

## C H A P. CLXXXVII. b.

C H A P.  
CLXXXVII.  
1788.

*An ACT to incorporate the members of the library company of Wilmington.*  
Passed June 11, 1788.—Private act.

## C H A P. CLXXXVIII. b.

*An ACT directing the time, places and manner, of holding an election for a Representative of this state in the Congress of the United States; and for appointing Electors, on the part of this state, for choosing a President and Vice President of the United States.* 1788.

**W**HEREAS the Constitution of the United States declares and directs, that the House of Representatives in the Congress of the United States, shall be composed of Members chosen every second year by the people of the several states; that the Electors in each state shall have the requisite qualifications of the Electors of the most numerous branch of the State Legislature; that until the enumeration of the citizens of the United States shall be made as therein pointed out, this state shall have one Representative; and that the times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the Legislature thereof. Preamble.

*And whereas*, it is further declared and directed in and by the said constitution, that for the purposes of choosing a President and Vice President of the United States, each state shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the state may be intitled in the Congress.

*And whereas* the Convention which framed the said constitution, resolved, that as soon as the Conventions of nine states should have ratified the said constitution, the United States in Congress assembled, should fix a day on which Electors should be appointed

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ed by the states which should have ratified the same, and a day on which the Electors should assemble to vote for the President, and the time and place for commencing proceedings under the said constitution; and that after such publication, the Electors shall be appointed, and the Senators and Representatives elected.

*And whereas* a Convention duly appointed by the people of this state, did by their act of the seventh day of December, in the year One Thousand Seven Hundred and Eighty-seven, in the name of the said people, assent to and ratify the said constitution.

*And whereas* the said United States in Congress assembled, by their act of the thirteenth day of September in the present year, reciting that the said constitution had been ratified in the manner therein declared to be sufficient for the establishment of the same, did resolve, that the first Wednesday in January next be the day for appointing Electors in the several states, ratifying the said constitution before the said day; and that the first Wednesday in February next be the day for the Electors to assemble in their respective states, and vote for a President. (a)

The subsequent enacting clauses being temporary, are expired and hereafter supplied as to holding elections for a Representative in Congress. See chap. 214. b. passed October 26, 1790.

## CHAP.

(a) See in second vol. of the Laws of the United States, chap. 8, page 53, approved March 1, 1792, "An act relative to the election of a President and Vice President of the United States and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President," regulating the appointment of Electors in each state for the election of President and Vice President, the time of meeting and voting, and after certifying the same; and prescribing the duty of the Executive of each state thereon.

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*A Supplement to an act, entitled, An act directing the manner and form of securities to be given by Sheriffs for the due execution of their trust, and prescribing a time for their returns on writs of fieri facias. (a)*

**W**HEREAS it may be inconvenient in many Preamble. cases, to direct writs of *venditioni exponas* to the Sheriff in office, where executions have been, or may be, laid by his predecessor, and no sales made, or actually had, of the property so taken in execution :

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That all writs of *venditioni exponas* hereafter to be issued in this state, for the sale of any goods and chattels, lands and tenements, that have been, or hereafter shall be, seized and taken in execution by virtue of any writ of *feri facias* issued, or to be issued, shall and may be issued and directed to the Sheriff in office, or his immediate predecessor, he having seized and taken in execution such goods and chattels, lands and tenements, at the election of the plaintiff or plaintiffs in such suits ; and all proceedings had, and sales made, in virtue thereof, shall be good and available in law. How writs of Venditioni Exponas may be directed in certain cases.

SECT. 2. *And be it enacted,* That every such person, to whom such writs of *venditioni exponas* shall or may be directed, in case of neglect or failure in the execution thereof, or making returns thereon, shall be subject to all such rules of court, suits, fines, and other process and proceedings, as any Sheriff is, or can be liable to in like cases. Neglects in the execution thereof how punished.

SECT. 3. *And be it enacted,* That all deeds made for lands sold, by virtue of such writs of *venditioni exponas*, by such predecessor shall be deemed good and valid in law, without petition to, or order of, any Court of Common Pleas for making such deed ; any law, usage, Deeds for lands sold in virtue of such writs, &c. valid, without order of Court.

(a) Chap. 178. b. Ante.

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usage, or custom, to the contrary notwithstanding. (b)

Passed October 28, 1788.

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1789. An ACT for altering the manner of levying executions, to be issued by Justices of the Peace, in certain cases; and for lessening the number of Constables.

THE four first sections of this act altered and supplied in chap. 250. b. sects. 21, 22, 23, 24, and particularly repealed in sect. 28.

Number of Constables for each county.

SECT. 5. *And be it enacted*, That for the several counties in this state, the following number of Constables shall be appointed within the districts hereafter mentioned, and no more; *That is to say*, For Newcastle county, two in each hundred thereof; For Kent county, two in Duck Creek hundred, one in Little Creek hundred, one in Saint Jones's hundred, three in Murderkill hundred, and two in Mispillion hundred; For Suffex county, two in each hundred thereof; to be appointed as by the laws of this state is directed. (c)

Now appointed.

SECT. 6. *And*, as there may be several Constables resident within an hundred, *Be it enacted*, That the Justices of the Court of Quarter Sessions, at their next May Session, shall appoint the number of Constables in each hundred, according to the directions of this act, from those persons who shall be returned by the respective Constables in each hundred. (d) *And* in case there should be any hundred wherein no Constable resides, then it shall be lawful for the said justices

(b) See chap. 46. a. directing the mode of proceeding in case of the death or removal of any Sheriff or other officer after a sale and before a title is made.

(c) See chap. 205. a. and the references there.

(d) See after chap. 219. b. this power of appointment extended to such other freeholders as the said courts may think best qualified.

justices to appoint such freeholder or freeholders as they think best qualified in each hundred; and in case of neglect or refusal in any such persons, so appointed as above, to qualify as is directed by an act, intituled, *An act obliging persons returned and appointed for Constables to serve accordingly, and for ascertaining their fees*, such person shall be liable to such penalty as is therein inflicted. (e)

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Penalty for refusing to serve.

SECT. 7. *And be it enacted*, That no person shall be appointed a Constable for any hundred, within any of the counties in this state, who does not reside within the same hundred, and hath been resident therein six calendar months immediately preceding such appointment. (f)

To be resident before appointment.

Passed February 3, 1789.

C H A P. CXCI. b.

*An ACT for regulating and establishing fees.*

1789.

**F**OR preventing extortion, undue exaction of fees by the several officers within this state; and that all fees may be reduced to a certainty, and be established;

Preamble.

SECTION 1. *BE it enacted by the General Assembly of Delaware*, That the fees of the several officers within this state shall be as are herein after ascertained, limited, and appointed, viz.

SECT. 2. To the President of the state.

SECT. 3. To the Secretary.

SECT. 4. To the Justices of the Supreme Court.

SECT. 5. To the Justices of the County Court of Common Pleas.

SECT. 6. To the Justices of the Orphans Court.

SECT. 7. To the Justices of the Peace.

SECT.

(e) For the act here referred to see said chap. 205. a.

(f) See chap. 250. b. sect. 19, passed Feb. 4, 1792, that Constables thereafter appointed are to give bond, &c.

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usage, or custom, to the contrary notwithstanding. (b)

Passed October 28, 1788.

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1789. An ACT for altering the manner of levying executions, to be issued by Justices of the Peace, in certain cases; and for lessening the number of Constables.

THE four first sections of this act altered and supplied in chap. 250. b. sects. 21, 22, 23, 24, and particularly repealed in sect. 28.

Number of Constables for each county.

SECT. 5. *And be it enacted*, That for the several counties in this state, the following number of Constables shall be appointed within the districts hereafter mentioned, and no more; *That is to say*, For New-Castle county, two in each hundred thereof; For Kent county, two in Duck Creek hundred, one in Little Creek hundred, one in Saint Jones's hundred, three in Murderkill hundred, and two in Mispillion hundred; For Sussex county, two in each hundred thereof; to be appointed as by the laws of this state is directed. (c)

How appointed.

SECT. 6. *And*, as there may be several Constables resident within an hundred, *Be it enacted*, That the Justices of the Court of Quarter Sessions, at their next May Session, shall appoint the number of Constables in each hundred, according to the directions of this act, from those persons who shall be returned by the respective Constables in each hundred. (d) *And* in case there should be any hundred wherein no Constable resides, then it shall be lawful for the said justices

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(c) See chap. 205. a. and the references there.

(d) See after chap. 219. b. this power of appointment extended to such other freeholders as the said courts may think best qualified.

justices to appoint such freeholder or freeholders as they think best qualified in each hundred; and in case of neglect or refusal in any such persons, so appointed as above, to qualify as is directed by an act, intituled, *An act obliging persons returned and appointed for Constables to serve accordingly, and for ascertaining their fees*, such person shall be liable to such penalty as is therein inflicted. (e)

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Penalty for refusing to serve.

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To be resident before appointment.

Passed February 3, 1789.

C H A P. CXCI. b.

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SECT. 3. To the Secretary.

SECT. 4. To the Justices of the Supreme Court.

SECT. 5. To the Justices of the County Court of Common Pleas.

SECT. 6. To the Justices of the Orphans Court.

SECT. 7. To the Justices of the Peace.

SECT.

(e) For the act here referred to see said chap. 205. a.

(f) See chap. 250. b. sect. 19, passed Feb. 4, 1792, that Constables thereafter appointed are to give bond, &c.

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SECT. 8. To the Attorney General.

SECT. 9. To the Recorder of Deeds.

SECT. 10. To the Sheriff of each county.

SECT. 11. To the Clerk of the Supreme Court.

SECT. 12. To the Prothonotary or Clerk of the Common Pleas.

SECT. 13. To the Register in each of the Courts of Chancery in this state.

SECT. 14. To the Clerk of the Quarter Sessions.

SECT. 15. To the several Registers in this state.

SECT. 16. To the several Clerks of the Orphans Courts.

SECT. 17. Attorney at law.

SECT. 18. To the Notary or Tabellion Public.

SECT. 19. To the Clerks of the Legislative Council and House of Assembly.

SECT. 20. To the Serjeant at Arms.

SECT. 21. To the Door-keepers of the respective Houses.

SECT. 22. To the Coroner of each county.

SECT. 23. To the Cryer.

SECT. 24. To the Surveyors of lands.

SECT. 25. To the chain-carriers.

SECT. 26. To the juries and inquests.

SECT. 27. A clause imposing of penalties for taking more or greater fees than there enumerated, &amp;c.

Parts of former  
acts repealed.

SECT. 28. *And be it enacted*, That the act, intituled, *An act for regulating and establishing fees*, so far as the same relates to the establishment of fees, and to punish extortion; and also an act, intituled, *An act to repeal so much of an act*, intituled, *An act for regulating and establishing fees*, as relates to the imposing a fine of Six-pence on defaulting jurors, be, and are hereby, repealed, made null and void. (a)

*Passed February 3, 1789.*

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(a) The act of June 29, 1793, chap. 42. c. provides "That such acts and parts of acts as were repealed by the foregoing act (chap. 191. b.) shall be and continue repealed, and that the same act (chap. 191. b.) so far as it regards all fees and regulations, be also repealed.—So that every part of the preceding act is thereby repealed, save this 28th section.



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*A Supplement to an act, intituled, An act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes.*

**W**HEREAS, by an act of Assembly of this state, intituled, *An act for calling in and destroying such of the bills of credit emitted by virtue of any law of this state, passed under the present or former government thereof, as are now outstanding; and for other purposes therein mentioned,* passed the fifth February, One Thousand Seven Hundred and Eighty-five, Simon Wilmer Wilson was constituted and appointed Trustee of the Loan Office of the county of Kent: *And whereas* the said Simon Wilmer Wilson has resigned his appointment, or office, as Trustee of the Loan Office of the county of Kent, which resignation was accepted by this General Assembly; it has therefore become necessary to appoint some other person to supply that vacancy: *(a)*

Preamble.

SECTION I: *BE it therefore enacted by the General Assembly of Delaware,* That Dyre Kearny is hereby constituted and appointed Trustee of the Loan Office of the county of Kent, in the place and stead of the aforesaid Simon Wilmer Wilson; which said Trustee shall and may have, hold, and enjoy, the said office, for and during the term of two months next after the passing of this act, and from thence until a new nomination and appointment shall be made by the General Assembly; and the said Trustee is hereby directed, authorised, and impowered, immediately after he enters upon the execution of the trust, to which he is hereby appointed, to do and perform all matters and things, enjoined and required to be done and performed by the several Trustees in their respective counties, by the act to which this is a supplement, as fully and amply, to all intents and purposes, as the present Trustees of the several Loan Offices with-

Dyre Kearny  
appointed Trustee  
in Kent.

His duty.

(a) The act referred to is chap. 113, b. sect. 14.

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Fees and salary. in this state now can, or might, or would have done by virtue of the act to which this is a supplement; and the said Trustee shall be intitled to the same fees, and the same salary, as are allowed to the several Trustees by the act to which this is a supplement, out of the interest money arising under the same, during the continuance of his trust.

Shall give bond, SECT. 2. *And be it enacted*, That the Trustee appointed by this act, shall, before he enters on the execution of his trust, give and duly execute a bond to the President, or Commander in Chief of this state, in the name of the Delaware State, with two or more sufficient sureties, such as he shall approve of, in the sum of Ten Thousand Pounds, conditioned for the faithful execution of the trust, and performance of the several matters and things enjoined him by this or the said act, to which this is a supplement; and shall also take the oath or affirmation, required to be taken by the Trustees of the Loan Offices of this state, by an act of Assembly, intituled, *An act for emitting the sum of Thirty Thousand Pounds in bills of credit on loan, and providing a fund for the payment of public debts*; which said oath or affirmation shall be indorsed on such bond; and the said bond with the indorsement aforesaid, shall be delivered to the Secretary of this state, to be by him recorded; and if the said bond shall in anywise be forfeited, the same shall be sued and prosecuted, and the penalties thereof be recovered, for the benefit, advantage, and use of the state.

and take oath.

Bond to be recorded.

Late Trustee shall deliver up all deeds, &c.

SECT. 3. *And be it enacted*, That the said Simon Wilmer Wilson, late Trustee of the Loan Office of the county of Kent, is hereby enjoined and required forthwith to deliver up, to the Trustee in this act appointed, all mortgage deeds, bonds, and warrants of attorney, plate, bills of credit, and other money remaining in the said office, together with the books and papers which to the same do belong.

One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny unaccounted for.

SECT. 4. *And whereas* it appears to this General Assembly, by a report made by their joint Committee of Finance, that upon a settlement made by them with the aforesaid Simon Wilmer Wilson, Trustee as aforesaid, he hath received, during the time of his

his trust, considerable sums of money, for which he doth not account, to the amount of One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny, that being the balance found deficient on his part, and for which the said Simon Wilmer Wilson, and his sureties, are responsible; and the same ought to be obtained and applied to the use of this state: *Be it therefore enacted*, That the Trustee of the Loan Office of the county of Kent, in this act appointed; or his successor, is hereby impowered and directed to proceed to recover the said sum of One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny, with interest thereon, at the rate of six *per cent.* from the time of passing this act, by action upon the bond given by the said Simon Wilmer Wilson, and his sureties, in the name of the Delaware State, in any Court of Common Pleas of this state:

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How the same  
shall be reco-  
vered.

SECT. 5. *Provided always, nevertheless*, That if the sureties of the said Simon Wilmer Wilson, shall separately make and execute, to the Trustee of the Loan Office of Kent county, within twenty days after the commencement of his trust, a mortgage deed or deeds of lands within the said county, sufficient to secure the payment of the said sum of One Thousand and Thirty-one Pounds Fourteen Shillings and Ten-pence Halfpenny, together with the interest becoming due as aforesaid, and payable in instalments to expire with the Loan Office mortgages; and shall execute separately a bond of double the mortgage money, to the said Trustees, conditioned for the payment of the mortgage money mentioned in the mortgage deed, with a warrant of attorney thereon in such manner and form, and to be proceeded on, as is directed in the act to which this is a supplement, that then and from thenceforth, upon payment of costs by the said Simon Wilmer Wilson, and his sureties, or any of them, such suits as aforesaid shall cease and determine; any thing herein before contained to the contrary in any-wise notwithstanding.

The sureties of  
the late Trustee  
may execute a  
mortgage, &c.  
for the payment  
of the said sum,  
by instalments.

SECT. 6. *And be it enacted*, That all suits which have been instituted, or brought, by any of the Trustees of the respective Loan Offices of this state, against

Suits brought by  
Trustees shall  
not be abated by  
death, &c.

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any mortgagors, or tenants of mortgaged lands or premises, shall and may be continued and prosecuted in the names of the present Trustees of the said Loan Offices, or their successors, in the same manner as if they had been originated and brought by him or them, and shall not be discontinued or abated by the resignation, death, or expiration of the office of any such Trustee.

Further time  
allowed for the  
renewal of mort-  
gages.

SECT. 7. *And be it enacted,* That it shall and may be lawful for the Trustees of the Loan Offices in the respective counties of this state, to permit such persons who have not renewed their mortgages agreeably to the said recited act, to which this is a supplement, as also the guardian or guardians of such minors who are, or hereafter may be, intitled to the equity of redemption in any land mortgaged in the respective Loan Offices of this state, who have not renewed their mortgages, by and with the approbation of the Orphans Court, of the county in which such guardian or minor may reside, first had, upon a full representation of circumstances to the said court made, to renew the said mortgages on or before the first day of October next, on the payment of costs, on or before the first day of April next, upon such suits as have been instituted (and not brought to judgment) for the recovery of monies due on mortgage deeds, in the same manner, and upon the same terms, as are expressed and directed in other cases in the said recited act to which this is a supplement; and that any mortgage deed, made and executed by such guardian or guardians as aforesaid, shall be deemed and taken to be a renewal of the former mortgage, and be as binding upon the estate of such minors, to all intents and purposes, as the former mortgage might or could have been; and that all mortgages so renewed shall be deemed the first lien, and have the priority of all judgments, mortgages, and other incumbrances whatever, obtained or had since the date of such original mortgages so hereafter to be received. (b)

Mortgages re-  
newed to be  
deemed the first  
lien.

*Passed February 3, 1789.*

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(b) For subsequent supplements, see chap. 202. b. and chap. 229. b.

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*A Supplement to an act, intituled, An act to prevent the exportation of slaves, and for other purposes.*

**W**HEREAS the act, intituled, *An act to prevent the exportation of slaves, and for other purposes,* operates, in some cases, injuriously to the citizens of this state; (a)

Preamble.

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That where any Negro or Mulatto slave or slaves have been, or hereafter shall be, devised, or devolve by heirship, or representation, to any citizen or citizens of this state, by any person or persons residing out of this state, such devisee, heir, or representative, or his, or her, executors or administrators, may bring into this state, and retain therein, such Negro or Mulatto slave or slaves, so devised or devolving as aforesaid; any thing in the said recited act, to which this is a supplement, to the contrary notwithstanding.

In what cases slaves may be brought into this state.

SECT. 2. *And whereas* the citizens or subjects of other states are frequently indebted within this state; and doubts have arisen, whether the Negroes or Mulatto slaves or servants, within this state, belonging to such debtors, are liable to be attached, or executed and sold, under the laws of this state, to satisfy such debts or demands: *Be it enacted,* That every Negro or Mulatto slave or servant, belonging to any citizen, or subject, of any other state, who may come into this state as a slave or servant, agreeably to the laws thereof, may be attached, or taken in execution, within this state, and sold by virtue thereof, to satisfy the debt or debts of such owner; and shall be deemed and considered as a slave, or bound to serve the purchaser, his executors, administrators, or assigns, for the time, term or terms of years, which they were bound to serve, when so attached or taken in execution.

Slaves belonging to citizens of other states may be attached for debt.

*Passed February 3, 1789.*

CHAP.

(a) For this see chap. 145. b.

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*An additional Supplementary ACT to an act, intituled,  
An act to prevent the exportation of slaves, and for  
other purposes. (a)*

Preamble,

**W**HEREAS it is inconsistent with that spirit of general liberty which pervades the constitution of this state, that vessels should be fitted out, or equipped, in any of the ports thereof; for the purpose of receiving and transporting the natives of Africa to places where they are held in slavery; or that any acts should be deemed lawful, which tend to encourage or promote such iniquitous traffic among us:

Vessels equipped  
for the slave  
trade shall be  
forfeited.

SECTION I. *BE it therefore enacted by the General Assembly of Delaware,* That if any owner or owners, master, agent, or factor, shall fit out, equip, man, or otherwise prepare, any ship or vessel within any port or place in this state, or shall cause any ship, or other vessel, to sail from any port or place in this state, for the purpose of carrying on a trade or traffic in slaves, to, from, or between, Europe, Asia, Africa, or America, or any places or countries whatever, or of transporting slaves to, or from, one port or place to another, in any part or parts of the world; such ship or vessel, her tackle, furniture, apparel, and other appurtenances, shall be forfeited to this state, and shall be liable to be seized, and prosecuted, by any Officer of the Customs, by information to the Justices of the Court of Common Pleas for the county wherein such seizure shall be made; whereupon such proceedings shall be had, both unto, and after judgment, as in and by the laws of this state, relating to cases of seizure is directed: And moreover, all and every person and persons so fitting out, manning, equipping, or otherwise preparing, or sending away, any ship or vessel, intending that the same shall be employed in such trade or business, contrary to the true intent and meaning of this act, or anywise aiding or abetting therein, shall severally forfeit and pay the sum

Every person  
fitting out such  
vessel shall for-  
feit 500l.

(a) See before chap. 145. b.

sum of Five Hundred Pounds; one moiety thereof to the use of the state, and the other moiety thereof to the use of him or her who will sue for the same, by action of debt, bill, plaint, or information.

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SECT. 2. *And whereas* it has been found by experience, that the act, intituled, *An act to prevent the exportation of slaves, and for other purposes*, has not produced all the good effects expected therefrom; for remedy whereof, *Be it enacted*, That if any person or persons, after the passing of this act, shall export, or sell with an intention to export, to the places herein after prohibited, or shall carry out for sale any Negro or Mulatto slave from this state, to Maryland, Virginia, either of the Carolinas, Georgia, or the West-Indies, without licence or permit first had and obtained from five Justices of the Peace, of the county where the owner or owners of such Negro or Mulatto slave shall reside, (b) in open sessions, shall forfeit and pay for every Negro or Mulatto slave so exported, sold, or carried out of this state for sale, the sum of One Hundred Pounds; and for every attempt so to do, the sum of Twenty Pounds; one moiety thereof to be applied to 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; any law, usage, or custom, to the contrary notwithstanding. (c)

Exporting a  
slave without  
permit,

or attempting  
the same, the  
penalty.

SECT. 3. *And whereas* it is but just and reasonable that Negro and Mulatto slaves should receive a trial by jury, in capital cases; *Be it therefore enacted*, That all Negro and Mulatto-slaves, after the passing of this act, shall be tried, for all capital offences, in the Court of General Quarter Sessions of the Peace for the several counties, where the same offences shall be committed,

Slaves shall be  
tried for capital  
offences, by  
jury.

(b) See chap. 22, c. passed June 14, 1793, sect. 3, that such permit is grantable by the Justices of the Court of Quarter Sessions of the Peace and Gaol Delivery, or any two of them—and in sect. 4, that every slave exported, &c. without a permit, declared free.

(c) See said chap. 22, c. sect. 2, that persons prosecuted for offences under this act are to give bail, &c. and in sect. 1, that persons feloniously kidnapping any free Negro or Mulatto are subjected to corporal punishment.

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Expences of trial  
to be paid by the  
county.

Former act re-  
pealed.

mitted, by the usual mode of proceeding in the said courts for the punishment of crimes against the state, now cognizable in said courts.

SECT. 4. *And be it enacted*, That the expence of the trial of Negro or Mulatto slaves, for capital offences, shall be borne and paid by the county; any law, usage, or custom to the contrary notwithstanding.

SECT. 5. *And be it enacted*, That so much of an act, intituled, *An act for the trial of Negroes*, as gives to two Justices of the Peace, and six freeholders, the power of trying, determining, and convicting, any Negro, Mulatto, or other slave, and punishing the same with death, for any capital offence whatsoever, be, and the same is hereby repealed, and made void.

*Passed February 3, 1789.*

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1789.

*An ACT to incorporate the physicians of the Delaware State, and for other purposes therein mentioned.*

*Passed February 3, 1789.—Private act.*

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*An ACT to dissolve the marriage of James Hathaway with Mary his wife.*

*Passed February 3, 1789.—Private act.*

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*An ACT for altering the place of holding the annual elections of Sussex county for Representatives in the General Assembly, and Sheriffs, and Coroners for that county.*

*—Altered and supplied in chap. 222. b. sect. 7, and again in chap. 237. b.*

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An ACT for raising Twelve Thousand Six Hundred Pounds for the service of the year One Thousand Seven Hundred and Eighty-nine, in addition to the arrearages due on former taxes.

**W**HEREAS there are divers sums of money due from this state for money borrowed on the credit thereof, and for public services performed; *And whereas* it is necessary to make provision for the payment of one year's interest of depreciation certificates, due the first day of August last, and for defraying the expences that have arisen, or may arise, within this state for the service of the present year;

SECTION 1. *BE it therefore enacted by the General Assembly of Delaware,* That the sum of Twelve Thousand Six Hundred Pounds lawful money of the Delaware State, shall be raised, levied, and paid into the state treasury for the purpose aforesaid, 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 Eight Hundred Pounds; For the county of Kent, the sum of Four Thousand Two Hundred Pounds; and, For the county of Suffex, the sum of Three Thousand Six Hundred 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 twentieth day of July next, in the counties aforesaid respectively, at the places in the same 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, the aforesaid several sums herein before directed to be assessed, raised, and levied

Preamble.

Twelve Thousand Six Hundred Pounds to be raised.

Each county's proportion thereof.

Special Court to be held to ascertain the sum on the Pound rate.

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Warrants to be  
issued to Collec-  
tors.

Collectors ap-  
pointed ;

who shall give  
bond,

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

Vacancies how  
supplied.

ed in the counties aforesaid respectively ; and the said justices, or any two of them, shall thereupon issue their warrant to the Collector of each county herein after named, or who may be appointed agreeably to the directions of this act, annexed to a duplicate of the said assessment certified by the Clerk of the Peace, authorising and requiring him, forthwith to demand and receive from the persons rated in his assessment list, the sum *per* Pound which they shall ascertain as necessary to raise the several sums as aforesaid.

SECT. 3. *And be it enacted*, That Jesse Higgins, of the county of New-Castle, John Coombe, 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 of 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 said 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 President or Commander in Chief 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, ap-  
point

point some other Collector for such county, who shall give bond as aforesaid.

SECT. 4. *And be it enacted,* That each Collector 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 or persons shall neglect or refuse to pay by the space of ten days after demand made, such person or persons being a freeholder, 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.

SECT. 6. *And whereas* some owners of lands may not reside in the 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 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

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May appoint deputies.

Powers of the Collectors.

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

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the owners by an action or suit, in any court where the same shall be cognizable, together with costs of suit; and all parents, guardians, or tutors, making payment as aforesaid, shall be allowed the sums so paid for such infants upon his or their accounts: *Provided*, That nothing in this act shall in any manner alter any contract heretofore made between any landlord and tenant.

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

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 the care thereof, sufficient to pay the same if distrained, and the rate cannot be otherwise recovered by reason of non-residence or otherwise, it shall and may be lawful for the Collector of 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.

Collectors to  
pay over the  
tax to the State  
Treasurer,

SECT. 9. *And be it enacted*, That the said Collectors respectively shall, on or before the first day of December next, pay to John Gordon, esquire, who is hereby appointed State Treasurer, one moiety of the tax by this act to be raised, and the other moiety thereof on or before the first day of June next; and each Collector shall on or before the first day of February 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 five *per centum* 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 the said Auditor shall not allow the Collector any deductions of any part of the sums mentioned in the said duplicate of assessment, except only when it shall be made appear to him, by a certificate under the hands of any two justices

and to account  
with the Auditor,

who shall allow  
a commission of  
five Per Cent.

justices of the neighbourhood, where any delinquency may happen, that the Collector has used all lawful means for the levying and collecting the same; and each Collector shall, on or before the first day of August, which will be in the year One Thousand Seven Hundred and Ninety, 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 therein the 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 August in the year last aforesaid, the whole balance of his account adjusted by the Auditor, unless the whole sum levied by him, clear of delinquencies, charges of collection, and commissions, shall exceed the quota of his county herein before ascertained, in which case such surplussage shall be paid to the Treasurer of the same county; and the said Auditor shall transmit an account of his settlement with the Collector 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 surplussage as aforesaid, where the same may happen; and each Clerk of the Peace shall also lay the said account before the Levy Court of his county; 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 August in the year last aforesaid, in which suit or suits there shall be but one imparlance.

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Surplussage of collection how applied.

Collectors chargeable with ten Per Cent. upon failure of payment.

SECT. 10. *And be it enacted*, That the Clerks of the Peace, of the respective counties of this state, shall, on or before the first day of November next, transmit into the Auditor's 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

Clerks of the Peace to transmit duplicates, &c.

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Balances to be  
certified to the  
President, &c.

with 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 September, which will be in the year One Thousand Seven Hundred and Ninety, certify and transmit to the President or Commander in Chief how much of such balances are then unpaid.

Collector's fees  
upon distress or  
execution.

SECT. 11. *And be it enacted,* That if any Collector shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, he shall receive the same fees as a Constable is entitled to by law for the like service, in the recovery of debts under Forty Shillings: 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.

The sum to be  
raised subject to  
the draughts of  
the General As-  
sembly, &c.

SECT. 12. *And be it enacted,* That the sum of Twelve Thousand Six Hundred Pounds to be raised by this act, 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.

The State Treas-  
urer to account  
with the Audi-  
tor;

SECT. 13. *And be it enacted,* That the said State Treasurer shall, once in every three months, transmit 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 account 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 mo-  
nies

nies which shall come to his hands in pursuance of his office aforesaid, by virtue of this act, or otherwise, 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 Pounds, and no more: And where any State Treasurer shall be removed from office, he shall deliver up to his successor all the books and papers, relating to the public accounts of the said office, whole, entire, and undeffaced; and upon the death of any State Treasurer, his executors or administrators shall deliver up in like manner all such books and papers to the succeeding Treasurer.

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his commissions.

Books to be delivered up to each successive Treasurer.

SECT. 14. *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.

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

SECT. 15. *And be it enacted,* That the said State Treasurer, before the first day of November 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 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.

State Treasurer to give bond.

Vacancy how supplied.

SECT. 16. *And be it enacted,* That in all cases where bonds are directed to be given under this act, warrants of attorney shall be annexed to, or given with, such bonds respectively, for entering up judgments for the penalties mentioned in such bonds, if the same should become forfeited by neglect of duty.

Warrants of attorney to be executed with the bonds given under this act.

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

Treasury notes  
or bills to be  
issued.

SECT. 18. *And whereas* the issuing of notes from the treasury of this state, of small denominations, would be very convenient to the people, and would greatly tend to facilitate the collection of the tax laid for the present year, and such arrearages as are now due upon the taxes of One Thousand Seven Hundred and Eighty-one, Eighty-two, Eighty-three, Eighty-four, Eighty-five, and Eighty-seven; *Be it therefore enacted*, That the Treasurer of this state shall and may issue to the amount of all such orders as may be due from this state to any of the inhabitants thereof, or to others, or for one year's interest of depreciation certificates issued by this state, due the first day of August last, all such notes or bills upon the treasury, of any denomination whatsoever, as he may think proper, payable and redeemable by any of the monies due to and for the use of this state, upon any of the arrearages of the taxes of One Thousand Seven Hundred and Eighty-one, One Thousand Seven Hundred and Eighty-two, One Thousand Seven Hundred and Eighty-three, One Thousand Seven Hundred and Eighty-four, One Thousand Seven Hundred and Eighty-five, and One Thousand Seven Hundred and Eighty-seven; and for the tax laid for the present year. The tenor of which said notes or bills shall be in manner and form following, *viz.*

How redeemable.

Form.

*This bill of* \_\_\_\_\_ *shall intitle the bearer to receive the like sum in specie, at the state treasury, to be paid out of the arrearages of the taxes appropriated to the payment of state debts, or shall be received as specie in the payment of such taxes, agreeable to an act of the General Assembly of Delaware, passed at Dover, June*  
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*Issued* \_\_\_\_\_ *Treasurer.*

Books and  
checks to be  
provided.

SECT. 19. *And be it enacted*, That it shall and may be lawful for the said Treasurer, and he is hereby directed, to provide a sufficient number of such printed notes or bills for the purpose aforesaid, as may be necessary



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necessary in the discharge of the arrearages of the taxes aforesaid, and the tax laid by this act; and that he be allowed a sufficient compensation for all such trouble or expence as he may incur in providing the said notes or bills, and all such proper checks and books as may be necessary, as well to prevent the same from being counterfeited, as for the better conducting and completing the said business.

SECT. 20. *And be it enacted,* That the Collectors in the respective counties of this state, are hereby authorized, empowered, and required, to receive the said notes or bills so as aforesaid to be given by the said Treasurer, from any person or persons in discharge of the taxes aforesaid, which notes so as aforesaid received by them, and paid into the said state treasury by the said Collector, shall be a good discharge on the settlement of their accounts for the amount mentioned or specified in said notes or bills.

Notes or bills made payable in discharge of taxes.

SECT. 21. *And be it enacted,* That all such treasury notes as shall be issued as aforesaid, and afterwards paid into the treasury as aforesaid, shall not be re-issued, but shall be retained therein, and being examined and counted in the presence of a Committee of the General Assembly, shall afterwards be burned and destroyed by them, and report thereof be made to both Houses; and a particular account, specifying the number and amount of each note, shall be returned to, and entered in the Auditor's Office.

When paid into the treasury shall not be reissued but destroyed.

SECT. 22. *And be it enacted,* That all and every judgment entered by the confession of the party, or mortgage, bond, bill, note, or other specialty, or contract in writing, whether having a warrant of attorney annexed thereto for the confession of judgment thereon, or without such warrant of attorney, had, obtained, taken, or entered into, by the said State Treasurer, or his successor, or any Collector of any of the taxes herein before mentioned, by, from, or with any person whatever, for or in consideration of any of the said notes or bills before mentioned to be issued, shall be utterly void and of no effect: And that the said State Treasurer or his successor, and every Collector of said taxes, shall upon each and every such judgment, or mortgage, bond, bill, note, or other specialty,

Judgments, mortgages, or specialties, taken, or entered into, by the Treasurer or Collectors, for or in consideration of the aforesaid notes or bills, declared void.