurer;  
his executors or administrators, shall deliver up in  
like manner all monies whatsoever belonging to this  
state, which were in the hands of their testator or  
intestate at his death, and also all such books and pa-  
pers to the succeeding Treasurer.

SECT. 14. *And be it enacted,* That the said State  
Treasurer is hereby authorized and required to trans-  
mit to the Board of Treasury of the United States,  
a monthly abstract of all monies paid on account  
of this state to the Commissioner of the Continental  
Loan Office thereof, distinguishing the dates and a-  
mounts of the respective payments.

(a) See after in chap. 165, b, a special appropriation of the whole sum to be  
raised under this act, beyond the sum of Three Hundred Pounds, then paid there-  
out, any thing herein to the contrary notwithstanding.

SECT. 15. *And be it enacted,* That all gifts, grants, and sales, which shall be made by any delinquent Collector or Treasurer of any of their real estates, after the time they should have paid the monies arising from the said assessments (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates on any judgment, that may be had on suits to be brought for the recovery of the monies so in arrear.

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Sales, &c. by delinquent Collectors or Treasurers void, unless, &c.

SECT. 16. *And be it enacted,* That the said State Treasurer, before the first day of April next, shall become bound unto the Delaware State, with two or more sufficient sureties, to be approved of by the President or Commander in Chief for the time being, in an obligation of Twenty-one Thousand Pounds, conditioned for the true observation of this act, and the duty which to the said office doth appertain; and in case of neglect or refusal of the said State Treasurer so to do, or of his death in the recess of the General Assembly, it shall and may be lawful for the President or Commander in Chief, with the approbation of the Privy Council, to appoint some other fit person to supply his place, who shall give security as aforesaid; and the obligation so to be taken as aforesaid, by the special direction of the President or Commander in Chief for the the time being, shall be delivered to the Clerk of the Peace of the county wherein the said State Treasurer resides, and the execution thereof being proved, by one or more of the witnesses thereto, before the said Clerk of the Peace, he shall record the same obligation and its probate, and after transmit the same to the Auditor, to be by him safely kept in his office; the attested copy whereof shall be evidence as in the case of the obligation to be given by the County Collector herein before is declared.

State Treasurer to give bond.

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

SECT. 17. *And be it enacted,* That if any of the days appointed by this act, for the performance of any of the duties hereby required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

*Passed February 6, 1787.*

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C H A P. CLVII. b.

*An ACT for extending the time for collection of the unpaid State Tax directed to be raised in the year One Thousand Seven Hundred and Eighty-six.*

Preamble.

**W**HEREAS it appears, that the inhabitants of Suffex county, by the refusal of the Collector appointed by law to collect the last year's tax; and the omission of the justices in the said county to appoint another in his place, agreeably to the *Act for raising Twenty-three Thousand Six Hundred and Twenty-five Pounds for the service of the year One Thousand Seven Hundred and Eighty-six*, passed at Dover, the twenty-fourth day of June last, (a) had it not in their power, however willing, to discharge the said tax. *And whereas* also many of the citizens of the counties of Newcastle and Kent, in the last week of the collection of the said tax, would have, and actually did offer to discharge the same, but from the great number of citizens then attending the respective Collectors for settlement, many were prevented from the payment of their tax within the time limited by law; and this General Assembly being willing, for the ease of the people, to extend the time for the collection of the said tax, and receiving the indents in the proportion mentioned and expressed in the said act, and to give the same summary mode to the said Collectors to collect the arrearages of such taxes, as they could have had under the said act;

SECTION 1. *BE it enacted by the General Assembly of Delaware,* That the Collectors respectively of the said state tax heretofore appointed, and who accepted of the same, and Israel Holland who is appointed by this act Collector for Suffex county, be, and they are hereby impowered to collect all arrearages and balances due of the said tax, receiving indents in the proportion mentioned and expressed in the said above recited act, by execution or otherwise, between the time of passing this act, and the first day of May next, in as full

(a) Chap. 138. b.



full and ample manner as heretofore could have been done, had the same been done within the time limited by law. (b)

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SECT. 2. *Provided always nevertheless,* That if Congress shall not allow the Commissioner of the Continental Loan Office to receive the indents which may be collected by virtue of this act, all loss or losses that may be thereby sustained shall be borne by the respective counties, in proportion to the sums so received; any thing in this, or the above recited act contained, to the contrary in any wise notwithstanding.

*Passed February 6, 1787.*

C H A P. CLVIII. b.

*An ACT to alter the judgment at Common Law against persons convicted of petit treason.*

1787.

**W**HEREAS by the rules and practice of the Common Law adopted by this state, the judgment pronounced against persons convicted of the crime of petit treason appears to this present General Assembly to be too severe, and contrary to the mild spirit of the constitution and laws of this state provided for the punishment of other offences: Preamble.

*BE it therefore enacted by the General Assembly of Delaware,* That from and after the passing of this present act, when any person or persons shall be duly convicted of the said crime of petit treason, the judges before whom such conviction shall be had, shall give or pronounce the same or like judgment, against the person or persons so convicted, as by law is provided against any person or persons convicted of a felony of death,

(b) See also chap. 165. b. and chap. 170. b. —further provision for the collection of the Sussex county quota.