

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

Mr. Justis gave notice that, on to-morrow, or some future day, he would ask leave to introduce a bill, entitled,

"An Act to convert that part of the Wilmington and Christiana turnpike, within the limits of the city of Wilmington, into a free public highway, or street."

On motion of Mr. Lewis, the House bill, entitled,

"An Act to lay out a new public road, in Misspillion Hundred, Kent County, was read a second time, by its title."

On motion of Mr. Comegys, the Senate bill, entitled,

"An Act to incorporate the Diamond State Organ Company'," was read a second time, by its title, and on his further motion, referred to the Committee on Private Corporations.

Mr. Lowe gave notice that, on to-morrow, or some future day, he would ask leave to introduce a bill, entitled,

"An Act for the improvement of the Navigable Streams of the State of Delaware, emptying into the Delaware bay."

Mr. Sutton, on behalf of the Committee on Crimes and Punishments, to whom was referred the Senate bill, entitled,

"An Act to amend Section 2, of chapter 127, of the Revised Statutes of the State of Delaware, entitled, 'offenses against the lives and persons of individuals', reported the same back to the House, with the recommendation that it pass."

On motion of Mr. Sutton, the bill just reported to the House, was taken up for consideration.

Pending the consideration thereof, on motion of Mr. Cooch, the bill was recommitted to the Committee on Crimes and Punishments.

On motion of Mr. Comegys, the Senate Bill, entitled,

"An Act to Incorporate 'The Brandywine Catholic Literary Association, Brandywine, Delaware,'"

Was read a second time, by its title, and referred to the Committee on Private Corporations.

Mr. Jacobs gave notice that, on to-morrow, or some future day, he would ask leave to introduce a bill, entitled,

“An Act to amend the Act, entitled, ‘An Act to Incorporate the Sussex Midland Railroad Company.’”

On motion of Mr. Cooch, the Senate Bill, entitled,

“An Act to Incorporate ‘The Pusey and Scott Company’, ”

Was read a second time, by its title, and, further, on his motion, was referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the Senate Bill, entitled,

“An Act to Incorporate ‘The National Dredging Company,’ ”

Was read a second time, by its title, and referred to the Committee on Private Corporations.

Mr. Sutton presented a petition of G. F. Clark, and others, asking for the passage of an Act divorcing Edwin H. Peckard and wife, from the bonds of matrimony,

Which, on his motion, was read, and referred to the Committee on Divorce.

Mr. Cooch, on behalf of the Committee on Rules, presented the following, as Rule 26,

Which, on his motion, was read, as follows:

#### RULE 26.

The daily order of business shall be as follows:

- I. Reading the Journal.
- II. Communications from the Speaker.
- III. Reports from standing committees, in regular order as they are enumerated in Rule 5.
- IV. Reports from Special Committees in the order of appointment.

- V. Petitions and Memorials.
- VI. Introduction of new business.
- VII. Second reading of bills.
- VIII. Business on the Calendar.

The Clerk shall keep a calendar of business, on which reports from committees, bills, and resolutions which lie over, and other matters undisposed of, indicating the subject of each item, shall be placed in the order in which they are presented, a printed copy of which calendar shall be furnished to each member at the opening of every morning session.

At eleven o'clock, each day of the session, unless there be an order of the day, or as soon thereafter as the order of the day shall be disposed of, the business on the calendar shall be taken up and disposed of, in the order in which it stands thereon; and a vote of two-thirds of the members present shall be required to take up any matter out of its order on the calendar, or to make any matter the order of the day for a particular time;

And, on his further motion, the report was adopted and the Committee discharged.

The Speaker gave notice that, on to-morrow, or some future day, he would ask leave to introduce a bill, entitled,

“An Act to increase the number of members of the General Assembly of the State, and to apportion the same.

Mr. Denney presented a petition of Mary E. Johnson, praying for the passage of an act divorcing her from her husband, James Johnson,

Which, on his motion, was read, and further, on his motion, was referred to the Committee on Divorces.

Mr. Whiley, Clerk of the Senate, being admitted, presented the certificate of approval of the official obligation of the State Treasurer and Auditor of Accounts, presented to the Senate by Wm. F. Causey, Esq., Secretary of State; Also,

A list of Executive reprieves, pardons and remissions handed to the Senate by the late Secretary of State.

On motion of Mr. Messick, the approval by the Governor of the bond of the State Treasurer and Auditor of Accounts,

Was read, as follows :

*To the Senate and House of Representatives of the State of Delaware, in General Assembly :*

I hereby certify that the official obligations of the State Treasurer, John M. Houston, and of Auditor of Accounts, Jesse L. Long, have been duly executed and delivered into this office, and approved by the Governor, the 22d day of January, A.D. 1883.

WILLIAM F. CAUSEY,  
*Secretary of State.*

DOVER, Jan. 23, 1883.

On motion of Mr. Denney,

The List of Reprieves, Pardons, and Remissions

Was read, as follows :

#### REPRIEVES AND PARDONS.

A list of Reprieves, Pardons, and Remissions, granted by the Governor of the State of Delaware, since the fourth day of January, A. D. 1881.

*William Neal.*—Crime—Rape. Convicted in the Court of Oyer and Terminer, in and for New Castle County, May term, 1880. Sentence—Death. Execution, Friday, August 27th, 1880, between the hours of 10 A. M., and 2 o'clock, P. M. ; which was suspended until Friday, February 11th, 1881, between the hours of 10 o'clock, A. M., and 2 o'clock, P. M. 1881, February 5th—Said sentence further postponed until Friday, the 10th day of June, A. D. 1881, between the same hours. The reason for so doing was, that the hearing before the Supreme Court of the United States, on a writ of citation issued thereout, was still pending.

*William Gunkle.*—Crime—Larceny. Convicted at the February Term of the Court of General Sessions of the Peace

and Jail Delivery, in and for New Castle County, A. D. 1881. Sentence—Fine, Whipping and Imprisonment. 1881, February 24th, the Governor remitted the said fine. The reasons for so doing were, youth, feeble-mindedness, and the recommendations of the Attorney-General and Jury, in behalf of Executive Clemency.

*John T. Simmons.*—Crime—Assault, with intent to Murder. Convicted at the February Term of the Court of General Sessions of the Peace and Jail Delivery, in and for New Castle County, A. D. 1880. Sentence—Fine, Pillory, and Imprisonment for the term of two years. 1881, June 22nd, the Governor remitted the fine and imprisonment. The reasons for granting said remission were, a representation by Dr. Black, the Jail Physician, that the prisoner was laboring under a chronic disease of such a nature that further confinement would endanger his life, and the recommendation of the Judges of the Court, ten of the Jurors, and of James Dailly, upon whom the assault was committed, in favor of the same.

*Jeremiah Harrigan.*—Crime—Murder. Convicted at the November Term of the Court of Oyer and Terminer, in and for New Castle County, A. D. 1882. Sentence—Death. Execution, Friday, 24th day of March, 1882, between the hours of 10 o'clock, A. M., and 3 o'clock, P. M. 1882, March 22nd, the Governor suspended the execution of said sentence until Friday, the 15th day of December, 1882, between the same hours. The reason for granting this respite was, that certain facts and circumstances were alleged to exist, by the petition of a large number of people, which circumstances, if proved, would justify the exercise of Executive Clemency.

*Tabitha Timmons* — Misdemeanor—Selling intoxicating liquors, without a license. Committed at the April Term of the Court of General Sessions of the Peace and Jail Delivery, in and for Sussex county, 1882. Sentence—Fine and imprisonment. 1882, May 12th, the Governor remitted the said fine. The reason for remitting said fine, was, that a large number of the best citizens of Sussex county, especially from the immediate neighborhood of said Tabitha Timmons, represented that she was about sixty years of age, very poor, and upon whose personal exertions the support of a blind and weak-minded sister depended.

*Arthur J. Emerson*—Crime—Assault and battery. Convicted at the May Term of the Court of General Sessions of the Peace and Jail Delivery, in and for New Castle county, 1882. Sentence—Fine and imprisonment. 1882, July 1st, the Governor remitted the unexpired portion of his term of imprisonment. The reasons for granting said remission of said imprisonment, were, that said Emerson, at the trial, was proven to be only an accomplice, that it was represented that he was suffering physically from the confinement, that his father and sisters were dependent, to a certain extent, upon his earnings, for a support, and, that the jurors, Attorney-General, Sheriff, and many other good and substantial citizens of Sussex county, recommended the same.

*James Campbell*—Crime, Larceny—Convicted at the November Term of the Court of General Sessions of the Peace and Jail Delivery, in and for New Castle county, 1882. Sentence—Fine, imprisonment, and whipping. 1882, Nov. 25th, the Governor remitted so much of said sentence as related to whipping. The reasons for granting said remission, were, that the said Campbell was about sixty-five years of age, that it was represented that he had always borne a good character in the community in which he had lived, that he was under the influence of intoxicating liquors when the act was committed, and that the said remission was recommended by the judges sitting, by the Attorney-General, his deputy, and the members of the Grand Jury who were accessible.

*Jeremiah Harrigan*—Crime, Murder—Sentence, death—Execution on Friday, 24th day of March, A. D., 1882, which was postponed until Friday, December 15th, 1882, between the hours of 10 o'clock, A. M., and 3 o'clock, P. M. 1882, December 13th, the Governor further postponed the execution of said sentence until Friday, the 14th day of December, 1883, between the same hours. The same reasons for granting this further respite were, that facts, discovered after the trial and conviction of said Harrigan, showed that Dennis Shea had been on terms of criminal intimacy with the said Harrigan's wife, and which had been brought to the attention of the said Harrigan, and that the said Shea was actually engaged in a conspiracy to take the said Harrigan's life, all of which facts were supported by the affidavits of respectable citizens of New Castle county.

Mr. Whiley, Clerk of the Senate, being admitted, presented, as duly and correctly enrolled, and signed by the Speakers of the two Houses, the House Joint Resolution, requesting the opinions of the Chancellor and Judges, on certain questions.

Mr. Lewis moved that the rules be amended, by adding thereto two additional members on the Committee on Divorces, and two on Education.

On the question, Shall the rules be amended ?

It was unanimously decided in the affirmative,

And the motion

*Prevailed.*

Mr. Comegys moved that the the House resolution, in relation to the printing of private bills, be taken up for consideration.

Which motion

*Prevailed.*

Mr. Comegys offered a substitute for the resolution,

Which, on his motion, was read, as follows:

#### **RULE 27.**

Every bill reported from a Committee, one hundred copies shall be printed for the use of the House, and a copy furnished to each member, before it is taken up for consideration, and for a third reading ; *provided*, that the Committee on Printing may, at any time, submit to the House the question, Whether the printing of a particular bill shall be dispensed with.

The expense of printing all private acts of incorporation, and acts of a public nature, but promoted by, and for the benefit of, private parties, shall be paid by the party or parties requesting their passage, before the bill is taken up for consideration, and a third reading. The form in which bills are printed shall be prescribed by the Committee on Printing.

Mr. Comegys moved the adoption of the substitute.

Mr. Messick moved

That the rule be referred to Committee on Printing, to ascertain what the actual cost would be,

Which motion

*Prevailed.*

On motion, the House adjourned until to-morrow morning at 10 o'clock.

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WEDNESDAY, Jan. 24, 1883,—10 o'clock, A.M.

The House met pursuant to adjournment.

Prayer by the Chaplain.

Roll called.

The Clerk, Mr. E. W. Waples, through the Speaker, asked to be excused for the day to attend Court. There being no objection, Mr. Waples was excused for the day.

Mr. Justis moved that John F. Saulsbury be elected Clerk, *pro tem.*, for the day,

Which motion

*Prevailed.*

The Speaker announced, as additional members on the Committee on Divorces, Messrs. Comegys and Frazer:

And as additional members of the Committee on Education, Messrs. Dukes and Cooch.

Mr. Lowe, on behalf of the Committee to whom was referred the proposed Rule No. 27,

Reported, that he had visited two printing offices, and ascertained at what price the printing could be done.

Mr. Cooch gave notice that, on to-morrow, or some future day, he would ask leave to introduce a bill, entitled,



"An Act to amend chapter 328, vol. 16, laws of Delaware, entitled, 'An Act to provide a uniform ballot for election purposes.'"

Mr. Frazer, Chairman of the Committee on Roads and vacant lands, to whom was referred the petition of Benaiah Tharp and others, praying for the passage of an act to lay out a new road in Mispillion Hundred, Kent county, reported a bill, entitled,

"An Act to lay out a new public road in Mispillion Hundred, in Kent county.

The Speaker announced the following, as the House Committee to examine into the expediency of providing private accommodations on the first and second floors of the Capitol building, viz: Messrs. Barlow, Denney, and Wheatley.

On motion of Mr. Watson, the House bill, entitled,

"An Act to extend the public road leading from the town of Milford, in Kent county, to the new wharf, on Mispillion Creek,

Was read a second time, by its title, and, on his further motion, referred to the Committee on Roads and Vacant Lands.

Mr. Perry, in pursuance of previous notice, asked, and, on motion of Mr. Wheatly, obtained leave to introduce a bill, entitled,

"An Act entitled 'An Act to incorporate the Broadkilk River Oyster Planting Company,'"

Which, on his motion, was read.

On motion of Mr. Denney, the House bill, entitled,

"An Act to incorporate the Dover Glass Works Company,"

Was read a second time, by its title, and further, on his motion, was referred to the Committee on Private Corporations.

On motion of Mr. Lowe, the Senate bill, entitled,

"An Act to incorporate the Robins Hose Company, No. 1, of Dover, Delaware,"

Was read a second time, by its title,

And, on his further motion, was referred to the Committee on Private Corporations.

Mr. Cooch, in pursuance of previous notice, asked, and, on motion of Mr. Justis, obtained leave to introduce a bill, entitled,

"An Act to secure manufacturers and owners of railroad equipments and rolling stock, in making conditional sales, and certain contracts for the lease thereof,

Which, on his motion, was read.

On motion of Mr. Justis, the House bill, entitled,

"An Act limiting the power of the Road Commissioners of Christiana hundred to levy and collect a tax,

Was read a second time, by its title,

And, on his further motion, was referred to the Committee on Roads and Vacant Lands.

The Speaker announced that the business before the House was bills upon the Calendar.

"An Act to lay out a new public road in Mispillion hundred, in Kent county,

Was taken up for consideration.

On motion of Mr. Frazer, the bill was laid on the table.

On motion of Mr. Frazer, the bill reported from the Committee on Roads and Vacant Land, entitled,

"An Act to lay out another Public Road in Mispillion hundred, Kent county,

Was read.

Mr. Sutton, on behalf of the Committee on Crimes and Punishments, to whom was referred the Senate bill, entitled,

"An Act to Amend Section 16, Chapter 133, of the Revised Statutes, entitled, 'General Provisions Concerning Crimes and Punishments,' "

Reported the same back to the House, with the recommendation that it pass.

On motion of Mr. Sutton, the bill, just reported by the Committee,

Was taken up for consideration ;

On motion of Mr. Cooch, the bill, under consideration, was read a third time, and by paragraphs, in order to pass the House ;

On the question, " Shall this bill pass the House ?"

It was decided in the affirmative,

*And the bill passed the House.*

*Ordered* that the Senate be informed thereof, and the bill returned to that body.

Mr. Sutton, on behalf the Committee on Crimes and Punishments, to whom was referred the Senate bill, entitled,

"An Act to amend Section 2, of Chapter 127, of the Revised Statutes of the State of Delaware, entitled, 'Offenses against the lives and persons of individuals,'"

Reported the same back to the House, with the recommendation that it pass ;

On motion of Mr. Denney, the bill, just reported to the House, was taken up for consideration,

And, on his further motion, was read a third time, and by paragraphs, in order to pass the House ;

On the question, " Shall this bill pass the House ?"

It was decided in the negative,

And the bill was

*Lost.*

*Ordered* that the Senate be informed thereof,

And the bill returned to that body.

Mr. Sutton, on behalf of the Committee on Crimes and Punishments, to whom was reported the Senate bill, entitled,

"An Act to amend Section 11, Chapter 109, of the Revised Statutes of the State of Delaware, entitled, 'Of Juries,'"

Reported the same back to the House, with the recommendation that it pass;

On motion of Mr. Sutton, the bill, just reported to the House, was taken up for consideration:

Mr. Barlow moved, that the House resolve itself into a Committee of the Whole, to consider the bill,

Which motion

*Prevailed.*

And the House resolved itself into the Committee of the Whole,

Mr. Frazer in the Chair:

After some time spent in Committee of the Whole,

The Committee rose, and the Speaker resumed the Chair:

Mr. Frazer, Chairman of the Committee of the Whole, reported the bill back to the House, with an amendment, which, on his motion, was read, as follows:

"Amend the bill by striking out 'sixty-six,' in the last line of the bill, and insert, in lieu thereof, the words 'fifty-four:'"

On his further motion the amendment was *Adopted.*

On motion, the House adjourned until 3 o'clock P. M.

SAME DAY, 3 o'clock P. M.

The House met pursuant to adjournment.

The House resumed the consideration of the unfinished business, being

"An Act to amend Section eleven of Chapter 109, of the Revised Statutes of the State of Delaware, entitled 'Of Juries.'"

On motion of Mr. Denney, the bill, as amended, was read a third time, and by paragraphs,

*And Passed the House.*

*Ordered*, that the Senate be informed thereof, and the bill returned to that body, and their concurrence in the amendment requested.

On motion of Mr. Comegys, the bill, entitled,

"An Act to incorporate the Montifiore Mutual Benefit Society, of Wilmington,"

Was read a second time by its title, and further, on his motion, was referred to the Committee on Private Corporations.

Mr. Comegys, Chairman of the Committee on Enrollment, reported the following Senate Joint Resolutions, as duly and correctly enrolled, and presented the same for the signature of the Speaker, to-wit:

Joint Resolution, appointing a Joint Committee, to settle with C. S. Pennewill,

Joint Resolution of adjournment,

Joint Resolution, convening the two Houses in joint session for the purpose of attending the Governor-elect while the oaths of office are administered to him.

Mr. Justis offered a resolution, which, on his motion, was read, as follows:

*Resolved*, That, from and after the passage of this resolution, any one, in introducing a bill in this House, is requested to state the object, or purport, of the bill,

Which, on his further motion, was

*Adopted.*

Mr. Justis, in pursuance of previous notice, asked, and, on motion of Mr. Sutton, obtained, leave to introduce a bill, entitled,

"A Supplement to the Act entitled, 'An Act to incorporate the New Castle and Wilmington Narrow Gauge Railway,'"

Which, on his motion, was read.

Mr. Cooch, in pursuance of previous notice, asked, and, on motion of Mr. Lewis, obtained, leave to introduce a bill, entitled,

“An Act to further amend the Act, entitled, ‘An Act providing for the appointment of State Chemist,’ in Chapter 348, of Volume 16, Laws of Delaware,”

Which, on his motion, was read.

Mr. Justis, in pursuance of previous notice, asked, and, on motion of Mr. Cooch, obtained, leave to introduce a bill, entitled,

“An Act to convert that part of the Wilmington and Christiana Turnpike within the limits of the City of Wilmington into a public highway, or street,”

Which, on his motion, was read.

Mr. Justis, in pursuance of previous notice, asked, and, on motion of Mr. Crawford, obtained, leave to introduce a bill, entitled,

“An Act, dividing Christiana Hundred Northern Election District in two election districts,”

Which, on his motion, was read.

Mr. Whiley, Clerk, of the Senate, being admitted, informed the House that the Senate had concurred in the House bill, entitled,

“An Act to incorporate The Rehoboth Beach Hotel Company,”

And returned the same to the House.

He also presented the following duly and correctly enrolled House Bill and Joint Resolutions, signed by the Speakers of the two Houses, to-wit:

An Act, to render valid the acknowledgment of a certain deed.

Joint Resolution, adjourning both Houses until Monday next, at 3 o'clock P. M.

Joint Resolution, appointing a Joint Committee for the Government of intercourse between the two Houses.

Joint Resolution, appointing a Joint Committee to make suitable arrangements for the inauguration of the Governor.

Joint Resolution, appointing State Treasurer.

Joint Resolution, appointing a Joint Committee to purchase a new flag for the State House.

Joint Resolution, for a private accommodation.

Joint Resolution, appointing an Auditor of Accounts.

Joint Resolution, authorizing the State Librarian to have the State House supplied with water from the Dover Water Works.

Mr. Barlow asked to be excused until the arrival of the South-bound train, to-morrow morning. There being no objection, Mr. Barlow was excused.

Mr. Jacobs, in pursuance of previous notice, asked, and, on motion of Mr. Dukes, obtained, leave to introduce a bill, entitled,

“An Act to amend the Act, entitled, ‘An Act to incorporate the Sussex Midland Railway Company,’ ”

Which, on his motion, was read.

On motion of Mr. Comegys, the House bill, entitled,

“An Act to incorporate the Ancient Order of Hibernians, Division No. 5, Hockessin, Delaware,”

Was read a second time, by its title, and referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the Senate bill, entitled,

“An Act to incorporate the Wesleyan College,”

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Comegys, the House bill, entitled,

"An Act to incorporate the Ancient Order of Hibernians, Division No. 4, of the City of Wilmington, Delaware,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

Mr. Cooch moved, that the Committee on Printing be instructed to have one hundred copies of the bill, entitled,

"An Act to further amend the Act, entitled, 'An Act to incorporate the town of Dover,' passed, at Dover, February 27, 1879,"

Printed for the use of the House,

Which motion

*Prevailed.*

Mr. Crawford, in pursuance of previous notice, asked, and, on motion of Mr. Dukes, obtained, leave to introduce a bill, entitled,

"An Act to incorporate the Mutual Loan Association, of Townsend, Delaware,"

Which, on his motion was read.

On motion of Mr. Temple, the Senate bill, entitled,

"An Act to incorporate the Peninsula Fertilizer Company,"

Was read a second time, by its title, and referred to the Committee on Private Corporations.

On motion of Mr. Lewis, the House bill, entitled,

"An Act to lay out a new public road in Mispillion Hundred, Kent county,"

Was taken up for consideration, and, on his further motion, the bill was read a third time, and by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

It was decided in the affirmative,

And the bill

*Passed the House.*



*Ordered* to the Senate for concurrence.

Mr. Denney, on behalf of the Committee on Private Corporations, to whom was referred the bill, entitled,

"An Act to incorporate the Dover Market House Company,"

Reported the same back to the House, and with the recommendation that it pass.

On motion of Mr. Denney, the bill just reported to the House

Was taken up for consideration, and, on his further motion, the bill under consideration was read a third time, and by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatly, Williams, and Mr. Speaker—19.

Nays—None.

So the bill, having received the required Constitutional majority, *Passed the House.*

*Ordered* to the Senate for concurrence.

Mr. Denney, on behalf of the Committee on Private Corporations, to whom was referred the bill, entitled,

"An Act to re-incorporate the act of incorporation of The Kent County Mutual Insurance Company,"

Reported the same back to the House, with the recommendation that it pass.

On motion of Mr. Denney, the bill just reported to the House was taken up for consideration;

On his further motion, the bill under consideration was read a third time, and by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatly, Williams, and Mr. Speaker—18.

Nays—None.

So the bill, having received the required Constitutional majority, *Passed the House:*

*Ordered* to the Senate for concurrence.

Mr. Sutton, on behalf of the Committee on Crimes and Punishments, to whom was referred the Senate bill, entitled,

“An Act in reference to the competency of jurors in capital cases,”

Reported the same back to the House, with the recommendation that it pass.

On motion of Mr. Sutton, the bill just reported to the House was taken up for consideration,

And, on his further motion, was read a third time, and by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

It was decided in the affirmative,

And the bill *Passed the House:*

*Ordered* to the Senate for concurrence.

Mr. Justice gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act to amend ‘An Act dividing Christiana Hundred into two election districts.’ ”

Mr. Wheatley gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act to amend Chapter 391, of Volume 16, of the Laws of Delaware.”

On motion, the House adjourned until 10 o'clock, to-morrow morning.

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THURSDAY, January 25, 1883—10 o'clock, A.M.

The House met pursuant to adjournment.

Prayer by the Chaplain.

Journal read and approved.

Mr. Bates asked leave of absence for Mr. Lewis for the day.

There being no objection, Mr. Lewis was excused.

Mr. Justis asked leave of absence for Mr. Sutton for the day.

There being no objection, Mr. Sutton was excused.

Mr. Frazer asked leave of absence for Mr. Temple.

There being no objection, Mr. Temple was excused.

Mr. Justis gave notice that, on to-morrow or some future day, he would ask leave to introduce the following bills, viz.:

“An Act to amend Chapter 16, Section 1, of the Revised Code of General Provisions, regarding ‘Elections.’”

“An Act to amend Chapter 9, Section 21, of the Revised Code, relating to ‘Clerk of the Peace.’”

“An Act to amend Chapter 10, Section 7, of the Revised Code, relating to ‘Assessors.’”

Mr. Cooch gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act to raise revenue for ‘State and County purposes,’ passed at Dover, March 30, 1871.”

Mr. Justis presented sundry bills of Messrs. Corsa and Townsend, for printing,

Which, on his motion, were referred to Committee on Claims and Accounts.

Mr. Cooch offered a Joint Resolution, appointing Janitor,

Which, on his motion, was read.

Mr. Lowe moved that the Joint Resolution be amended by striking out the words ‘Three hundred,’ and insert, in lieu thereof, the words ‘Two hundred and fifty.’ ”

Mr. Frazer moved

That it still further be amended, by substituting ‘Two hundred’ in lieu of ‘Two hundred and fifty.’ ”

On the question, “Shall the Amendment to the Amendment be adopted? ”

It was decided in the affirmative, and the motion

*Prevailed.*

And, on motion of Mr. Lowe, the amendment was *Adopted*,

The question recurring on the original resolution, as amended.

On the question, “Shall the Joint Resolution as Amended, be adopted? ”

It was decided in the affirmative, and the resolution as amended,

Was

*Adopted.*

*Ordered* to the Senate for concurrence.

Mr. Denney presented a bill of James Kirk & Sons, with a Joint Resolution, entitled,

"Joint Resolution concerning Volume 16, Laws of Delaware,"

Which, on his motion, was read, and, on his further motion, was referred to Committee on Claims and Accounts.

*Ordered* to the Senate for concurrence.

Mr. Denney, on behalf of the Committee on Private Corporations, to whom was referred the House Bill, entitled,

"An Act to Incorporate 'The Capitol Building and Loan Association,'"

Reported the same back to the House, with the recommendation that it pass.

Mr. Speaker gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to Incorporate 'The Gazette Publishing Company,'"

He also presented to the House a claim of Wm. J. Maxwell, against the State of Delaware, for \$150.00,

Which, on motion of Mr. Cooch,

Was referred to the Committee on Claims and Accounts.

Mr. Denney, on behalf of the Committee on Private Corporations, to whom was referred the House Bill, entitled,

"An Act to Incorporate 'The Dover Glass Works,'"

Reported the same back to the House, with a recommendation that it pass.

Mr. Denney, on behalf of the Committee on Private Corporations, to whom was referred the Senate Bill, entitled,

"An Act to Incorporate 'The Robbins Hose Company,'"

Reported the same back to the House, favorable with recommendation that it pass.

Mr. Wheatley, in pursuance to previous notice, asked, and, on motion of Mr. Perry, obtained leave to introduce a bill, entitled,

"An Act to amend Chapter 391, of Volume 16, of the Laws of Delaware,"

Which, on his motion, was read.

Mr. Watson offered a Joint Resolution, appropriating Eight Hundred Dollars to the contingent expenses of the Office of Secretary of State,

Which, on his motion, was read, and, on his further motion,

Was

*Adopted.*

*Ordered* to the Senate for concurrence.

On motion of Mr. Justis, the House Bill, entitled,

"An Act dividing Christiana Hundred, Northern Election District, into two Election Districts,"

Was read a second time, by its title, and, on his further motion, was referred to Committee on Elections.

On motion of Mr. Justis, the House bill, entitled,

"A Supplement to the Act, entitled, 'An Act to incorporate the New Castle and Wilmington Narrow Gauge Railroad,' "

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Crawford, the House bill, entitled,

"An Act to incorporate the Mutual Loan Association of Townsend, Delaware,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the Senate bill, entitled,

"An Act to vest the title of a certain lot of ground, with the buildings thereon erected, in the City of New Castle, in Trustees, for the uses and purposes therein mentioned,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Municipal Corporations.

On motion of Mr. Justis, the House bill, entitled,

"An Act to convert that part of the Wilmington and Christiana turnpike within the city limits of Wilmington into a free public highway, or street,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Roads and Vacant Lands.

On motion of Mr. Perry, the House bill, entitled,

"An Act, entitled 'An Act, to incorporate the Broadkilk River Oyster Planting Company,'"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the House bill, entitled,

"An Act to secure manufacturers and owners of railroad equipments and rolling stock, in making conditional sales, and certain contracts for the lease thereof,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on the Judiciary.

On motion of Mr. Jacobs, the House bill, entitled,

"An Act to amend the act, entitled, 'An act to incorporate the Sussex Midland Railroad Company,'"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the House bill, entitled,

"An Act to further amend the act, entitled, 'An act providing for the appointment of State Chemist—in Chapter 348, of Volume 16, Laws of Delaware,'"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Revised Statutes.

The House proceeded to the business in the Calendar:

The House bill, entitled,

"An Act to incorporate The Capitol Building and Loan Association,"

Was taken up for consideration, and,

On motion of Mr. Denney, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

“On the question, Shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justice, Lowe, Messick, Perry, Rawlins, Watson, Wheatly, Williams, and Mr. Speaker—16.

Nays—None.

So the bill, having received the Constitutional majority,

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act to incorporate The Dover Glass Works Company,”

Was taken up for consideration.

On motion of Mr. Denney, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

The yeas and nays were ordered, which, being taken were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lowe, Messick, Perry, Rawlins, Watson, Wheatly, Williams, and Mr. Speaker—17.

Nays—None.

So the bill, having received the Constitutional majority,

*Passed the House.*

*Ordered* to the Senate for concurrence.

The Senate Bill, entitled,



“ An Act to Incorporate ‘ The Robbins Hose Company, No. 1, of Dover, Delaware,’ ”

Was taken up for consideration.

On motion of Mr. Denney, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “ Shall this Bill pass the House ? ”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lowe, Messick, Perry, Rawlins, Watson, Wheatly, Williams and Mr. Speaker—17.

Nays—none.

So the Bill, having received the constitutional majority,

*Passed the House.*

*Ordered* to the Senate for concurrence.

Mr. Cooch, in pursuance to previous notice, asked, and, on motion of Mr. Barlow, obtained leave to introduce a bill, entitled,

“ An Act concerning ‘ The George P. Whitaker Company,’ ”

Which, on his motion, was read.

Mr. Rawlins, in pursuance to previous notice, asked, and on motion of Mr. Wheatley, obtained leave to introduce a bill, entitled,

“ An Act to re-incorporate the town of Seaford,

Which, on his motion, was read.

The Clerk proceeded to the reading of the bill,

Pending which,

On motion of Mr. Lowe,

The House adjourned.

SAME DAY,—3 o'clock P. M.

House met, pursuant to adjournment.

Reading of the bill, entitled,

“An Act to incorporate the town of Seaford,”

Was concluded.

Mr. Comegys gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act to amend Sections 4 and 5, of Chapter 4, of the Revised Code, entitled, of the ‘passing and publication of Laws, and of Journals.’”

Mr. Justis gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act to amend an act to incorporate the purchasers of the Wilmington and Reading Railroad Company, passed February 22, 1877.”

Mr. Justis, in pursuance of previous notice, asked, and, on motion of Mr. Messick, obtained leave to introduce a bill, entitled,

“An Act to amend Chapter 385, Vol. 13, Laws of Delaware, entitled, ‘An act dividing Christina Hundred into two election districts,’ passed February 9, 1869.”

Which, on motion of Mr. Justis, was read.

On motion of Mr. Comegys, the Senate bill, entitled,

“An Act to incorporate The River Front Land Improvement Company,”

Was read.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had passed the following bills, and presented the same for the concurrence of the House.

"An Act to incorporate the Delmarvia Fertilizer Company, of Clayton, Delaware,"

"An Act to incorporate the River Front Land Improvement Company,"

"An Act to incorporate St. Mary's Total Abstinence Beneficial Pioneer Corps, of Wilmington, Delaware,"

"An Act to amend an act, entitled 'An act to incorporate the Jackson Lime and Marble Company,' passed at Dover, March 31, 1881,

Also, that the Senate had concurred in the House amendment to the Senate bill, entitled, 'An act to amend Section 11, of Chapter 109, of the Revised Statutes of the State of Delaware, entitled, Of Juries.'"

On motion of Mr. Comegys, the Senate bill, entitled,

"An Act to incorporate 'St. Mary's Total Abstinence Beneficial Pioneer Corps,' of Wilmington, Delaware,"

Was read.

On motion of Mr. Comegys, the Senate bill, entitled,

"An Act to incorporate 'The Delmarvia Fertilizer Company,' of Clayton, Delaware,"

Was read.

On motion of Mr. Comegys, the Senate bill, entitled,

"An Act to amend an Act, entitled, 'An Act to incorporate the Jackson Lime and Marble Company,' passed at Dover, March 31, 1881,"

Was read.

The Speaker gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to incorporate 'The Sunday Star Publishing Company.'"

Mr. Barlow gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to authorize the Philadelphia, Wilmington and Baltimore Rail Road Company to straighten, widen or improve its lines of rail road within the State."

On motion, the House adjourned until 10 o'clock to-morrow morning.

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FRIDAY, Jan. 26, 1883,—10 o'clock A. M.

House met pursuant to adjournment.

Prayer by the Chaplain.

Roll called.

Journal read and approved.

Mr. Jacobs asked leave of absence for Mr. Dukes. There being no objection, Mr. Dukes, and also Messrs. Cooch and Crawford, were excused.

Mr. Barlow, on behalf of the Committee on Private Corporations, to whom was referred the House bill, entitled

"An Act to authorize the Delaware and Chesapeake Railway to consolidate and form a union with the Philadelphia, Wilmington and Baltimore Railroad Company,"

Reported the same back to the House, with an amendment, and with a recommendation that the bill pass as amended.

Mr. Frazer, on behalf of the Committee on Roads and Vacant Lands, to whom was referred the following House bills, viz :

"An Act to extend the public road leading from the town of Milford, in Kent county, to the new wharf on Mispillion Creek,"

"An Act limiting the power of Road Commissioners of Christiana Hundred to levy and collect a tax,"

"An Act to convert that part of the Wilmington and Christiana Turnpike within the limits of the City of Wilmington into a free public highway or street;"

Reported the same back to the House, with the recommendation that they pass.

Mr. Frazer presented a petition of Sadie Fowler, for an act to divorce her from her husband, "*a vinculo matrimonii*," and for other purposes,

Which, on his motion, was read, and, on his further motion, was referred to the Committee on Divorces, to report by bill or otherwise.

Mr. Barlow offered a resolution, which, on his motion, was read, as follows :

*Resolved*, That the Clerk be, and he is hereby, instructed to furnish the members of this House each a copy of the Digest of School Laws of the State of Delaware.

And, on his further motion, the resolution was  
*Adopted.*

Mr. Sutton gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to amend Section 2, Chapter 373, Volume 16, Laws of Delaware, relating to colored schools."

The Speaker, in pursuance of previous notice, asked, and, on motion of Mr. Barlow, obtained leave to introduce the following bills, viz :

"An Act to increase the number of members in the General Assembly of this State, and to apportion the same,"

"An Act to regulate the submission of questions to the Judiciary."

He also offered a Joint Resolution, entitled,

"Joint Resolution, relating to Increased Representation,"

Which, on motion of Mr. Barlow, was read, and, on his further motion, was *Adopted.*

*Ordered* to the Senate for concurrence.

The Speaker gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act concerning ‘Private Corporations.’”

Mr. Frazer, on behalf of the Committee on Roads and Vacant Lands, to whom was referred the petition of David Simpson, and others, asking for the passage of an Act to lay out a new public road, in Mispillion Hundred, reported a bill, entitled,

“An Act to lay out a new public road in Mispillion Hundred, Kent County, to be *known as the Simpson road*,”

Which, on his motion, was read.

On motion of Mr. Rawlins, the House bill, entitled,

“An Act to re-incorporate the town of Seaford,”

Was read a second time, by its title,

And, on his further motion, was referred to the Committee on Municipal Corporations.

On motion of Mr. Justis, the House bill, entitled,

“An Act to amend Chapter 385, Volume 13, Laws of Delaware, entitled, ‘An Act dividing Christiana Hundred into two Election Districts,’ passed February 9, 1869,”

Was read a second time, by its title, and, on his further motion, was referred to Committee on Elections.

On motion of Mr. Comegys, the Senate bill, entitled,

“An Act to incorporate ‘The River Front Land Improvement Company,’”

Was read a second time, by its title, and, on his further motion, was referred to Committee on Private Corporations.

On motion of Mr. Comegys, the Senate bill, entitled,

"An Act to incorporate 'St. Mary's Total Abstinence Beneficial Pioneer Corps,' of Wilmington, Delaware,"

Was read a second time, by its title, and on his further motion, was referred to Committee on Private Corporations.

On motion of Mr. Comegys, the Senate bill, entitled,

"An Act to amend an Act, entitled, 'An Act to incorporate The Jackson Lime and Marble Company,' passed at Dover, March 31, 1881,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Comegys, the Senate bill, entitled,

"An Act to incorporate 'The Delmarvia Fertilizer Company,' of Clayton, Delaware,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

The House proceeded to the business in the Calendar.

The House bill, with an amendment, entitled,

"An Act to authorize the 'Delaware and Chesapeake Railway to consolidate and form a union with the Philadelphia, Wilmington and Baltimore Rail Road Company,'"

Was taken up for consideration,

And, on motion of Mr. Barlow,

The amendment, reported from the Committee, was read,

And, on his further motion, the amendment was

*Adopted*

And, further, on his motion, the bill, as amended, was read a third time, by paragraphs, in order to pass the House.

On the question, "Shall this bill pass the House?"

The yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Barlow, Comegys, Denney, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Rawlins, Sutton, Temple, Watson, Williams, and Mr. Speaker—15.

Nays—None :

So the bill, having received the Constitutional majority,

*Passed the House.*

*Ordered* to the Senate for concurrence.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had adopted a Joint Resolution in relation to adjournment,

And presented the same to the House for concurrence.

He also presented, for the signature of the Speaker of the House, the following duly and correctly enrolled Senate bills, the same having received the signature of the Speaker of the Senate, viz :

“An Act to amend Section 1, of Chapter 397, Volume 11, Laws of Delaware, entitled, ‘An Act in relation to insane persons.’”

“An Act to amend Section 9, of Chapter 24, of the Revised Statutes of the State of Delaware, entitled, ‘General Provisions respecting Public Officers.’”

“An Act to amend Section 16, of Chapter 133, of the Revised Statutes of the State of Delaware, entitled, ‘General Provisions concerning Crimes and Punishments.’”

“An Act to amend an Act, entitled, ‘An Act to incorporate the Delaware Beet Sugar Company.’” Passed at Dover, March 25th, 1879.”

He also informed the House that the Senate had concurred in the following House Joint Resolutions :

“Joint Resolution appointing a Janitor.”

“Joint Resolution appropriating eight hundred dollars to the contingent expenses of the office of Secretary of State.”

Also, that the Senate had concurred in House bills as follows :



“An Act to incorporate the Delaware Baptist Union.”

“Act to incorporate the Dover Market House Company.

“An Act to incorporate the Journeymen Bricklayers Protection and Beneficial Association, of Wilmington, Delaware.”

“Act to incorporate the Madison Street Club Stables.”

And returned the same to the House.

The House bill, entitled,

“An Act to extend the public road leading from the town of Milford, in Kent county, to the new wharf on Mispillion Creek,”

Was taken up for consideration,

And, on motion of Mr. Frazer, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

It was decided in the affirmative,

And the bill

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act limiting the power of the Road Commissioners of Christiana Hundred to levy and collect a tax,”

Was taken up for consideration.

Mr. Justis moved that the bill under consideration be re-committed,

Which motion

*Prevailed.*

The House bill, entitled,

“An Act to convert that part of the Wilmington and Christiana Turnpike within the limits of the City of Wilmington into a free public highway, or street,”

Was taken up for consideration.

Mr. Justis moved that the bill under consideration be re-committed,

Which motion

*Prevailed.*

On motion of Mr. Messick, the Senate Joint Resolution, entitled 'Joint Resolution in relation to adjournment,' "

Was read, and, on motion of Mr. Justis, the Joint Resolution was indefinitely postponed.

Mr. Justis, in pursuance of previous notice, asked, and, on motion of Mr. Comegys, obtained leave to introduce a bill, entitled,

"An Act to amend an act to incorporate the purchasers of the Wilmington and Reading Railroad, passed February 22, 1877,"

Which, on his motion, was read.

The Speaker called attention of the House to the papers accompanying the Governor's Biennial Message.

On motion of Mr. Justis, the Adjutant-General's Report, Insurance Report, State Chemist Report and the Report of the State Board of Health,

Was referred to the Committee on Printing.

On motion of Mr. Justis, the Report of the Farmers' Bank was referred to the Committee on Ways and Means.

On motion of Mr. Frazer, the communications in regard to Requisitions of Fugitives from Justice,

Were referred to Committee on Revised Statutes.

On motion of Mr. Justis,

The Resolution of the Legislature of Virginia, instruction the members of Congress, &c.,

Was referred to the Committee on Education.

On motion of Mr. Justis, the Joint Resolution, No. 3, State of New Jersey,

Was referred to the Committee on Federal Relations.

Mr. Justis moved that, when the House adjourns to-day, it be to meet on Monday next, at 4 o'clock, P. M.,

Which motion

*Prevailed.*

On motion, the House adjourned.

MONDAY, January 29, 1883—4 o'clock, P. M.

House met pursuant to adjournment.

Prayer by the Chaplain.

Roll called.

Journal read and approved.

Mr. Cooch gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act for the encouragement of agriculture in the State of Delaware, by providing for the appointment of a Board of Agriculture.”

The Speaker gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act to provide for the vaccination of children in the free schools.”

Mr. Comegys gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act to incorporate the Hickory Grove Cemetery Company, of New Castle county.”

Mr. Denney presented a petition of William Parvis, praying for the passage of an act to divorce him from his wife Mary Ann from the bonds of matrimony,

Which, on his motion, was referred to the Committee on Divorces.

Mr. Crawford gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act to amend Chapter 16, Section 12, of the Revised Statutes relating to bribery at elections.”

Mr. Denney presented a petition of Thomas H. Wilson and others, asking to locate and vacate a small part of the public road leading from Dover to Smyrna,

Which, on his motion, was referred to the Committee on Roads and Vacant Lands.

On motion of Mr. Cooch, the House bill, entitled,

“An Act to regulate the submission of question to the Judiciary,”

Was read a second time, by its title, and on his further motion was referred to the Committee on the Judiciary.

On motion of Mr. Cooch, the House bill, entitled,

“An act to increase the number of members in the General Assembly of this State, and to apportion the same,”

Was read a second time, by its title, and on his further motion, was referred to the Special Committee on Representation.

On motion of Mr. Wheatley, the House bill, entitled,

“An Act to amend Chapter 391, of Volume 16, of the Laws of Delaware,”

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Revised Statutes.

The Act previously reported from the Committee on Roads and Vacant Lands, entitled,

“An Act to lay out a new public road in Mispillion Hundred, in Kent County, to be known as the Simpson and Cahall road,”

Was, on motion of Mr. Lewis,

Read a second time, by its title.

Mr. Comegys, in pursuance of previous notice, asked, and on motion of Mr. Messick, obtained leave to introduce a bill, entitled,

“An Act to incorporate the ‘Star Publishing Company,’ ”

Which, on motion of Mr. Comegys, was read.

Mr. Comegys, in pursuance of previous notice, asked, and on motion of Mr. Lowe, obtained leave to introduce a bill, entitled,

“An Act to incorporate ‘The Gazette Publishing Company,’ ”

Which, on motion of Mr. Comegys, was read.

Mr. Comegys, in pursuance of previous notice, asked, and on motion of Mr. Sutton, obtained leave to introduce a bill, entitled,

“An Act to amend Sections 4 and 5, Chapter 4, of the Revised Code, entitled, ‘Of the passing and Publications of Laws and of Journals,’ ”

Which, on motion of Mr. Comegys, was read.

On motion, the House adjourned.

TUESDAY, Jan. 30th, 1883,—10 o'clock, A. M.

House met pursuant to adjournment.

Prayer by Chaplain.

Roll called.

Journal read and approved.

Mr. Dukes, on behalf of the Committee on Elections, to whom was referred the following House bills, viz :

“An Act dividing Christiana hundred, Northern Election District, into two Election Districts.”

“An Act to Amend Chapter 385, Vol. 13, Laws of Delaware, entitled, ‘An Act dividing Christiana hundred into two Election Districts.’ ” Passed, February 9, 1869.

Reported the same back to the House, with recommendation that they pass.

Mr. Crawford, on behalf of the Committee on Judiciary, to whom was referred the following House bills, viz :

“An Act to secure manufacturers and owners of railroad equipments, and rolling stock, in making conditional sales, and certain contracts for the lease thereof.”

“An Act to further amend the Act, entitled, ‘An Act providing for the appointment of State Chemist—in Chapter 348, of Volume 16, Laws of Delaware.’ ”

Reported the same back to the House, with a recommendation that they pass.

“Mr. Barlow, on behalf the Committee on Private Corporations, to whom was referred the following House bills, viz :

“An Act to incorporate the Ancient Order of Hibernians, Division No. 5, of Hockessin, Delaware.”

“An Act to incorporate the Montifiore Mutual Benefit Society, of Wilmington, Delaware.”

"An Act to incorporate the Mutual Loan Association, of Townsend, Delaware."

"An Act to revive and re-enact 'An Act to incorporate the Tomahawk Branch Ditch Company.'"

"An Act to incorporate the Ancient Order of Hibernians, Division No. 4, of the City of Wilmington, Delaware."

Reported the same back to the House, with a recommendation that they pass.

Also, he reported the following Senate bills :

"An Act to incorporate the Pusey and Scott Company,"  
With an amendment.

"An Act to incorporate St. Mary's Total Abstinence Beneficial Pioneer Corps, of Wilmington, Delaware."

"An Act to incorporate Diamond State Organ Company,"

"An Act to incorporate the Delmarvia Fertilizer Company, of Clayton, Delaware,"

"An Act to amend an act, entitled, 'An act to incorporate the Jackson Lime and Marble Company,' passed at Dover, March 31, 1881,"

"An Act to re-enact the act, entitled, 'An act to incorporate the Trustees of the Home for Friendless and Destitute Children, in the City of Wilmington,'"

"An Act to incorporate the Peninsula Bone Fertilizer Company,"

"An Act to incorporate the Wesleyan College,"

"An Act to incorporate the Brandywine Catholic Literary Association, Brandywine, Delaware."

Reported the same back to the House, with a recommendation that they pass.

Mr. Frazer, on behalf of the Committee on Roads and Vacant Lands, to whom was referred the House bill, entitled,

"An Act to vacate a part of Lake Avenue, as laid out on a plot of lots, by the Rehoboth Beach Association,"

Reported the same back to the House, with a recommendation that it pass.

Mr. Comegys, on behalf of the Committee on Enrollment, reported that they had examined, and found duly and correctly enrolled, the following House bills and Joint Resolutions, viz :

“An Act to incorporate the Dover Market House Company.”

“An Act to incorporate the J. A. Cranston Company, of New Port, Delaware.”

“An Act to incorporate the Journeyman Bricklayers' Protective and Beneficial Association, of Wilmington, Delaware.”

“An Act to incorporate the Madison Street Club Stables.”

“An Act to enable W. McKay to convey certain real estate.”

“An Act to incorporate the Rehoboth Beach Hotel Company.”

Joint Resolution, appropriating eight hundred dollars to the contingent expenses of the office of the Secretary of State.

“Joint Resolution, appointing Janitor.”

He also reported the following duly and correctly enrolled Senate bills, viz :

“An Act to amend Section 1, of Chapter 397, Volume 11, Laws of Delaware, entitled, ‘An act in relation to insane persons.’ ”

“An Act to amend Section 9, of Chapter 24, of the Revised Statutes of the State of Delaware, entitled, ‘General Provisions Respecting Public Officers.’ ”

“An Act to amend an act to incorporate the Delaware Beet Sugar Company, passed at Dover, March 25, 1879.”

“An Act to amend Section 16, Chapter 133, of the Revised Statutes of the State of Delaware, entitled, ‘General Provisions Concerning Crimes and Punishments.’ ”

Mr. Messick gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,



"An Act in relation to the powers of the Levy Court."

Mr. Comegys, in pursuance of previous notice, asked, and, on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

"An Act to incorporate the Hickory Grove Cemetery Company, of New Castle county, Delaware,"

Which, on motion of Mr. Comegys, was read.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had concurred in the following House bills and Joint Resolution :

"An Act to re-enact the act of incorporation of the Kent County Mutual Insurance Company,"

"An Act to authorize the United School Districts, Nos. 39 and 41, in New Castle county, to borrow money, for the purpose of building a new school house therein ; and, also, to sell the school property belonging to said districts,"

"A Joint Resolution, relating to increased representation."

Also, that the Senate had passed, and asked the concurrence of the House in the following bills :

"An Act to amend an act, entitled, 'An act to establish a State Board of Health for the State of Delaware,'"

"An Act to incorporate the Johnson Forge Company,"

"An Act to incorporate the Philadelphia and Smyrna Transportation Company."

Mr. Lewis, in pursuance of previous notice, asked, and, on motion of Mr. Messick, obtained leave to introduce a bill, entitled,

"An Act to incorporate the Harrington Library Association, Kent county, Delaware,"

Which, on motion of Mr. Lewis, was read.

Mr. Cooch, in pursuance to previous notice, asked, and, on motion of Mr. Denney, obtained leave to introduce a bill, entitled,

"An Act for the Encouragement of Agriculture in the State of Delaware, by providing for the appointment of a Board of Agriculture,

Which, on motion of Mr. Cooch, was read.

Mr. Dukés gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

"An Act to renew and to amend the Act, entitled, 'An Act to incorporate the Agricultural Canal Company, of Baltimore Hundred, Sussex County, Delaware.'"

Mr. Perry gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

"An Act to prevent live stock from running at large, in School District No. 18, in Sussex County."

The Bill previously reported from the Committee on Roads and Vacant Lands, entitled,

"An Act to lay out a new public road in Mispillion Hundred, in Kent County,"

Was, on motion of Mr. Lewis, read a second time, by its title.

On motion of Mr. Comegys, the House bill, entitled,

"An Act to amend Sections 4 and 5, of Chapter 4, of the Revised Code, entitled, 'Of the passing and Publications of Laws and of Journals,'"

Was read a second time, by its title,

And, on his further motion, was referred to the Committee on Revised Statutes.

On motion of Mr. Comegys, the House bill, entitled,

"An Act to incorporate 'The Gazette Publishing Company,'"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Comegys, the House bill, entitled,

“An act to incorporate the Star Publishing Company,”

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the House bill, entitled,

“An act to amend an act to incorporate the purchasers of the Wilmington and Reading Railroad, passed February 22, 1877,”

Was read a second time, by its title, and on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the House bill, entitled,

“An act concerning the Geo. P. Whitaker Company,”

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

Mr. Messick presented a petition of Noah Isaacs, Sr., and others, asking for the enlargement of School District, No. 131, in Sussex county,

And, by unanimous consent, was read, and, on motion of Mr. Watson, was referred to the Committee on Education, to report by bill or otherwise.

The House proceeded to the business in the Calendar.

The House bill, entitled,

“An act to amend Chapter 385, Volume 13, Laws of Delaware, entitled, ‘An act dividing Christiana Hundred into two election districts,’ passed February 9, 1869,”

Was taken up for consideration,

And, on motion of Mr. Lowe, the bill under consideration was laid on the table.

The House bill, entitled,

“An act dividing Christiana Hundred Northern Election District into two districts,”

Was then taken up for consideration,

And, on motion of Mr. Lowe, the bill under consideration was laid on the table.

The House bill, entitled,

“An act to further amend the act, entitled, ‘An act providing for the appointment of State Chemist, in Chapter 348, of Volume 16, Laws of Delaware,’ ”

Was taken up for consideration,

On motion of Mr. Cooch, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

It was decided in the affirmative,

And the bill

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House Bill, entitled,

“An act to secure manufacturers and owners of railroad equipments and rolling stock, in making conditional sales, and certain contracts for the lease thereof,”

Was taken up for consideration.

On motion of Mr. Denny, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

It was decided in the affirmative,

And the bill

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act to incorporate the ‘Ancient Order of Hibernians, Division No. 4, of the city of Wilmington, Delaware,’ ”

Was taken up for consideration,

And, on motion of Mr. Barlow, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, "shall this bill pass the House?"

The yeas and nays were ordered, which, being taken, were as follows :

Yeas, Messrs. Barlow, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatley, Williams and Mr. Speaker—17.

Nays—none.

So the bill, having received the constitutional majority,

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

"An Act to incorporate the 'Montifore Mutual Benefit Society, of Wilmington, Delaware,'"

Was taken up for consideration.

On motion of Mr. Barlow, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, "shall this bill pass the House?"

The yeas and nays were ordered, which, being taken, were as follows :

Yeas, Messrs. Barlow, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatley, Williams and Mr. Speaker—18.

Nays—none.

So the bill, having received the constitutional majority,

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

"An Act to incorporate the 'Mutual Loan Association, of Townsend, Delaware,'"

Was taken up for consideration,

And, on motion of Mr. Barlow, was read a third time, by paragraphs, in order to pass the House :

On the question, Shall this bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker  
—18.

Nays—None :

So the bill, having received the required Constitutional majority,  
*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

An Act to revise and re-enact an act, entitled, 'An act to incorporate the Tomahawk Branch Ditch Company,

Was taken up for consideration,

And, on motion of Mr. Lewis, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question Shall this Bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker  
—19.

Nays—None :

So the bill, having received the required Constitutional majority,  
*Passed the House.*

*Ordered* to the Senate for concurrence.

The Senate bill, as amended by the Committee on Private Corporations, entitled

"An Act to incorporate the Pusey & Scott Company,"

Was taken up for consideration,

And, on motion of Mr. Barlow, the amendment was read, as follows:

HOUSE OF REPRESENTATIVES, Jan. 30, 1883.

"Amend the bill by striking out the words, 'for sufficient cause,' " in the last line of Section 8,"

And, on his further motion, the amendment was

*Adopted.*

The bill under consideration, as amended, was, on motion of Mr. Watson, read a third time, by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows:

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker, —19.

Nays—none.

So the bill having received the required Constitutional majority, *Passed the House.*

*Ordered* to be returned to the Senate, and ask their concurrence in the amendment.

The Senate bill, entitled,

"An Act to incorporate the St. Mary's Total Abstinence Beneficial Pioneer Corps, of Wilmington, Delaware,"

Was taken up for consideration,

And, on motion of Mr. Watson, the bill under consideration was read a third time, and by paragraphs, in order to pass the House.

On the question, "shall this bill pass the House?"

The yeas and nays were ordered, which, being taken, were as follows:

Yeas, Messrs. Barlow, Cooch, Crawford, Denny, Dukes, Frazer, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatley, Williams and Mr. Speaker—17.

Nays—none.

So the bill, having received the required constitutional majority,

*Passed the House.*

*Ordered* the Senate be informed thereof.

The Senate bill, entitled,

“An Act to incorporate ‘The Diamond State Organ Company,’ ”

Was taken up for consideration,

And on motion of Mr. Denney,

The bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows:

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatley, Williams and Mr. Speaker—19.

Nays—none.

So the bill, having received the required constitutional majority,

*Passed the House.*

*Ordered* that the Senate be informed thereof, and the bill returned to that body.

On motion, the House adjourned until 3 o'clock, P. M.



SAME DAY :—3 o'clock P. M.

House met pursuant to adjournment.

The Senate bill, entitled,

"An Act to incorporate the Delmarvia Fertilizing Company'," was taken up for consideration,

And, on motion of Mr. Temple, the bill under consideration, was read a third time, by paragraphs, in order to pass the House.

On the question, "shall this bill pass the House?"

The yeas and nays were ordered, which being taken, were as follows :

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Temple, Watson, Wheatley, Williams, and Mr. Speaker—17.

Nays—none.

So the bill having received the required constitutional majority, *Passed the House.*

*Ordered* that the Senate be informed thereof and the bill returned to that body.

The Senate bill, entitled,

"An Act to amend an act entitled an act to incorporate the Jackson Lime and Marble Company'," was taken up for consideration,

And, on motion of Mr. Frazer, the bill was read a third time, and by paragraphs, in order to pass the House.

On the question, shall this bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows :

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatly, Williams and Mr. Speaker—17.

Nays—none.

So the bill, having received the required constitutional majority,  
*Passed the House.*

*Ordered* that the Senate be informed thereof, and bill returned to that body.

The Senate bill, entitled,

“An Act to re-enact the Act, entitled, ‘An Act to incorporate The Trustees of the House for Friendless and Destitute Children, in the city of Wilmington,’ ”

Was taken up for consideration,

And on motion of Mr. Barlow, the bill was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows:

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatly, Williams and Mr. Speaker—18.

Nays—none.

So the bill, having received the required constitutional majority,  
*Passed the House.*

*Ordered* that the Senate be informed thereof, and bill returned to that body.

The Senate bill, entitled,

“An Act to incorporate ‘The Peninsula Fertilizer Company,’ ”

Was taken up for consideration,

And, on motion of Mr. Messick,

The bill under consideration, was read a third time, by paragraphs, in order to pass the House.”

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas, Messrs. Barlow, Cooch, Crawford, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatly, Williams and Mr. Speaker—17.

Nays—none.

So the bill having received the required constitutional majority, *Passed the House.*

*Ordered* that the Senate be informed thereof, and the bill returned to that body.

The Senate bill, entitled,

“An Act to incorporate the Wesleyan College,”

Was taken up for consideration,

And, on motion of Mr. Watson, the bill was read a third time, and by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker—18.

Nays—None.

So the bill, having received the required constitutional majority, *Passed the House.*

*Ordered*, that the Senate be informed thereof, and return the same to that body.

The Senate bill, entitled,

“An Act to incorporate the Brandywine Catholic Literary Association, Brandywine, Delaware,”

Was taken up for consideration,

And, on motion of Mr. Frazer, the bill was read a third time, by paragraphs, in order to pass the House.

On the question, Shall this bill pass the House?

The yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Barlow, Comegys, Cooch, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker—17.

Nays—None.

So the bill, having received the required constitutional majority, *Passed the House.*

*Ordered*, that the Senate be informed thereof, and the bill returned to that body.

The House bill, entitled,

“An Act to vacate a part of Lake Avenue, as laid on a plot of lots, by the Rehoboth Beach Association,”

Was taken up for consideration,

And, on motion of Mr. Cooch, the bill under consideration was laid on the table.

The Speaker laid before the House the opinion of the Chancellor on the questions submitted by Joint Resolution of the two Houses,

Which was read, as follows:

*To the General Assembly:*

The Secretary of State has transmitted to me a copy of certain Joint Resolutions, adopted by you on the 23d day of the present month, which are as follows:

*Be it resolved, by the Senate and House of Representatives in General Assembly met:* That the Chancellor and Judges be, and are, hereby, requested to communicate to the General Assembly their opinions, in writing, upon the following questions, that is to say:

1. Is it within the Constitutional power of the General Assembly, by the concurrent vote of two-thirds of the members of

each branch thereof, to provide for the increase of the members of the Senate and House of Representatives in the General Assembly, and to apportion the number thereof unequally among the several counties of the State?

2. Is it competent for the General Assembly to provide by law for the election of members of either branch or both branches of the General Assembly, from any or every county, from districts created bylaw within such county, in lieu of the election thereof upon general ticket throughout the county?

*And be it further resolved as aforesaid,* That a duly authenticated copy of these resolutions shall be forthwith transmitted to the Chancellor, the Chief Justice, and each of the Associate Judges, by the Secretary of State.

A correct answer to the questions submitted, involves a proper construction of the first and third paragraphs of the section of Article 2 of the Constitution, and of the first and third paragraphs of the third section of said article.

The second section declares that the Representatives shall be chosen for two years, by the citizens residing in the several counties, and that there shall be seven Representatives chosen in each county until a greater number of Representatives shall by the General Assembly be judged necessary, and then, two-thirds of each branch of the Legislature concurring, they may by law make provision for increasing their number.

The third section declares that the Senators shall be chosen for four years by the citizens residing in the several counties, and that there shall be three Senators chosen in each county. When a greater number of Senators shall by the General Assembly be judged necessary, two-thirds of each branch concurring, they may by law make provision for increasing their number, but the number of Senators shall never be greater than one-half, nor less than one-third of the number of Representatives.

If the first question submitted involved only the Constitutional power of the General Assembly, by the concurrent vote of two-thirds of each branch thereof, to make provision by law for the increase of the number of Senators and Representatives in the General Assembly, to be chosen by the citizens residing in the several counties, when a greater number of Senators and Representatives shall by the General Assembly be judged neces-

sary, I should answer in the affirmative, because such authority is expressly conferred upon the General Assembly by the Constitution; but that question involves more, namely: Whether, supposing the number of Senators and Representatives to be increased, the General Assembly have the Constitutional power to apportion unequally the number thus increased among the several counties of the State? In my opinion, the General Assembly have not the Constitutional power to make such apportionment.

The Constitution is the organic, fundamental, and supreme law of the State. It creates the Legislature. The Legislature makes laws authorized by, conformable to, or not inconsistent with, the Constitution. The Legislature cannot add to, alter, or change the Constitution, or make provision by law for adding to, altering, or changing it, unless authorized so to do by the Constitution, and in the manner prescribed by the Constitution. The only act the General Assembly is, by the provisions of the second Article thereof herein before recited, authorized to do, is to make provision by law, for the increase of the number of Representatives and Senators, to be chosen in each county by the citizens residing therein, when a greater number of Representatives or Senators shall, by the General Assembly, be judged necessary.

The General Assembly have the constitutional power to judge in respect to the necessity for an increase in the number of Senators or Representatives, to be chosen in the several counties, and to make by law, provision for increasing the number, if they shall judge a greater number to be necessary, and this is the limitation of their power in this respect. They have not the power to make provision by law, for choosing Senators or Representatives in any manner different from that prescribed in the Constitution, nor for their being chosen otherwise than by citizens residing in the several counties.

The apportionment of Senators and Representatives in the General Assembly is already made by the Constitution, and is upon the basis of equality among the counties, and the General Assembly have, in my opinion, no constitutional power to make provision by law, for a different apportionment otherwise than as prescribed in the 9th Article of the Constitution, providing for amendments thereto. The true principle in respect to the interpretation of the Constitution, and in respect to making by

law provision for the increase of the number of Senators or Representatives, as contemplated by that instrument, is this: they may do whatever is necessary and proper for making provision by law for such increase in number, but they cannot make provision by law for doing anything that is not necessary and proper for the making of the increase contemplated by the Constitution. Now supposing, in the judgment of the General Assembly, it is necessary that the number in the aggregate of the House of Representatives should be increased, so as it shall consist hereafter of forty-eight members, their constitutional power would be exhausted, if they should make provision by law that the number of Representatives chosen in each county should be sixteen. In like manner, if in their judgment the number of Senators should be increased to twenty-four, their constitutional power would be exhausted if they should make provision by law, that the number of Senators chosen in each county should be eight. The number of Representatives and the number of Senators would be increased, but the apportionment of that number, and the principle upon which that apportionment would be made, would not be different from that made in the Constitution, namely: equality among the several counties in representation in the General Assembly.

The power conferred by the Constitution on the General Assembly, is power in respect to the increase of number, and the power must be exercised in respect to that alone: in respect to increase, not diminution. In respect to the number of Representatives, the increase of seven to sixteen, in each county, would exhaust the power of the General Assembly, and in respect to Senators, the increase of three to eight, in each county, would exhaust its constitutional power; but the unequal apportionment of the increase of number, or of Senators and Representatives, based upon such increase, would be the exercise of power beyond the purpose for which the power was given, which was solely for the increase of number, and would be for the additional purpose of apportionment and apportionment different from that made by the Constitution.

Equality of representation in the General Assembly of the voters of the several counties as citizens of the several counties, and not equality of representation otherwise, or, to express it in different language, equality of the several counties to representation in the General Assembly, is the constitutional principle, and

organic in the constitution of the General Assembly. The General Assembly cannot destroy or change its own organic principle of existence, the very law of its being.

It follows from what has already been said in respect to the first question submitted, that I am of opinion it is not competent for the General Assembly to provide by law for the election of members of either branch, or both branches of the General Assembly, from any or every county, from districts created by law within such county, in lieu of the election thereof upon general ticket throughout the county. The constitution declares how members of each and both houses of the General Assembly shall be chosen, and apportions them. They shall be chosen by the citizens of the several counties, and there shall be an equal number chosen from each county. This, in my opinion, is the only proper interpretation of the Constitution upon the subject of representation in the General Assembly.

W. SAULSBURY, *Chancellor.*

• The Speaker also laid before the House the opinion of the Chief Justice, in answer to the same questions,

Which was read, as follows :

*To the Honorable the Senate and House of Representatives of the State of Delaware, in General Assembly met :*

On my return home, on Saturday afternoon, from a few days' absence, I had the honor to find awaiting me, from the Secretary of State, a certified copy of the following resolutions adopted by your respective bodies on the 23d instant, viz. :

*"Be it resolved by the Senate and House of Representatives, in General Assembly met :* That the Chancellor and Judges be and they are hereby requested to communicate to the General Assembly their opinions in writing, upon the following questions, that is to say :

"1. Is it within the constitutional power of the General Assembly, by a concurrent vote of two-thirds of the members of each branch thereof, to provide for the increase of the members of the Senate and House of Representatives in the General Assembly, and to apportion the members thereof unequally among the several counties of the State ?



“ 2. Is it competent for the General Assembly to provide, by law, for the election of members of either branch, or both branches of the General Assembly, from any or every county, from districts created by law within such county, in lieu of the election thereof upon a general ticket throughout the county ?”

It is, I think, the first time that the Legislature has ever requested an opinion from the Judges upon any question ; and there will be different opinions whether the resolutions should be responded to upon the points presented. It is certainly, in no sense obligatory upon the Judges to give opinions upon the validity of proposed legislation, and they might well decline, respectfully, to perform, in this case, the service desired of them ; but the character of your body, as coming directly from the people, and representing, qualifiedly, the sovereign power, as well as the spirit of compliance with a reasonable request which animates most men, prompts me to give you the best opinion I have been able to form upon the questions propounded.

Of course, no one can suppose that the opinions given will, in any respect, be judicial interpretations of the Constitution ; such can only be made in the trial of causes between party and party. They will be simply the best judgment that can be formed by the Judges respectively upon the proposed questions that is, the expression of the mind of five experienced lawyers—but without the aid, at times so necessary, and always so welcome, of discussion by counsel learned in the law.

In order to an intelligent presentation of views upon the subject proposed, it is necessary that some attention shall be given to the subject of government in this State.

Before the Declaration of Independence, the colonies in America, of which what was called the “ Three Lower Counties upon Delaware ” was one, were in no sense independent political bodies. They had, it is true, legislative power, which resided in certain elected or selected bodies, co-operating with the proprietary, or his successors, and their lieutenant governors ; but all their acts of legislation, except such as partook more of the nature of by-laws than general statutes affecting the body politic, were sent to England for approval by the royal authority. If acceded to, they became part of the law of the land, otherwise, they were wholly inoperative and void. There was not among these colonies collectively, nor in them individually, any such thing as sovereign power. When that Declaration was proclaimed

on the 4th of July, 1776, each of those colonies cast off the garments which characterized her dependency upon the sovereign power of England, and clad herself in the robes worn by none but independent political societies. In the twinkling of an eye, what before was a mere colony of England, became her equal in all the powers that pertain to sovereign communities. The legislative power—that immense force which, unrestrained by bonds fastened by the possessors of it, knows no limit of exercise—became free. The right to make any laws, the same as the British Parliament could do, at once attached to the new-born State ; and, but for what the people of Delaware shortly after did, would have existed to this very day.

The new relation, the responsibilities it created, and dangers internal, which inhere in all governments where the legislative power is unrestrained, at once required of the citizens that some law, fundamental in its nature, and supreme in its exercise, should be provided to control the absolutism which otherwise would exist in the law-making authority. The power to make laws, to govern by legislation, to define the personal and property-rights of men, to exercise sway over all the interests of the entire body-politic, and of the individuals who compose it, was the attribute of a legislative body—that body being the delegate of such power, which resides in every independent political society. Uncontrolled by some paramount provision, fundamental in its nature, emanating from the ultimate source of all power—the people—the legislative power would be practically unlimited. Nothing was left after the imperial power was thrown off but the common law, which was the birthright and inheritance of the colonists, and secured them in their persons and property. Under these circumstances, all the colonies (except one, which was satisfied with a liberal form of government received from the royal authority,) called together a portion of their best men, to enact a body or code of fundamental law, distributing the powers of government, and defining the restraints which should be imposed upon the Legislature. In other words, the people, fearing to trust the whole administration of public affairs, executive and judicial, as well as legislative, to a single body, or, as we call it, legislature, (though their own agents, to be selected annually by themselves, would compose it,) appointed a Convention to make a Constitution, or frame of government for the people. This body was composed of thirty delegates, ten from each county, chosen by the people thereof respectively, who terminated their

labors on the 20th of September next following the Declaration, by the completion of an instrument which continued in existence until the 20th of June, 1792, when it was superseded by another, which other is the supreme law at this day, except as modified by that adopted on the 2d of December, 1831, by a Convention then held according to Constitutional forms, and an amendment adopted at the January session, 1875, of the General Assembly.

By the last article in the Constitution of September, 1776, after declaring that neither the declaration of rights and fundamental rules of the State, nor certain of its enumerated articles, ought ever to be violated on any pretense whatever, it is declared that "no other part of this Constitution shall be altered, changed, or diminished without the consent of five parts in seven of the Assembly, and seven members of the Legislative Council,"—the Legislature consisting of a Council, composed of three members from each county, and a House of Assembly, consisting of seven members from each county. Our Senate and House of Representatives now answer to these bodies. So that the Legislature of that day could change the Constitution in any respect, provided five-sevenths of the Assembly, and seven-ninths of the Council agreed to do so, and no confirmation by any subsequent Legislature was required.

When the convention of 1792 assembled, that body entered upon the business of making a new Constitution, adopting many of the features of the old one, but establishing many very material changes, one of which was with respect to the mode of altering the fundamental law, it being provided, by different clauses, that a convention should be held for that purpose, or amendments should be made by the legislature, two-thirds of the members of one session with the approval of the Governor proposing them, and three-fourths of the succeeding one ratifying them, after due publication. This feature was left untouched by the amending convention of 1831, and is now part of the paramount law. Another of these changes was, in effect, that the General Assembly, two-thirds of each branch thereof concurring, might increase the number of senators and representatives, or of either, provided the number of senators should never be less than one-third, nor more than one-half of the representatives. (Article II.) This is the only authority given to change any feature of the fundamental law, (if feature it may be called,) at a single session of the legislature, except that one

(Section 24 of Article VII) providing for an increase in the number of justices of the peace—which may be made by like proportion of members of each house. The Constitution provides that the Senate shall consist of nine members, three from each county, and the House, of seven from each county. It also provides that the number of justices of the peace in each county shall not be less than twelve. Practically, the provisions were considered to be virtually the same, for the number of the latter appointed for each county was twelve

Under the colonial system, that is, from November 7th, in the year 1766, until the Declaration of Independence, the number of members of the Council was two from each county, making twelve in all, while the union lasted, and four from each county of the House of Assembly, making twenty-four in all—there being six counties organized, that is, three in what was then the Province, and is now the State, of Pennsylvania, and which were sometimes called the three upper counties, and New Castle, Kent and Sussex, the three lower counties upon Delaware. After that event and the time of the adoption of the Constitution of 1776, (20th of September), the number was fixed the same as at the present time—the difference, with respect to change in number being, that by this Constitution five parts in seven of the House, and seven parts in nine of the Senate, could change *any* part of the instrument without any ratification by a subsequent legislature, whereas one legislature, under the substituted system, could only change it in two particulars, viz.: with respect to increase of members of the legislature, and increase beyond twelve of the number of the justices of the peace, provision being made, as has been said, in each case, for such by a two-thirds vote of each branch of the legislature. This, however, can hardly be considered alteration or change.

I have now laid before you the necessary facts for a better understanding of the whole subject than you could have had without them; and I proceed to state the conclusions which my mind has reached upon the questions recited above and the reasoning by which I support them.

So much has been said and written, during and since our late unfortunate war, about constitutional rights, and executive and legislative constitutional wrongs—all relating to the Constitution of the United States—and so great is the confusion, not to say want of knowledge, in the minds of men upon the

subject of constitutional power, that it will, I think, conduce to a better understanding of the subject in hand, if I consume some time in showing the difference between the United States Constitution, and that of a State ; for example, our own Commonwealth.

It is perfectly and fully settled, by abundant judicial decision, of the Supreme Court of the United States, that the general government, the United States Government, or National Government (whatever you may choose to call it) has only such powers as are granted to it in express terms by the Constitution itself, and such other, or incidental powers, as are necessary to carry the expressly granted powers into execution. Take an example of incidental power, and one will suffice. By the eighth Section, of Article one, of the U. S. Constitution, Congress has power to "coin money, regulate the value thereof," &c. This power would be of little service, if its exercise were limited by the very words quoted. Accordingly, it has always been understood that it was necessary, in order to carry that expressly granted power into effect, that Congress should have, as an incident of it, the right to buy real estate for mints and machinery for mintage ; and also bullion of the precious metal to be coined into currency. No more reasonable interpretation can be put on any power expressed in general terms—as all powers in Constitutions must necessarily be. It is impossible to provide beforehand for every exigency or want that may arise, and hence, in all fundamental charters, grants of power are necessarily made in broad terms, so as to allow for applicability to a new condition of things when it arises. There is always, however, great danger in giving the rein to the imagination as to what the Constitution may be made to sanction. On this account, most of the States, when the Constitution of the United States was submitted to them for their approval, either by their Legislatures or the people, through a convention of delegates, as they might prefer, coupled their approval with suggestions of amendment, which were promptly adopted, and are contained in the first twelve articles of the existing amendments. The 10th of these articles is in these words: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The object of this clause was to prevent any assumption of power by the Congress of the United States by inference of its value or the public welfare. We then see what the United States

Constitution is—a grant of powers by the old colonies, or the people of them, for certain well-defined, expressly-granted powers, with necessary, and only necessary, incidental powers for their exercise; these powers of wide scope, of course, as they ought to have been, and sovereign within their sphere, but by no means embracing all the powers of government. To have given all the governmental powers to it, would have been *felo de se* on the part of the States. Their autonomy, or individuality, remained, and yet remains.

A very cursory reading of the Constitution of the United States will show you how very limited are the legislative powers of the United States. They are confined to matters of National concern, and have nothing to do with the affairs of individuals, except as such may become amenable to some National law, or the jurisdiction of the National Courts under Constitutional provisions warranting such law, or giving such jurisdiction. I am not referring to any but civil matters. But when we come to regard a State, our perceptions are wonderfully quickened; and we behold a political body possessed of absolute power over everything, except where the exercise of some portion of it is prohibited by the National compact, which all of them made for their own restraint. But such prohibitions are nearly all of them contained in the two paragraphs of Section 10, of Article I, above referred to. In every other respect a State would be entirely free to do as she pleased. Now, how does a State express her sovereign will about anything? Not through her executive authority, which is vested in a Governor; nor through her judicial power, which is her judiciary system, and is exercised through the Chancellor, Judges, Register, and Justices of the Peace, but through her Legislature, as is done in England through the Parliament. This power would be entirely absolute, but for the restraints which the people of the State, in the several Constitutions they had made, imposed upon themselves when they should act in a legislative capacity. Without these restraints, it is safe to say, no State Government could have been formed. They are to be found in the Bill of Rights, affixed to those several instruments, and form the conditions under which the people of Delaware agreed to unite, politically, for their common benefit. And so important were these restraints to real liberty, that the people were not willing to trust a single Legislature with the power of altering or abrogating them; but provided that no alteration should be made except by a State

Convention, called for the purpose under certain specific forms of proceeding, or by a vote of two-thirds of each branch of the Legislature, submitting amendments, with the Governor's approval, and ratification of them by three-fourths of the next succeeding Legislature—the amendments themselves to be laid before the people for their approval, by six months' publication before the election. These restraints are, for the most part, the same as those imposed upon the sovereign power in England, or what was so when monarchical power was the sovereignty, by Magna Charta and the Petition of Right; they, however, being but statutes, are subject to parliamentary power, and can be repealed at any time. Not so our Bill of Rights and Constitution, as I have before pointed out. They must be submitted to the ordeal of two sessions, or the people at large in State Convention of delegates. Governmental power, then, in this country, is, as to the General Government, such as is granted to it; as to the State government, it is all such as is not withheld from it.

With the views above presented, it is too plain for further observation, that the organ of the State Sovereignty—the State Legislature—can do whatever it chooses, in the matter of exercising the popular will, except where it is restrained from so doing. The Legislature, in passing laws, does not look into the Constitution, to see whether it may do a particular act of legislation, but only to ascertain whether it is prohibited from doing it. If there is no express prohibition, nor any necessarily existing in the nature of things, viewed in the light of the character of the Government, and its ends and purposes, then the legislation may be enacted, and all are bound by it. We are now able to come up to the very questions propounded by the above resolution.

The 2d section of Article II, of the Constitution of this State contains the following provision:

“There shall be seven representatives chosen in each county, until a greater number of Representatives shall, by the General Assembly, be judged necessary; and then, two-thirds of each branch of the Legislature concurring, they may, by law, make provision for increasing their number.”

The 3d Section of the same Article reads thus:

“There shall be three Senators in each county. When a greater number of Senators shall, by the General Assembly, be

judged necessary, two-thirds of each branch concurring, they may, by law, make provision for increasing their number; but the number of Senators shall never be greater than one-half, nor less than one-third, of the number of Representatives."

The language of these articles is very plain, and needs no exposition. But the question is, can this increase be made by augmenting the representation from one county alone, or two counties? Must it be made by an equal distribution of the increase among them all? The Constitution is entirely silent with respect to that. At the time these clauses found their way into the Constitution, Sussex had the most population, Kent being only four hundred and thirteen behind her, while New Castle was nineteen hundred and six behind Kent. Up to 1830, New Castle had only got ahead of Sussex, by two thousand and one hundred and five of population. The Convention to amend the Constitution, met in 1831, in November. By this time manufactories of cotton and woolen fabrics, to say nothing of other articles, had become well established on the Brandywine and elsewhere, and it must have been apparent that inequality of population (especially as Kent had not increased any in the decades succeeding the last of the preceding century, but on the contrary, had fewer people in 1830, than she had in 1800,) resulting from the spread of manufacturing industries, would soon send New Castle far ahead of her sister counties. It would seem reasonable, then, to suppose that some steps, if any were thought necessary, would have been taken in the Convention of 1831, to secure an increase of representation without the peril of want of legislative strength at the ratifying session, to secure the necessary three-fourths, or the greater one of being able to accomplish the desired end through a State convention. But a search into the proceedings of the Convention of 1831 has not enabled me to find but one motion with respect to membership of the Houses, and that was made by Mr. Rogers, of New Castle, that the number of Senators should be four from each county. It was voted down. It appears to me not unreasonable to draw, from the facts above stated, with respect to non-action in the Convention, the conclusion that the members from that county must have contented themselves with the belief that the Legislature could, at any time, give them increase if they needed it—there being no language in the instrument expressly forbidding it. Three of the members from New Castle County, in that Convention, were accomplished lawyers, in the first rank of the profession.



There being nothing in the Constitution expressly prohibitory of legislation at one session to make the necessary increase, what is there, in the nature of the State Government, or the fitness of things, (if such consideration should seem to be entitled to any weight,) to oppose action at any time? The former would not be affected in the least by inequality of county representation; at any rate, I can conceive of no way in which it would. And I can discern no reason why any member of the Convention, much less so enlightened a body, should have thought that increase should be made nowhere, if not made everywhere. That would be, I think, to impute to them a want of liberality of sentiment, and appreciation of the nature of a republican government, they would have shrunk from acknowledging. They must, as intelligent men, have foreseen that the immense industries that would grow up to utilize the splendid water-power of the New Castle rivers and creeks, would soon draw rapidly within her limits, as was then beginning to be done steadily, a population that would increase in like rate with that of other growing sections similarly favored. If that Convention, foreseeing this, did not think fit to prohibit any increase of representation that should not be alike for all the counties, what reason is there for finding one to exist in the simple provision with respect to the number for each branch, mentioned above? Why not say, if such was the meaning of the Convention, that no increase should be made unless equal for each of the counties? They did not say it, and, as I believe, did not mean it. There were some lawyers there whose habit was to leave nothing to inference. Besides, we must suppose the eminent citizens who composed that body of 1831, as well as their predecessors of 1792, were men acting under a sense of justice. What sort of justice would it be to decree that no inequality, however great, should ever make representation of every county in the Legislature otherwise than equal! I cannot see anything in the clauses quoted, or in the appropriateness of things, to prohibit the Legislature from making increase of their body in what county soever they choose; on the contrary, from what I have before said, it must be evident that I believe the power to increase, to exist, with no impediment to its exercise but the necessary two-thirds vote of each branch of the Legislature.

I have treated the question, first submitted, abstractly, requiring no aid from any action in an analogous provision. But there is such an one, and it has been interpreted over and over

again. I refer to the following clause, being the 24th Section of Article III. of the Constitution of 1792 and 1831 :

“The Governor shall appoint a competent number of persons to the office of Justice of the Peace, not exceeding twelve in each county, until two-thirds of both Houses of the Legislature shall, by law, direct an addition to the number, who shall be commissioned for seven years, if so long they behave themselves well, but may be removed by the Governor within that time, on conviction of misbehavior in office, or on the address of both houses of the Legislature.”

If it should be contended by any, that because the number of members for each branch of the Legislature is fixed as it is in the Constitution, therefore increase cannot be made without retaining the same equality of representation, I reply, that the clause just quoted (which in all essential respects with reference to this discussion is the same as those in the second Article of the Constitution aforesaid) has repeatedly received interpretation at the hands of the General Assembly and the Executive, in the case of new creations of Justices of the Peace throughout the State, where no regard whatever has ever been paid to the fact that the original number was not to exceed twelve. What argument for equality of representation can be drawn that will not be equally applicable to equality of numbers of Justices of the Peace, I am unable to conceive. It seems to me that the practice, with respect to additional Justices of the Peace, begun a long time back, and acquiesced in by all the departments of the government and by the public at large, (for there is no evidence that it ever was questioned by anybody,) ought, of itself, to establish a construction for the clause under consideration. I repeat that I think the Legislature has the power mentioned in the first of the above quoted interrogatories.

With reference to the second of the interrogatories above set forth, I have to say that, in my opinion, the Legislature has no power to provide by law for the election of representatives or senators in the General Assembly by districts within a county. The express language of the Constitution is, in my judgment, against it. There are two clauses with respect to this matter, and they are similar in their requirements :

“The representatives shall be chosen for two years by the citizens residing in the several counties.” *Section 2 of Article II.*

“The senators shall be chosen for four years by the citizens residing in the several counties.” *Section 3 of Article II.*

The words, *by the citizens residing in the several counties*, seem to me to preclude the idea that a member of the Legislature may be elected by the citizens residing in a portion of one of them; though I see no reason why the Legislature may not, by law, direct that a certain number of either body shall be residents of a certain district, one or more. Distribution of them, for the public benefit, may be a very necessary measure; and there is nothing to prevent it being done. Until of late years, no necessity appears to have arisen to raise the subject for consideration—which may account for the fact of absence of legislation—but political parties have acted upon it in the formation of their tickets. I answer the second interrogatory in the negative.

I have the honor to be, with the highest respect, your obedient servant,

J. P. COMEGYS, *Chief Justice.*

DOVER, January 30, 1883.

Mr. Watson offered a Joint Resolution, entitled,

“Joint Resolution referring the opinions of the Chancellor and Chief Justice to the Committee on Representation,”

Which, on his motion, was read, and on his further motion,

Was *Adopted.*

*Ordered* to the Senate for concurrence.

Mr. Sutton offered a Joint Resolution, entitled,

“Joint Resolution concerning stationery for use of Legislature,”

Which, on his motion, was read,

And, on motion of Mr. Messick, was *Adopted.*

*Ordered* to the Senate for concurrence.

Mr. Comegys offered a Joint Resolution, entitled,

"Joint Resolution for Printing opinions of Chancellor and Chief Justice,"

Which, on his motion, was read,

And, on motion of Mr. Denney,

Was

*Adopted.*

*Ordered* to the Senate for concurrence,

On motion, the House adjourned.

WEDNESDAY, January 31, 1883—10 o'clock A. M.

The House met pursuant to adjournment.

Prayer by Chaplain of the Senate, L. W. Gibson.

Roll called.

Journal read and approved.

Mr. Watson, on behalf of the Committee on Federal Relations, to whom was referred the papers relating to the purchasers of property at Yorktown by the United States Government, transmitted to the General Assembly by the late Governor, reported, with said papers, a Joint Resolution, entitled,

"Joint Resolution, in reference to securing and preserving Temple Farm and the Moore House, at Yorktown, Virginia."

Mr. Cooch, on behalf of the Committee on Municipal Corporations, to whom was referred the House bill, entitled,

"An Act to further amend the act, entitled, 'An act to re-incorporate the town of Dover,' passed at Dover, February 27, 1879,"

Reported the same favorably, with a recommendation that it pass.

Mr. Barlow, on behalf of the Committee on Private Corporations, to whom was referred the House bills, viz :

“ An Act to incorporate the Gazette Publishing Company,”

“ An Act to incorporate the Star Publishing Company,”

“ An Act concerning the George P. Whitaker Company,”

Reported the ~~same~~ favorably, with a recommendation that they pass.

• Mr. Lowe, on behalf of the Committee on Printing, to whom was referred the proposed new Rule 27, submitted a report, which, on his motion, was read, as follows :

The Committee on Printing, to whom was referred the proposed Rule 27, respectfully report that they have carefully estimated the expense of printing the bills brought before the House. The printing in style and type like the Act to authorize the P. W. & B. R. R. Co., to straighten, widen or improve its line of road, &c., recently printed for the use of the House on three pages, would cost about \$3, and generally, not exceeding \$1.50 per page. The total number of bills introduced into the Legislature at last session was less than 400, and the average length of those published not much, if any, over two pages, such as the printed bill above referred to. Fully one-half or more of the published bills were in part private bills. Your committee think the cost of printing all the bills would not be more than from \$1000 to \$1200, of which not more than one-half would fall on the State. They think, also, that to require all private bills to be printed at the expense of parties, would *conduce* to great improvement in the drawing of bills—many of which, already presented to the House, have been needlessly long and often filled with provisions which ought to have been included in by-laws or ordinances.

Your committee recommend the adoption of the rule, with an amendment, so as to have the bills printed immediately after first reading. If the rule is adopted, the printing of bills should be *closely* overlooked by the Committee on Printing, and should it appear that the judgment of your committee is at fault, respecting the probable expense, the House can, at any time, change its practice, if it deem best to do so.

It would seem that the saving of a few days in the length of the session would more than cover the expense of printing all bills, public and private.

Mr. Lowe, also, presented the Report of the State Board of Health, recommending 300 copies to be printed for the use of the House.

Mr. Wheatley presented a petition of Julia Morgan, asking for a divorce from her husband, George W. Morgan,

Which, on his motion, was read, and, on his further motion, was referred to the Committee on Divorces.

Mr. Perry presented a petition of J. M. Martin and others, concerning Live Stock in School District, No. 18,

Which, on his motion, was read, and, on his further motion, was referred to the Committee on Roads and Vacant Lands.

Mr. Wheatley presented a petition for a stock law in School District, No. 68, in Sussex county,

Which, on his motion was read, and, on his further motion, was referred to the Committee on Roads and Vacant Lands.

Mr. Messick gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act to amend Section 2, of Chapter 354, of Volume 16, of the Laws of Delaware, entitled, ‘An Act in relation to the collection of taxes for school purposes.’ ”

On motion of Mr. Comegys, the Senate bill, entitled,

“An Act to amend an act, entitled, ‘An Act to establish a State Board of Health for the State of Delaware,’ ”

Was read.

Mr. Messick, in pursuance of previous notice, asked, and, on motion of Mr. Denney, obtained leave to introduce a bill, entitled,

“An Act in relation to the powers of Levy Court,”

Which, on motion of Mr. Messick, was read.

On motion of Mr. Comegys, the Senate bill, entitled,  
 "An Act to incorporate The Johnson Forge Company,"  
 Was read.

On motion of Mr. Comegys, the Senate bill, entitled,  
 "An Act to incorporate the Philadelphia and Smyrna  
 Transportation Company,"  
 Was read.

On motion of Mr. Comegys, the House bill, entitled,  
 "An Act to incorporate the Hickory Grove Cemetery Com-  
 pany, of New Castle county, Delaware,"

Was read a second time, by its title, and, on his further  
 motion, was referred to the Committee on Private Corporations.

On motion of Mr. Lewis, the House bill, entitled,  
 "An Act to incorporate the Harrington Library Associa-  
 tion, Kent county, Delaware,"

Was read a second time, by its title, and, on his further  
 motion, was referred to the Committee on Private Corporations.

On motion of Mr. Cooch, the House bill, entitled,  
 "An Act for the encouragement of agriculture in the State  
 of Delaware, by providing for the appointment of a Board of  
 Agriculture,"

Was read a second time, by its title, and on his further mo-  
 tion, was referred to the Special Committee on Immigration.

The House proceeded to the business on the calendar.

The Joint Resolution in reference to securing and pre-  
 serving Temple Farm and the Moore House, at Yorktown,  
 Virginia, was taken up for consideration ;

On motion of Mr. Watson, the Joint Resolution was read,  
 and, on his further motion was *Adopted.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

"An Act to further amend the act entitled, 'an act to re-incorporate the town of Dover, passed at Dover, February 27th, 1879, was taken up for consideration',"

And, on motion of Mr. Denney, the bill under consideration was read a third time, by paragraphs, in order to pass the House;

On the question, "shall this bill pass the House?"

The yeas and nays were ordered, which, being taken, were as follows:

Yeas, Messrs. Crawford, Denney, Dukes, Jacobs, Lewis, Lowe, Messick, Sutton, Temple, Wheatley—10.

Nays, Messrs. Cooch, Frazer, Perry, Watson, Williams, and Mr. Speaker—6.

On the calling of the yeas and nays, there appeared yeas, 10; nays, 6.

Accordingly the bill was

*Lost.*

The House bill, entitled,

"An Act to incorporate the Gazette Publishing Company, was taken up for consideration,

And on motion of Mr. Comegys,

The bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, "Shall this bill pass the House?"

The yeas and nays were ordered, which, being taken, were as follows:

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker—19.

Nays—none.

So the bill, having received the required constitutional majority,

*Passed the House.*



*Ordered* to the Senate for concurrence.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had concurred in the following House bill and Joint Resolutions :

“An Act to incorporate the Capitol Building and Loan Association,”

“A Joint Resolution, for printing the opinions of the Chancellor and Chief Justice,”

“A Joint Resolution, concerning stationery for the use of the Legislature,”

“A Joint Resolution, referring judicial opinions to the Special Committee of both Houses, acting as a Joint Committee.”

Also, that the Senate had passed, and asked the concurrence of the House in the following bills :

“An Act abolishing the wearing of a convict’s jacket as a badge of crime,”

“An Act for the preservation of peace and good order,”

“An Act for the encouragement of immigration, and to foster the agricultural interests of the State.”

He also returned to the House the report of the State Librarian, and presented the report of the Joint Committee thereon.

The House bill, entitled,

“An Act to incorporate the Star Publishing Company,”

Was taken up for consideration,

And, on motion of Mr. Lowe, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker—18.

Nays—None.

So the bill, having received the required Constitutional majority, *Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act concerning ‘The George P. Whitaker Company,’ ”

Was taken up for consideration,

And on motion of Mr. Cooch, the bill under consideration was read a third time, and by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Lewis, Lowe, Messick, Perry, Sutton, Temple, Watson, Wheatley, Williams and Mr. Speaker—18.

Nays—none.

So the bill having received the required constitutional majority, *Passed the House.*

*Ordered* to the Senate for concurrence.

The report of the Committee on Printing, was taken up for consideration,

On motion of Mr. Lowe, the report was read.

On the question, “shall the report, as read, be adopted,

The yeas and nays were ordered, which being taken, were as follows :

Yeas, Messrs. Barlow, Comegys, Crawford, Dukes, Jacobs, Lowe, Messick, Sutton, and Mr. Speaker—9.

Nays, Messrs. Cooch, Denney, Frazer, Lewis, Perry, Rawlins, Temple, Watson, Wheatley, and Williams—10.

There appeared 9 in the affirmative, and 10 in the negative,

So the report was, accordingly,

*Lost.*

On motion the House adjourned.

SAME DAY, January 31, 1881—3 o'clock, P. M.

House met pursuant to adjournment.

On motion of Mr. Lowe,

That portion of the Board of Health Report relating to Vaccination, was read,

And on his further motion, 300 copies of the Board of Health Report, and 1000 copies of the report on Vaccination, were ordered to be printed for the use of the House.

The Report of Joint Committee on the Librarian's Report, was laid before the House,

Which, on motion of Mr. Cooch, was read, as follows :

The Joint Committee, to whom was referred the Report of the Librarian, beg leave to report, that, In the performance of their duties, they visited the State Library, and after a full examination thereof, in the presence, and with the assistance of the Librarian, submit as follows, to wit :

1st, That the present library rooms are wholly insufficient in size to accommodate the books now on hand, without considering the annual accumulation of about 1000 volumes each year ; there being now about 600 volumes lying on the floor, for want of space to shelve them. We therefore suggest and recommend to the General Assembly, that immediate steps be taken to enlarge the library rooms in such a way as will answer the purposes intended and suggested by the librarian in his re-

port, to wit: "to make ample room for the constant increase of books."

2nd, Your Committee also recommend the passage of a general law defining at length, the duties, and fixing salary, of the Librarian, instead of the present practice of doing it, in the Joint Resolution appointing him. We also recommend incorporating, particularly, in said law, a provision that the Library should be under the control of the Librarian,—that he shall keep it open daily for four hours, instead of two, as at present. That all books taken from the Library shall be returned within thirty days after the date of taking them out, unless the persons having them made application in writing, for the renewal for thirty days more, but that no one shall be entitled to more than one renewal. That if the books are not returned, as specified, the holder shall be subject to a fine of 10 cents for each and every week thereafter. We deem such a law advisable in order to preserve the books and keep them in the Library and under the Librarian's control.

We also recommend that the exchange of books with other States be made by and through the Librarian, in accordance with the practice of most other States. With this increase of duties imposed upon the Librarian, whose duties, when properly attended to, are already quite onerous, we would suggest the propriety of some increase in his salary.

The time for keeping the Library open, as we have before suggested and recommended, is only intended for such times as the General Assembly and Courts are not in session, in which cases we recommend it to be open from 9 A. M. to 9 P. M.

The condition of the Library, under Mr. Kenny, the present very efficient Librarian, is very good, with the exception of those things of which we have spoken, and over which he has no control. Mr. Kenny has been uniformly kind and accommodating in discharging the duties of his office, and in his retirement the State has lost a good and efficient officer.

All of which is respectfully submitted, &c.,

ALEX. B. COOPER, *Ch'n*,  
S. D. ROE,  
T. J. PERRY,  
B. L. LEWIS,  
W. A. COMEGYS,

And, on his further motion, the report was adopted and re-committed, with instructions to report by bill or otherwise.

Mr. Cooch moved that the authorities of the town of Seaford furnish the House with fifty printed copies of the pending bill, entitled,

“An Act to re-incorporate the town of Seaford.”

On the question, Shall this motion prevail?

It was decided in the negative, and the motion was *Lost*.

The Speaker gave notice that, on to-morrow or some future day, he should ask leave to introduce the following bills:

“An Act to incorporate the Young Men’s Democratic Club, of Wilmington,”

“An Act limiting the time during which a judgment shall be a lien on real estate,”

“An Act to incorporate the J. M. Pusey Company,”

“An Act relating to Judgments.”

On motion, the House adjourned.

THURSDAY, Feb. 1st, 1883—10 o'clock, A. M.

House met pursuant to adjournment.

Prayer by the Chaplain.

Roll called.

Journal read and approved.

The Speaker laid before the House the opinion of Judge Wooten, in answer to a question submitted to him by Joint Resolution of the two Houses,

Which was read as follows:

*To the Senate and House of Representatives of the State of Delaware :*

GENTLEMEN : I have considered the question submitted to me by your Joint Resolution of the 21st instant, and, in reference to the first one, it is perfectly clear to my mind that it is within the constitutional power of the General Assembly, by a concurrent vote of two-thirds of the members of each branch thereof, to provide, by law, for the increase of the members of the Senate and House of Representatives in the General Assembly, and to apportion them *unequally* among the several counties of the State, keeping within the prescribed limits of the Constitution as to the number each branch is to bear to the other.

The language of the Constitution seems to me to be unmistakable. It declares that there *shall* be "seven Representatives chosen in each county until a greater number of Representatives shall, by the General Assembly, be judged necessary ; and then, two-thirds of each branch of the Legislature concurring, they may, by law, make provision for increasing their number."

"There shall," says the Constitution, "be three Senators chosen in each county. When a greater number of Senators shall, by the General Assembly, be judged necessary, two-thirds

of each branch concurring, they may, by law, make provision for increasing their number ; but the number of Senators shall never be greater than one-half, nor less than one-third, of the number of Representatives."

*(Article II, Sections 2 and 3 of the Constitution.)*

As to the second question, I have great doubts. The Constitution does not, in my judgment, contemplate the election of public county officers in any other mode than by a general county vote, otherwise something would appear on its face from which an inference, at least, could be drawn, recognizing legislative power to provide some other mode or system of election. I am unable to find anything in the Constitution which enables me to draw such an inference. The Constitution declares that the Representatives and Senators shall be chosen by the *citizens residing in the county*, not by a portion of the citizens residing in the county. *(Article II, Sections 2 and 3 of the Constitution.)*

In this view of the subject I am of the opinion that members of the Legislature cannot, by legislative enactment, be made elective by districts, or otherwise than by a general county vote, without a constitutional amendment made by one of the two modes provided for by the Constitution.

Finding nothing in the Constitution clothing the Legislature with power to provide, by law, for choosing or electing Senators and Representatives by districts, we are without any guide or mode, other than the uniform custom under the old and present Constitutions, the language and provisions of both being the same in reference to the mode of choosing Senators and Representatives.

The Legislature passed an Act on the 4th day of February, 1852, 9th Volume, Delaware Laws, page 631, which apportions the delegates unequally among the respective hundreds, giving some one delegate, and others, two ; and it provides, by the 3d Section thereof, that the delegates shall be elected by the voters of the respective hundreds, who are qualified and entitled to vote for Representatives.

Delegates were so elected, a Convention held, and a Constitution made, which was submitted to the people and rejected. In that Convention were some of the most distinguished gentlemen of the State, and they made no objection to the mode of electing the delegates.

This would seem to favor the mode of electing by districts. But the Constitution provides, IX Article, that the members of a convention, shall be chosen in the same manner, at the same places, and at the same time, that Representatives are, by the citizens entitled to vote for Representatives. Whether the Legislature did not, in passing this act, overleap the bounds of their constitutional power, is a question worthy of very grave consideration.

I am called upon for an opinion on the questions submitted to me by the joint resolution of the Legislature, and in forming that opinion, I must look at the Constitution as I find it, in reference to which these questions are raised, and thus make up *my own* opinion, and confining myself to an interpretation of the Constitution, I am led to the conclusion that representation may, by legislative enactment, be *unequally* increased; but the members cannot be made elective by districts, except by constitutional amendment.

EDWARD WOOTTEN.

January 29th, 1883.

Mr. Watson offered a Joint Resolution, entitled,

"Joint Resolution, relating to printing the opinions of Judges,"

Which, on his motion, was read, and, on his further motion, was *Adopted.*

*Ordered* to the Senate for concurrence.

Mr. Justis, on behalf of the Committee on Revised Statutes, to whom was referred the House bill, entitled,

"An Act to amend Chapter 391, of Volume 16, of the Laws of Delaware,"

Reported the same back to the House, with a recommendation that it pass.

Mr. Barlow, on behalf of the Committee on Private Corporations, to whom was referred the following House bills, entitled,

"An Act to incorporate Harrington Library Association, Kent county, Delaware,"



“An Act to incorporate the Hickory Grove Cemetery Company, of New Castle County, Delaware,”

Reported same back to the House, with the recommendation that they pass.

He also reported, favorably, the Senate bill, with an amendment, entitled,

“An Act to incorporate the River Front Land Improvement Company.”

Mr. Dukes presented a petition of Horace J. Hickman and others, praying for the passage of an Oyster Law for the waters of Rehoboth Bay and Indian River,

Which, on his motion, was read, and on his further motion, was referred to the Committee on Revised Statutes.

Mr. Messick, in pursuance of previous notice, asked, and, on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

“An Act to amend Section 2, of Chapter 354, of Volume 16, of the Laws of Delaware, entitled, ‘An act in relation to the collection of taxes for school purposes,’ ”

Which, on his motion, was read.

Mr. Perry gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act, entitled, ‘An act to better protect the Health of the people.’ ”

Mr. Dukes, in pursuance of previous notice, asked, and, on motion of Mr. Barlow, obtained leave to introduce a bill, entitled,

“An act to incorporate the Agricultural Canal, of Sussex county,”

Which, on his motion, was read.

Mr. Lewis gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act in relation to the ‘Free Schools of the town of Harrington, Delaware.’ ”

Mr. Frazer gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act to amend Chapter 117, Volume 13, of the Laws of Delaware.”

On motion of Mr. Crawford, the Senate bill, entitled,

“An Act for the Encouragement of Immigration and to Foster the Agricultural Interests of the State,”

Was read.

Mr. Justis, in pursuance of previous notice, asked, and on motion of Mr. Barlow, obtained leave to introduce a bill, entitled,

“An Act to amend an act, entitled, ‘Act to incorporate the town of New Port.’ passed April 7, 1873,”

Which, on his motion, was read.

Mr. Comegys, in pursuance of previous notice, asked, and, on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

“An Act to incorporate the Young Men’s Democratic Club, of Wilmington, Delaware,”

Which, on his motion, was read.

Mr. Comegys gave notice that, on to-morrow or some future day, he should ask leave to introduce the following bills, viz :

A further supplement to “An Act to incorporate the New Castle County Mutual Insurance Company,” passed at Dover, February 6, 1849, and amended by an act passed January 25, 1869.

“An Act authorizing the Prothonotary of New Castle County to copy a certain judgment index.”

Mr. Comegys, in pursuance of previous notice, asked, and, on motion of Mr. Watson, obtained leave to introduce a bill, entitled,

“An Act to incorporate the J. M. Pusey Company,”

Which, on his motion, was read.

Mr. Cooch moved that the vote by which the House bill, entitled,

“An Act to further amend the act, entitled ‘An act to re-incorporate the town of Dover,’ passed at Dover, February 27, 1879,”

Was lost, be reconsidered, which motion *Prevailed.*

And on motion of Mr. Denney, the vote, by which the various sections enacting clause, and title of the bill were adopted were successively reconsidered,

And on his further motion, the vote by which the bill was read a third time, by paragraphs, in order to pass the House, was reconsidered, and, on his further motion was recommitted.

The House proceeded to the business on the calendar.

The House bill, entitled,

“An Act to amend chapter 391, volume 16, Laws of Delaware, was taken up for consideration,

And on motion of Mr. Rawlins, the bill under consideration was read a third time, and by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

It was decided in the affirmative,

And the bill *Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act to incorporate the Harrington Library Association, Kent County, Delaware,” was taken up for consideration,

And, on motion of Mr. Lewis, the bill under consideration, was read a third time, and by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatly, Williams, and Mr. Speaker—20.

Nays—None.

So the bill, having received the required Constitutional majority, *Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act to incorporate the Hickory Cemetery Company, of New Castle county,”

Was taken up for consideration,

And, on motion of Mr. Comegys, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “Shall this bill pass the House ?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatly, Williams, and Mr. Speaker—20.

Nays—None.

So the bill, having received the required Constitutional majority, *Passed the House.*

*Ordered* to the Senate for concurrence.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had concurred in the following House bills, viz :

“An Act to lay out a new public road in Mispillion Hundred, in Kent county,”

"An Act to incorporate the Dover Glass Works Company,"

With amendments, and asked the concurrence of the House therein.

Also, that the Senate had concurred in the House amendment to the Senate bill, entitled,

"An Act to incorporate the Pusey and Scott Company."

He further informed the House that the Senate had passed, and asked the concurrence of the House in the following bills:

"An Act to incorporate the Pioneer Coach Company,"

A supplement to the act, entitled, "An Act to consolidate the public schools of the town of Smyrna."

Also that the Senate had adopted, and asked the concurrence of the House in a Joint Resolution, in relation to C. S. Pennewill;

He also presented for the signature of the Speaker of the House, the following duly and correctly enrolled Senate bills, the same having been signed by the Speaker of the Senate:

"An Act to incorporate the Robbins Hose Company, No. 1, of Dover, Delaware",

"An Act to incorporate 'The Springer, Morely and Gause Company',"

"An Act in reference to the competency of Juries in capital cases",

"An Act to amend Section eleven, of chapter 109, of the Revised Statutes of the State of Delaware, entitled 'Of Juries'."

He also presented the report of the Joint Committee, appointed to settle with C. S. Pennewill.

The Senate bill, entitled,

"An Act to incorporate 'The River Front Land Improvement Company',"

Was taken up for consideration,

And, on motion of Mr. Barlow, the bill under consideration was re-committed.

The House bill, entitled,

“An Act dividing Christiana Hundred, Northern Election District, into two Election Districts,”

Was taken up for consideration,

And, on motion of Mr. Justis, the bill under consideration was re-committed.

The House bill, entitled,

“An Act to vacate a part of Lake Avenue as laid out on a plot of Lots by the Rehoboth Beach Association,”

Was taken up for consideration,

And, on motion of Mr. Frazer, the bill under consideration, was read a third time, and by paragraphs, in order to pass the House ;

On the question, “shall this bill pass the House ?”

It was decided in the affirmative,

And the bill

*Passed the House*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act to Amend Sections 4 and 5, of Chapter 4, of the Revised Code, entitled, “Of the Passing and Publication of Laws and Journals,” ”

Was taken up for consideration,

And, on motion of Mr. Justis, the bill under consideration was re-committed.

On motion, the House adjourned.

SAME DAY—3 o'clock P. M.

House met pursuant to adjournment.

Mr. Denney offered a Joint Resolution, entitled,

“Joint Resolution relating to State Property,”

Which, on his motion, was read.

Mr Cooch moved that the Joint Resolution, just read, be referred to the Special Committee,

Which motion

*Prevailed.*

Mr. Comegys, on behalf of the Committee on Enrolled Bills, presented as duly and correctly enrolled, the following Senate bill, entitled,

“An Act in reference to the competency of Jurors in capital cases.”

On motion of Mr. Messick, the House bill, entitled,

“An Act in relation to the power of the Levy Court,”

Was read a second time, by its title, and on his further motion, was referred to the Committee on Revised Statutes.

Mr. Barlow gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act to regulate the manufacture and sale of Oleo-margerine, or any other kind of artificial butter.

On motion of Mr. Messick, the Senate bill, entitled,

“A supplement to the act entitled ‘An Act to consolidate the Public Schools of the town of Smyrna,’”

Was read.

Mr. Causey, Secretary of the State, being admitted, informed the House that he was instructed by His Excellency, the Governor, to submit to the House the report of the State Chemist,

Which, on motion of Mr. Cooch, was read.

On motion of Mr. Denney, the Senate amendment to House bill, entitled,

“An Act to incorporate the Dover Glass Works Company,”

Was read, as follows :

“Amend Section 10 by striking out the word ‘State,’ in the fifth line thereof.”

SENATE, Feb. 1, 1883.

Extract from Journal.

CHAS. WHILEY, JR., *Clerk.*

And, on his further motion, the bill was recommitted.

The House bill, entitled,

“An Act to convert that part of the Wilmington and Christiana Turnpike within the limits of the city of Wilmington into a free public highway, or street,”

Was taken up for consideration,

And, on motion of Mr. Frazer, the bill under consideration was read a third time, and by paragraphs, in order to pass the House.

“On the question, “Shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Barlow, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justice, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatly, Williams, and Mr. Speaker—19.

Nays—None.

So the bill, having received the required Constitutional majority,

*Passed the House.*

*Ordered to the Senate for concurrence.*



On motion of Mr. Comegys, the Senate bill, entitled,  
 "An Act abolishing the wearing of convict jackets as a badge of crime,"

Was read.

On motion of Mr. Comegys, the Senate bill, entitled,  
 "An Act for the preservation of peace and good order,"

Was read.

Mr. Barlow offered a resolution, which, on his motion, was read, as follows:

*Resolved*, That when this House adjourns it be to meet at 9 o'clock to morrow morning.

And, on his further motion, the resolution was

*Adopted.*

Mr. Justis, in pursuance of previous notice, asked, and, on motion of Mr. Messick, obtained leave to introduce a bill, entitled,

"An Act to amend Chapter 16, Section 1, of the Revised Statutes of the State of Delaware,"

Which, on motion of Mr. Justis, was read.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had concurred in the House bill, entitled, "An Act to authorize the Delaware and Chesapeake Railway to consolidate and form a union with The Philadelphia, Wilmington and Baltimore Rail Road Company;"

Also, the House bill, entitled,

"An Act to extend the Public Road leading from the town of Milford, in Kent County, to the new wharf on Mispillion Creek."

Also, that the Senate had passed, and asked the concurrence of the House, in a bill, entitled, "An Act to prohibit Live Stock from running at large in School District No. 41, in Sussex County."

Also that the Senate had adopted, and asked the concurrence of the House in the following Joint Resolutions:

Joint Resolution on Printing Opinions of Chancellor and Judges,

Joint Resolution on matters relating to Intemperance.

On motion of Mr. Cooch, the Senate Joint Resolution, entitled,

“Joint Resolution on Printing Opinions of Judges,”

Was read, and, on his further motion, was laid on the table.

On motion of Mr. Cooch, the Senate Joint Resolution, entitled,

“Joint Resolution for appointment of Joint Committee on matters relating to Intemperance,”

Was read, and, on his further motion, was

*Non-concurred in.*

*Ordered* that the Senate be informed thereof, and the Resolution returned to that body.

Mr. Crawford, in pursuance of previous notice, asked, and on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

“An Act to Amend Section 12, of Chapter 16, of the Revised Statutes,”

Which, on motion of Mr. Crawford, was read, and, on his further motion, 200 copies were ordered printed, for the use of the House.

On motion, the House adjourned to meet at 9 o'clock to-morrow morning.

FRIDAY, Feb. 2, 1883,—9 o'clock A. M.

House met pursuant to adjournment.

Roll called.

Journal read and approved.

On motion of Mr. Barlow, the Senate Joint Resolution, entitled,

“Joint Resolution in relation to printing the opinions of Judges,”

Was taken up for consideration,

And, on his further motion the resolution was concurred in:

*Ordered* that the Senate be informed thereof, and Joint Resolution returned to that body.

Mr. Barlow moved that the regular order of business be dispensed with,

Which motion

*Prevailed.*

Mr. Watson, on behalf of the Committee on Enrollment, presented to the House, for the signature of the Speaker, the following duly and correctly enrolled bill, entitled,

“An Act to authorize the Delaware and Chesapeake Railway to consolidate and form a Union with the P. W. & B. R. Company.”

The Speaker gave notice that, on to-morrow or some future day, he should ask leave to introduce the following bills, viz :

“An Act to authorize the Mayor and Council of Wilmington, to borrow twenty thousand dollars,”

“An Act to authorize the Mayor and Council, of Wilmington, to sell and convey certain real estate in said city,”

Also,

"An Act to Revise and Consolidate the Statutes relating to the city of Wilmington."

On motion of Mr. Messick, the Senate bill, entitled,

"A supplement to the Act, entitled, 'An Act to Consolidate the Public Schools of the Town of Smyrna,'"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Education."

On motion of Mr. Crawford, the Senate bill, entitled,

"An Act for the encouragement of Immigration and to foster the Agricultural Interests of the State,"

Was read a second time by its title, and, on his further motion, was referred to the Special Committee on Immigration.

Mr. Barlow gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

"An Act relating to Telegraph Companies."

On motion of Mr. Justis, the House bill, entitled,

"An Act to Amend Section 12, of Chapter 16, of the Revised Statutes,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Revised Statutes.

Mr. Lewis gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

"An Act providing for certain compensation for the Trustees of the Poor of New Castle county.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had adopted a Joint Resolution, entitled,

"Joint Resolution, granting an audience to the Delaware State Temperance Alliance,"

And asked the concurrence of the House in the same.

Mr. Denney moved that the Senate Joint Resolution just received be read,

Which motion

*Prevailed,*

And, on motion of Mr. Lowe, was

*Concurred in.*

On motion of Mr. Barlow, the House bill, entitled,

An Act to incorporate the J. M. Pusey Company

Was read a second time, by its title, and on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Barlow, the House bill, entitled,

"An Act to incorporate the Young Men's Democratic Club of Wilmington, Delaware,"

Was read a second time by its title, and, on his further motion, was referred to Committee on Private Corporations.

On motion of Mr. Dukes,

The House bill, entitled,

"An Act to incorporate the Agricultural Canal of Sussex county,"

Was read a second time by its title, and on his further motion, was referred to the Committee on Private Corporations.

The Speaker gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

"An Act to incorporate The Young Men's Republican Club of Wilmington, Delaware."

Mr. Barlow offered a resolution, which, on his motion, was read, as follows:

*Resolved,* That when this House adjourns, to-day, it stands adjourned until Monday, at 4 o'clock P. M.,

And, on his further motion, the resolution was adopted.

On motion, the House adjourned.

MONDAY, Feb. 5, 1883,—4 o'clock, P.M.

The House met pursuant to adjournment.

Prayer offered.

Roll called.

Journal read and approved.

The Speaker announced the following Committee, to take into consideration Joint Resolution relating to the State property :

Messrs. Cooch, Denney, and Frazer.

Mr. Justis gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“A Supplement to an act, entitled, ‘A supplement to an act to incorporate the purchasers of the Wilmington and Western Railroad.’”

On motion of Mr. Crawford, the Senate Joint Resolution, entitled,

“Joint Resolution in relation to C. S. Pennewill,”

Was taken up for consideration,

And, on his further motion, the resolution was

*Concurred in.*

*Ordered* that the Senate be informed thereof, and the resolution returned to that body ;

And on his further motion, the report of the Joint Committee, accompanying the resolution, was read, as follows:

The Joint Committee, appointed to settle with Caleb S. Pennewill in relation to amount expended by him in making improvements in the State House, and for the expenses of the Library, beg leave to report the following, viz :

Total amount expended.....	\$1,269.17
Allowance to Mr. Pennewill for supervising.....	30.00
	<hr/>
	1,299.17
Amount of his drafts on State Treasurer.....	1,259.32
	<hr/>
Balance due Mr. Pennewill .....	\$39.85
The account and vouchers examined and found correct.	

L. D. ROE,  
D. L. MUSTARD,  
*Committee on part of Senate.*  
J. V. CRAWFORD,  
S. H. MESSICK,  
B. L. LEWIS,  
*Committee on part of House.*

And, further, on his motion, the report was accepted and the Committee was discharged.

On motion of Mr. Temple, the Senate Bill, entitled,

“An Act to incorporate the Philadelphia and Smyrna Transportation Company,”

Was read a second time, by its title, and on his further motion, was referred to the Committee on Private Corporations.

Mr. Barlow gave notice that, on to-morrow or some future day, he should ask leave to introduce a bill, entitled,

“An Act, entitled, ‘An act to amend Chapter 83, of the Revised Statutes.’”

The Speaker laid before the House the opinion of Judge Houston upon the questions submitted on the 21st inst.,

Which was read, as follows :

*Gentlemen of the General Assembly :*

The respect which I entertain for your honorable bodies, requires of me a response to your Joint Resolutions of the 21st inst., and the grave Constitutional questions propounded in

them, which I now proceed to submit to you, but not without the proper misgivings on my part as to the soundness of my own conclusions upon them, in view of the difference of opinion which prevails, even among the members of the Court, on the subject; for I must admit at the outset that neither of the questions presented is entirely free from doubt, in my opinion. Constitutional provisions are usually expressed in comprehensive, and at the same time, in concise terms, and for that reason, the application of them, in particular instances, sometimes becomes a matter of much doubt and uncertainty, and affords good grounds for a candid difference of opinion in the exposition of them.

What was formerly called and known as the Three Lower Counties of Delaware, constituted a regularly organized political government of the three counties, with an equal representation in the Legislature, long before they became an independent State, and with that same political equality they have constituted the State from the period of the revolution down to the present time. And would not any change in that equality now, however much or well demanded, constitute one of the gravest that could be introduced into the Constitution under any mode of amendment or alteration provided for in it? For myself, I have always so thought, although many may differ with me, radically, on this point. I put this question, because it is upon the great importance which I attach to the proposed measure my opinion turns on the first question propounded to me in the resolutions.

There are but two methods of amending the Constitution provided for in it. One is by the Legislature, and the other is by a Convention of delegates called for that purpose, both prescribed in the ninth and last article of it, and which, alike, embrace plenary power over the subject and every provision contained in the Constitution. It is, however, provided in it that certain acts of a specified character may be enacted by the Legislature, with the concurrence of two-thirds, at least, of all the members of each branch of it, among which are acts of incorporation, an increase in the number of Justices of the Peace allowed by the Constitution and laws in the several counties, such other Courts, in addition to those already established, as the General Assembly, by such a majority of votes, may, from time to time, establish, and an increase in the number of Representatives and Senators in each of the counties by a like



concurrent vote in both branches of the General Assembly, when it may be judged by them to be necessary. Now, while these provisions indicate that the framers of the Constitution considered that these measures were of sufficient importance to require more than the usual majority of the two houses for the enactment of them, they, at the same time, indicate that they attached about an equal degree of importance to them; and if we are to interpret the measure last mentioned as contemplating merely an equal increase in the number of Representatives and Senators in each of the counties, without, in any manner, impairing their equality of representation and power in the Legislation and government of the State, no one, I presume, would consider it out of place when ranked in importance with them. I can hardly believe, however, that any delegate in the Convention, at least, from Kent or Sussex counties, could have understood the provision of the Constitution now in question to sanction anything but an equal increase of the Representatives and Senators in each of the counties, by this method of providing for it, or that anything short of a formal amendment of the Constitution, in one of the two methods provided in it would be sufficient to authorize an unequal increase in the number of them as between the several counties.

But let us turn to the phraseology of these provisions and see if this is not, after all, the true meaning and import of it. They are as follows: "There shall be seven Representatives chosen in each county, until a greater number of Representatives shall, by the General Assembly, be judged necessary; and then, two-thirds of each branch of the Legislature concurring, they may, by law, make provision for increasing their number." "There shall be three Senators chosen in each county. When a greater number of Senators shall, by the General Assembly, be judged necessary, two-thirds of each branch concurring, they may, by law, make provision for increasing their number; but the number of Senators shall never be greater than one-half, nor less than one-third of the number of Representatives."

The meaning may be somewhat uncertain and ambiguous, but when we reflect that the Representatives and Senators had always been, and were still to be, under these provisions, as soon as the Constitution went into effect, chosen in equal numbers in each county, can we suppose that the framers of the instrument could have meant or intended by the language employed, such

as "there shall be seven Representatives chosen in each county, until a greater number," (in each county, of course, is necessarily understood) "shall, by the General Assembly, be judged necessary. and then two-thirds of each branch of the Legislature concurring, they may, by law, make provision for increasing their number,"—where? why, "in each county," of course, is again necessarily implied and understood—could they have intended, I repeat, anything else than this? This much, at least, is the clear and manifest meaning of the terms employed, and the structure of the sentence itself requires us to give this meaning and construction to it. And under this obvious meaning and import of it, all readily admit, without a dissenting opinion, that it is competent for the General Assembly to increase the number in each of the counties, equally, in the mode prescribed in these provisions. But some contend that it also means more, and that under these provisions, which are substantially the same in their meaning and intention, the number of Senators and Representatives may be increased in the same mode unequally, as well as equally, in each of the counties. If that was the intention of the framers of the Constitution, and of these particular provisions in it, I think it is much to be regretted that they did not employ a few more words in penning them, and say so in express and unequivocal terms. But there is a rule of construction in such cases which should not be lost sight of on this occasion, and that is, when any portion of an instrument is susceptible of two meanings, or constructions, one certain and the other uncertain, the former is to be adopted and the latter rejected.

But after all that I have said, my opinion on the first question propounded is based mainly on the impression which I have long entertained that, at least, a majority of the framers of the Constitution could not have contemplated or intended that the equal representation of each of the counties in the Legislature of the State should be changed or abolished in the method prescribed in the provisions of the Constitution which I have been particularly considering, and which I have already set forth, at length, in this communication.

The question presented in the second resolution, is, whether it is competent for the Legislature to provide by law for the election of members of either or both branches of it, in any or every county, from districts established by law therein, in lieu

of the election of them by general ticket throughout the county? This question seems to be met and answered by the following provisions contained in the second article of the Constitution:

SECTION 2. The Representatives shall be chosen for two years, by the citizens residing in the several counties.

SECTION 3. The Senators shall be chosen for four years, by the citizens residing in the several counties.

I think these words import and require that they shall be elected by general ticket throughout the several counties, and preclude their election by districts of less extent in them.

I have thus submitted to you my legal opinion merely upon the questions propounded to me, with my reasons for it, and I neither expect or desire that any further weight or consideration should be given to it on your part, than the reasons assigned for it may seem to properly merit in your judgment.

Very respectfully, your obedient servant,

JOHN W. HOUSTON.

DOVER, January 31, 1883.

*Ordered* the same to be sent to the Senate.

The Speaker laid before the House the opinion of Judge Wales, on questions submitted the 21st inst., which was read as follows:

*To the Honorable the Senate and House of Representatives of the State of Delaware:*

In compliance with the request contained in the joint resolution of the General Assembly, adopted at Dover, on the 21st day of January, 1883, I respectfully submit the following:

#### OPINION.

The questions presented by the resolution may be stated as follows:

*First*—Can the General Assembly, by a concurrent vote of two-thirds of each branch thereof, increase the number of Senators and Representatives from one county of the State, without making exactly the same numerical increase from each of the other counties?

*Second*—Can the practice of electing members of the Legislature by a general ticket in each county be changed by, law, so as to provide for their election from separate districts in any or every county?

An answer to either of the above questions, depends upon the proper construction and meaning of Sections 2 and 3, of Article II, of the Constitution of Delaware. Such portions of the Sections as affect the present inquiry, are in these words: "The Representatives shall be chosen for two years, by the citizens residing in the several counties. ° \* \* There shall be seven Representatives chosen in each county, until a greater number of Representatives shall, by the General Assembly, be judged necessary; and then, two-thirds of each branch of the Legislature concurring, they may, by law, make provision for increasing their number." \* \* \* "The Senators shall be chosen for four years, by the citizens residing in the several counties." \* \* \* "There shall be three Senators chosen in each county. When a greater number of Senators shall, by the General Assembly, be judged necessary, two-thirds of each branch concurring, they may, by law, make provision for increasing their number; but the number of Senators shall never be greater than one-half, nor less than one-third of the number of Representatives."

1. Only by applying the strictest and narrowest rules of construction to these sections can their meaning be confined to an increase of Representatives and Senators on the present basis of a numerical equality from each county. When, however, the whole of Article II is examined, under the bright and broad light of a rational and liberal interpretation, with a view to discover the true meaning, not only from its phraseology, but from its scope, objects and design, there will remain no doubt as to the extent of the power conferred on the Legislature. Under this interpretation, there are only two restrictions placed on the exercise of the power; first, the requirement of a concurrent vote of two-thirds; and second, that the number of Senators shall never be more than one-half, nor less than one-third, of the number of Representatives. Within these limits the power of the Legislature is supreme, subject only to its own judgment of what may be needful and proper. All legislative bodies must be entrusted with more or less of discretionary powers, being responsible for its misuse to their constituents. Our pre-

decessors in the government of this State were not unmindful of the probabilities of the future, and that an increase in population would require a corresponding increase of representation. The people of Delaware have lived under three different State Constitutions, adopted, respectively, in 1776, in 1792, and in 1831.

A historical review of the condition of the people in the several counties between these years might be interesting, but would afford little aid in the present discussion, further than to bring into notice the important fact that up to the last named year (1831) there had been, and was, no great or marked disparity in the number of voters in the several counties, they being almost equally distributed through the State. But the prospect then was that the population of New Castle County would gradually, if not rapidly, surpass that of each of the other counties, and nothing was more natural and reasonable than that the framers of our present Constitution should take into consideration some mode of providing for an increase of Representatives and Senators, not only for New Castle, but also for Kent and Sussex, as such increase might be required by the exigencies of the future. The number of members of the Legislature has been the same from the beginning as it is now, namely: three Senators and seven Representatives from each county, there having been no change in this respect during a period of over one hundred years. The Constitution of 1776 provided for the amendment of any of its articles by the Legislature, on a vote of fifteen Representatives and seven Senators. Article II of the Constitution of 1792, contained substantially the same provisions for enlarging the Legislature as those contained in the Constitution of 1831. The Convention of 1831 found this Article adapted to the desired end of making a just, fair and equitable increase of Senators and Representatives from the several counties, as their growing and varying populations might demand, and made it a part of the new instrument. It would be doing injustice to the memory and wisdom of the members of that Convention, to impute to them such a want of observation and of foresight as would be implied by saying that they did not contemplate the future possibility of a large disproportion in the number of voters in the several counties, or that, if they did, they deliberately decided to make no provision for a fair and just representation. There would be less need and urgency—perhaps

none at all—for any increase in the number of legislative delegates so long as the population in the three counties should advance at the same rate; but when that advance should become unequal, and the growth of one county exceed that of both the others combined, the legislative power conferred by Article II, would, it was thought, be ample to meet the changed condition of the people. The Convention of 1831 contained some of the ablest men of their day in this State and country, experienced in the management of public affairs and learned in the science of government. None knew better than they that the essential feature of a popular government is a due and equitable relation between population, representation, and taxation, and it is unreasonable to suppose that they intended to, or that they did, establish a Constitution which excludes any and every provision for re-adjusting the basis of representation in the Legislature, notwithstanding one county might exceed both of the others in the number of its voters, and in the amount of revenue paid to the State, in the ratio of two to one.

The question is not a new one. It has been mooted, more or less frequently, for the last twenty-five years, and has, during that time, engaged the attention of lawyers and Judges; but it admits of no authoritative decision, except by the members of the General Assembly of the State, acting in accordance with their Constitutional power, and with a conscientious sense of what is right and just. I have no doubt that the Legislature has the power to adjust the number of Representatives and Senators from the several counties, on the basis of population irrespective of county lines. This conclusion is in perfect harmony with Article II of the Constitution, and with the declaration in its preamble, that “all just authority in the institutions of political society is derived from the people.”

2. I answer the second question also in the affirmative. The Constitution, after prescribing that Representatives and Senators shall be chosen by the citizens residing in the several counties, that all elections shall be by ballot, and describing the qualifications of the persons who shall be entitled to vote, and appointing the day on which general elections shall be held, is silent as to any further regulations of the manner or mode of making such elections. It is true, that in the early history of the State, and as late as the year 1811, all general elections were held at the county seat of each county, and therefore the system of

Representative or Legislative districts could not, up to that date, have been put into practical operation; but Constitutions are framed with a view to changes in the customs and conditions of the people, and the fact that there has been no occasion to exercise a Constitutional power, cannot be received as an argument against its existence, or against the right to use it when it becomes necessary or expedient to do so. Theoretically, our State government is founded on the will of a majority of its citizens, but the Constitution has not expressed any rule on that subject, and the Legislature, in the exercise of a conceded power, has, by statute, enacted that, "in all elections, unless it be otherwise expressly provided, a plurality, or the highest number of votes, shall make a choice, except where this principle is defeated by two persons having the same number of votes for the same office." If, moreover, it be a correct rule of exposition that the Legislature of a State possesses every sovereign power which has not been expressly prohibited by the Constitution, it would seem to follow that no violence would be done to the letter or spirit of the Constitution of Delaware by dividing one or all of the counties into legislative districts, and thus obtaining a more complete local representation of the people. Such a system would be equally an election "*by the citizens residing in the several counties,*" with the one now in force under the operation of the plurality vote. Recognizing the principle that where a power has not been prohibited expressly, or by implication, it may be exercised, the Legislature has, by law, assigned Justices of the Peace to certain described districts within the several counties, and in some instances fixed the places of their residences. The Constitution has not expressly authorized or prohibited such legislation, and the same may be said in reference to the creation, by law, of representative districts. It may be observed that in the consideration of questions of this kind great discretionary power is necessarily lodged in every legislative body, and to a much greater extent, under the Constitution of a State, than under that of the United States. Under the former, if the end be legitimate, and there is no clear and ascertained prohibition in the way, there can be no reasonable objection to its exercise when required for the welfare of the people.

This question, like the first one, can be finally determined only by the action of the General Assembly, which is the court of last resort for the disposal of this issue. If members should

be elected to either branch of the Legislature by the citizens of districts created by law within one or more counties, each house must "judge of the elections, returns, and qualifications of its own members."

The Supreme Court of the United States has laid down a rule of constitutional interpretation which is not inapplicable to the present case. "The Constitution unavoidably deals in general language. Hence its powers are expressed in general terms, leaving the Legislature, from time to time, to adopt its own means to effectuate legitimate objects, and to mould and model the exercise of its powers, as its own wisdom and the public interests should require." (*Hunter vs. Martin*, 1 *Wheat.*, 304.)

LEONARD E. WALES.

January 31, 1883.

*Ordered*, the same to be sent to the Senate.

He also laid before the House, from Judge Wooten, an addition to his communication, previously submitted, in answer to questions of the 21st inst.,

Which was read, and ordered to be placed with opinion previously submitted.

Mr. Sutton gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"A Supplement to an act, entitled, 'An act to incorporate Delaware City Public Schools, and for other purposes,' passed March 4, 1875."

Mr. Lewis gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"A Further Supplement to the act, entitled 'An act to incorporate the town of Harrington,' passed at Dover, March 23, 1879."

Mr. Comegys gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to amend the act, entitled, 'An act to incorporate the Capelle Hardware Company.'"



The Speaker gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

“An Act to incorporate The Enoch Moore, Jr., Ship and Car Building Company.”

Mr. Comegys, in pursuance of previous notice, asked, and, on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

“An Act authorizing the Prothonotary of New Castle county to copy a certain index,”

Which, on motion of Mr. Comegys, was read.

Mr. Frazer, in pursuance of previous notice, asked, and, on motion of Mr. Barlow, obtained leave to introduce a bill, entitled,

“An Act to amend Chapter 117, of Volume 13, Laws of Delaware,”

Which, on motion of Mr. Frazer, was read.

Mr. Frazer, on behalf of the Committee on Roads and Vacant Lands, to whom was referred the petition of Thomas W. Wilson and others, to extend and straighten the public road leading from Dover to the town of Smyrna,

Reported a bill, entitled,

“An Act authorizing Thomas W. Wilson to straighten and extend the road leading from the town of Smyrna to the town of Dover,”

Which, on his motion, was read.

Mr. Justis, in pursuance of previous notice, asked, and, on motion of Mr. Cooch, obtained leave to introduce a bill, entitled,

“An Act limiting the time during which judgments shall be a lien on real estate,”

Which, on his motion, was read, and, on his further motion, 150 copies of the bill were ordered to be printed for the use of the House.

Mr. Frazer presented a petition of Peter C. Grewell and others, asking for the passage of an act to abolish School District No. 106, Kent county,

Which, on his motion, was read, and, on his further motion, was referred to the Committee on Education.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had concurred in the following House bills :

“An Act to incorporate the Ancient Order of Hibernians, Division No. 5, of Hockessin, Delaware,”

“An Act to incorporate the Ancient Order of Hibernians, Division No. 4, of the city of Wilmington,”

“An Act to incorporate the Montifiore Mutual Benefit Society, of Wilmington.”

“Also, that the Senate has passed, and asked the concurrence of the House in the following bills, viz :

“An Act to incorporate the Wilmington Market House Company,”

“An Act to prevent live stock from running at large in School District No. 89, in Sussex county,”

“An Act to change the course of a public road in Little Creek Hundred, in Sussex county,”

“An Act to incorporate the Wilmington Glass Company.”

On motion, the House adjourned until to-morrow morning at 10 o'clock.

TUESDAY, February 6, 1883,—10 o'clock A. M.

House met pursuant to adjournment.

Prayer by Chaplain.

Roll called.

Journal read and approved.

Mr. Dukes, on behalf of the Committee on Elections, to whom was referred the House bill, entitled,

“An Act dividing Christiana Hundred Northern Election District, into two Election Districts,”

Reported the same back to the House, with a recommendation that it pass.

Mr. Justis, on behalf of the Committee on Revised Statutes, to whom was referred the following House bills, viz :

“An Act to amend Sections 4 and 5, of Chapter 4, of the Revised Code, entitled, ‘Of the passing and publication of Laws and of Journals ;’ ”

“An Act to amend Section 5, of Chapter 34, of the Revised Statutes,”

Reported the same back to the House, with a recommendation that they pass.

Mr. Sutton, on behalf of the Committee on Crimes and Punishments, to whom was referred the Senate bill, entitled,

“An Act to punish the procurement of Abortion,”

Reported the same back to the House, with recommendation that it pass.

Mr. Frazer, on behalf of the Committee on Roads and Vacant Lands, to whom was referred the House bill, entitled,

“ An Act limiting the power of the Road Commissioners of Christiana Hundred, to levy and collect a tax,”

Reported the same back to the House, with a recommendation that it pass.

Mr. Crawford, on behalf of the Special Committee on Immigration, to whom was referred the Senate bill, entitled,

“ An Act for the encouragement of Immigration and to foster the Agricultural interests of the State,”

Reported the same back to the House, with a recommendation that it pass.

Mr. Messick presented a petition for, and a remonstrance against, a Stock Law in School District No. 61, Sussex County,

Which, on his motion, were read,

And, on his further motion, were referred to the Committee on Roads and Vacant Lands.

Mr. Messick presented a petition of Thomas E. Sharp, asking for a divorce from his wife, Martha P. Sharp,

Which, on his motion, was referred to the Committee on Divorces.

Mr. Barlow, on behalf of the Committee on Private Corporations, to whom was referred the following House bills, viz :

“ An Act to incorporate ‘ The J. M. Pusey Company ; ’ ”

“ An Act to incorporate ‘ The Young Men’s Democratic Club, of Wilmington, Delaware, ’ ”

Reported same back to the House, with a recommendation that they pass.

He also reported the following House and Senate bills, with amendments :

Senate bills, entitled,

“ An Act to incorporate the National Dredging Company,”

“ An Act to incorporate the River Front Land Improvement Company ; ”

And the House bill, entitled,

"An Act to incorporate the Agricultural Canal of Sussex county."

Mr. Messick offered a resolution, which, on his motion, was read, as follows:

*Resolved*, That the Sergeant-at-Arms be, and he is hereby, directed to provide for the comfort of the members by procuring shades for the windows on the west side of the House.

Mr. Cooch offered an amendment, as follows:

"Amend Resolution by striking out 'west side,' and inserting in lieu thereof, 'all the windows in the House.'"

On the question, "Shall the amendment to resolution be adopted?"

It was decided in the negative, and the amendment was

*Lost,*

And, on motion of Mr. Messick, the resolution was

*Adopted.*

Mr. Cooch, in pursuance of previous notice, asked, and, on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

"An Act to authorize the Mayor and Council of Wilmington to borrow twenty thousand dollars,"

Which, on his motion, was read.

Mr. Cooch gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to authorize the Philadelphia, Wilmington and Baltimore Railroad Company to construct a certain branch railroad, and for other purposes."

Mr. Crawford gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act relating to School District No. 81, New Castle county."

He also presented a petition of Richard Townsend and others, asking the passage of an act in relation to building a new school house in District No. 81, New Castle county,"

Which, on his motion, was referred to the Committee on Education.

Mr. Williams gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to repeal Chapter 495, Volume 16, Laws of Delaware, passed at Dover, April 4, 1881."

Mr. Lowe gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"A Further Supplement to the act, entitled, 'An act in relation to oysters.'"

Mr. Comegys, in pursuance of previous notice, asked, and, on motion of Mr. Sutton, obtained leave to introduce a bill, entitled,

"A Supplement to an act, entitled, 'An act to incorporate Delaware City Public Schools, and for other purposes,' passed at Dover, March 4, 1875,"

Which, on motion of Mr. Comegys, was read.

Mr. Sutton gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act to amend Section 32, Chapter 89, Laws of Delaware."

On motion of Mr. Justis, the House bill, entitled,

"An Act limiting the time during which Judgments shall be a lien on Real Estate,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Revised Statutes.

On motion of Mr. Frazer, the House bill, entitled,

"An Act to amend Chapter 117, of Volume 13, Laws of Delaware,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Revised Statutes.

On motion of Mr. Comegys, the Senate bill, entitled,

“An Act to incorporate the ‘Johnson Forge Company,’ ”

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Private Corporations.

On motion of Mr. Justis, the House bill, entitled,

“An Act to amend an act, entitled, ‘An act to incorporate the town of New Port,’ passed April 7, 1873,”

Was read a second time by its title, and, on his further motion, was referred to the Committee on Municipal Corporations.

The House proceeded to the business on the calendar.

The House bill, entitled,

“An Act dividing Christiana Hundred Northern Election District into two election districts,”

Was taken up for consideration,

And, on motion of Mr. Justis, was read a third time, by paragraphs, in order to pass the House.

On the question, “Shall this bill pass the House?”

It was decided in the affirmative,

And the bill

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act to amend Sections 4 and 5, of Chapter 4, of the Revised Code, entitled, of the ‘Passing and Publications of Laws and of Journals,’ ”

Was taken up for consideration,

And, on motion of Mr. Justis, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “Shall this bill pass the House?”

It was decided in the affirmative, and the bill

*Passed the House.*

*Ordered* to the Senate for concurrence.

The House bill, entitled,

“An Act to amend Section 5, Chapter 34, Revised Statutes,”

Was taken up for consideration,

And, on motion of Mr. Frazer, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “Shall this bill pass the House?”

It was decided in the affirmative, and the bill

*Passed the House.*

*Ordered* to the Senate for concurrence.

The Senate bill, entitled,

“An Act to punish the procurement of Abortion,”

Was taken up for consideration, and, on motion of Mr. Lewis, was laid on the table, and 100 copies ordered to be printed for the use of the House.

The House bill, entitled,

“An Act to incorporate the ‘J. M. Pusey Company,’ ”

Was taken up for consideration,

And, on motion of Mr. Barlow, was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows:

Yeas, Messrs. Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Rawlins, Sutton, Temple, Watson, Wheatley, Williams and Mr. Speaker—18.

Nays—none.

So the bill having received the required constitutional majority,

*Passed the House.*



*Ordered* to the Senate for concurrence.

The Senate bill, as amended, entitled,

“An Act to incorporate the ‘River Front Land Improvement Company,’ ”

Was taken up for consideration;

On motion of Mr. Barlow, the amendments were read as follows :

Amend Section 1 by adding thereto the following : “Provided that nothing in this Act contained shall be held, or construed to authorize, the Bridging of any navigable stream or water;”

Amend Section 3 by striking out the words “in such manner and generally to do and perform all such acts, and to so use its property, capital and funds, as will best secure its interests,” and in lines seven, eight, ten and eleven of said section; and insert in lieu thereof, the words “and generally to exercise such powers as are necessary and proper to;”

Amend Section 8, in the fifth line of the same, by striking out the words “for sufficient cause;”

And, on motion of Mr. Barlow,

The Amendments were severally

*Adopted ;*

And, on his further motion,

The bill under consideration, as amended, was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House ? ”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Rawlins, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker  
—19:

Nays—none.

So the bill, having received the required constitutional majority,  
*Passed the House.*

*Ordered* the same to be returned to the Senate and ask their concurrence in the Amendments.

The House bill, as amended, entitled,

“An Act to incorporate the Agricultural Canal, of Sussex County,”

Was taken up for consideration;

On motion of Mr. Barlow, the amendment was read, as follows :

“Amend Section 3 by striking out of lines 12 and 13 the words ‘new,’ ‘or’, as they occur in said lines, after the word ‘any,’ in the twelfth line, and before the word ‘or,’ in the thirteenth line thereof;”

And, on his further motion, the amendment

Was *Adopted;*

And, further, on his motion, the bill, as amended, was read a third time, by paragraphs, in order to pass the House.

Sections 1, 2, and 3, were read, and

*Adopted;*

Mr. Barlow then moved that the vote by which Section 3 was adopted be reconsidered;

Which motion *Prevailed;*

And, on his further motion, the vote by which Section 2 was adopted be reconsidered ;

And, on his further motion, the vote by which Section 1 was adopted be reconsidered ;

And, further, on his motion, the vote by which the bill was read a third time, by paragraphs, be reconsidered;

And on motion of Mr. Justis, the bill was reconsidered and recommitted.

On motion, the House adjourned.

SAME DAY,—3 o'clock P. M.

The House met pursuant to adjournment.

The Senate bill, with amendment, entitled,

“An Act to incorporate the National Dredging Company,”

Was taken up for consideration;

On motion of Mr. Barlow, the amendment was read, as follows:

“Amend bill by striking out of Section 8 of said Act, in lines 6 and 7, the following: ‘for sufficient cause’;”

And, on his further motion, the amendment

Was

*Adopted;*

And, further, on his motion, the bill, as amended, was read a third time, by paragraphs, in order to pass the House.

On the question, “Shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Barlow, Comegys, Cooch, Crawford, Denney, Dukes, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Rawlins, Sutton, Temple, Watson, Wheatley, Williams, and Mr. Speaker—19.

Nays—None;

So the bill, having received the required constitutional majority,  
*Passed the House.*

*Ordered* that the same be returned to the Senate, and their concurrence asked in the amendment.

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had concurred in the House bills, entitled,

“An Act concerning the George P. Whitaker Company,

“An Act to revive an act, entitled, ‘An act to incorporate the Tomahawk Branch Ditch Company,’ ”

“An Act to incorporate the Harrington Library Association, Kent county, Delaware,”

“An Act to incorporate ‘The Star Publishing Company,’ ”

“An Act to vacate a part of Lake Avenue, as laid out on a plot of lots, by the Rehoboth Beach Company,”

“An Act to incorporate ‘The Gazette Publishing Company,’ ”

“An Act to incorporate the Mutual Loan Association, of Townsend, Delaware.”

Also, that the Senate had amended the House bill, entitled, “An Act to incorporate ‘The Hickory Grove Cemetery Company,’ of New Castle County, Delaware,” and asked the concurrence of the House therein.

The House bill, entitled,

“An Act to incorporate ‘The Young Men’s Democratic Club, of Wilmington, Delaware,’ ”

Was taken up for consideration,

And, on motion of Mr. Watson, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

The yeas and nays were ordered, which, being taken, were as follows :

Yeas, Messrs. Barlow, Comegys, Cooch, Crawford, Dukes, Jacobs, Justis, Lewis, Lowe, Messick, Rawlins, Sutton, Temple Watson, Wheatley, Williams and Mr. Speaker—17.

Nays—none.

So the bill, having received the required constitutional majority,

*Passed the House.*

*Ordered to the Senate for concurrence.*

The House bill, entitled,

“An Act limiting the power of the Road Commissioners of Christiana Hundred to levy and collect a tax,”

Was taken up for consideration,

And, on motion of Mr. Justis, the bill under consideration was read a third time, by paragraphs, in order to pass the House.

On the question, “shall this bill pass the House?”

It was decided in the affirmative,

And the bill

*Passed the House.*

*Ordered* to the Senate for concurrence.

The Senate bill, entitled,

“An Act for the encouragement of immigration, and to foster the agricultural interests of the State,”

Was taken up for consideration;

Mr. Crawford moved that the House resolve itself into a Committee of the Whole, to consider the bill,

Which motion

*Prevailed,*

And the House resolved itself into the Committee of the Whole, and the Speaker named

Mr. Justis as Chairman of the Committee.

After some time spent in Committee of the Whole,

The Committee rose,

And the Speaker resumed the Chair.

The Chairman of the Committee reported that they had made some progress, and asked leave to sit again to-morrow at 4 o'clock.

There being no objection, the same was granted.

Mr. Watson gave notice that, on to-morrow or some future day, he would ask leave to introduce a bill, entitled,

"An Act for the benefit of Free Schools in Kent county."

On motion, the House adjourned until 10 o'clock to-morrow morning.

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WEDNESDAY, February 7, 1883—10 o'clock, A. M.

House met pursuant to adjournment.

Roll called.

Journal read and approved.

Mr. Justis, on behalf of the Committee on Revised Statutes, to whom was referred the papers in reference to Extradition of Fugitives, reported the same back, with a bill, entitled,

"An Act in relation to Requisitions for Fugitives from Justice."

He also reported, with a favorable recommendation that it pass, the Senate bill, entitled,

"An Act to amend an Act, entitled, 'An Act to establish a State Board of Health for the State of Delaware.'"

Mr. Barlow, on behalf of the Committee on Private Corporations, to whom was referred the following Senate bills, viz:

"An Act to incorporate 'The Johnson Forge Company,'"

"An Act to incorporate 'The Philadelphia and Smyrna Transportation Company,'"

Reported the same back to the House with a recommendation that they pass.

Mr. Cooch, on behalf of the Committee on Municipal Corporations, to whom was referred the bill, entitled,

"An Act to further amend the Act, entitled, 'An Act to re-incorporate the town of Dover,' passed at Dover, February 27, 1879,"

Reported the same back, with amendments, statements, &c., and without recommendation.

Mr. Frazer, on behalf of the Committee on Roads and Vacant Lands, to whom was referred a petition asking for the passage of a Stock Law in School District, No. 68, Sussex County, reported a bill, entitled,

"An Act to prevent Live Stock from running at large in School District, No. 68, Sussex County.

Mr. Messick, on behalf of the Committee on Education, to whom was referred the Senate bill, entitled,

"A Supplement to the act, entitled, 'An act to consolidate the public schools of the town of Smyrna,'"

Reported the same back to the House, with the recommendation that it pass.

Mr. Comegys offered a resolution, which, on his motion, was read, as follows:

*Resolved*, That an invitation be extended to the members of the City Council of Wilmington to a seat on the floor of this House,

And, on his further motion, the resolution

Was

*Adopted.*

Mr. Whiley, Clerk of the Senate, being admitted, informed the House that the Senate had concurred in the House amendments to Senate bills, entitled,

"An Act to incorporate the National Dredging Company," and

"An Act to incorporate the River Front Land Improvement Company."

He also returned to the House, the following House Bills and Joint Resolutions, duly and correctly enrolled and signed by the Speaker of both Houses :

“ An Act to incorporate ‘ The Journeymen Bricklayers’ Protective and Beneficial Association, of Wilmington, Delaware,’ ”

“ An Act to incorporate ‘ The Dover Market House Company,’ ”

“ An Act to enable William McKay to convey certain real estate,”

“ An Act to incorporate the ‘ J. A. Cranston Company,’ of Newport, Delaware.”

“ An Act to incorporate the ‘ Madison Street Club Stables,’ ”

“ An Act to incorporate the ‘ Rehoboth Beach Hotel Company,’ ”

Joint Resolution appointing Janitor,

Joint Resolution appropriating eight hundred dollars to the contingent expenses of the office of the Secretary of the State.

Mr. Perry presented a petition of W. R. Josephs, and others, asking for the passage of a Stock Law in School District, No. 98, Sussex County,

Which, on his motion, was referred to the Committee on Roads and Vacant Lands.

Mr Barlow, in pursuance of previous notice, asked, and on motion of Mr. Lewis, obtained leave to introduce a bill, entitled,

“ An Act to authorize the P., W. & B. R. R. Co., to straighten, widen or improve its lines within this State,”

Which, on motion of Mr. Barlow, was read.

Mr. Barlow, in pursuance of previous notice, asked, and on motion of Mr. Sutton, obtained leave to introduce a bill, entitled,



"An Act to regulate the manufacture and sale of Oleomargarine, or any other kind of artificial Butter,"

Which, on motion of Mr. Barlow, was read.

Mr. Lewis, in pursuance of previous notice, asked, and on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

"An Act providing for certain compensation for the Trustees of the Poor of New Castle County,"

Which, on motion of Mr. Lewis, was read.

Mr. Watson, in pursuance of previous notice, asked, and on motion of Mr. Perry, obtained leave to introduce a bill, entitled,

"An Act for the benefit of Free Schools in Kent County,"

Which, on motion of Mr. Watson, was read.

Mr. Messick moved that 150 copies of the bill just read be printed for the use of the House,

Which motion

*Prevailed.*

Mr. Cooch, in pursuance of previous notice, asked, and on motion of Mr. Lewis, obtained leave to introduce a bill, entitled,

"An Act to authorize The Philadelphia, Wilmington and Baltimore Rail Road Company to construct a certain Rail Road, and for other purposes,"

Which, on motion of Mr. Cooch, was read.

Mr. Lowe moved, That the Clerk be authorized to deliver the bill just read to the gentlemen who introduced it, in order to have it printed at the expense of the parties interested;

Which motion

*Prevailed.*

Mr. Lewis, in pursuance of previous notice, asked, and on motion of Mr. Frazer, obtained leave to introduce a bill, entitled,

"An Act to incorporate the 'Young Men's Republican Club' of Wilmington, Delaware,"

Which, on motion of Lewis, was read.

Mr. Justis, in pursuance of previous notice, asked, and on motion of Mr. Messick, obtained leave to introduce a bill, entitled,

“A Supplement to an Act, entitled a supplement to an act to incorporate ‘The Purchasers of the Wilmington and Western Railroad ;’ ”

Which, on motion of Mr. Justis, was read.

Mr. Comegys in pursuance of previous notice, asked, and on motion of Mr. Messick, obtained leave to introduce a bill, entitled,

“An Act to authorize the ‘Mayor and Council of Wilmington, to sell and convey certain real estate in said city.’ ”

Which, on motion of Mr. Comegys, was read.

Mr. Crawford, in pursuance of previous notice, asked, and on motion of Mr. Frazer, obtained leave to introduce a bill entitled,

“An Act relating to ‘School District No. 81, New Castle County ;’ ”

Which, on motion of Mr. Crawford, was read.

On motion of Mr. Messick, the House bill, entitled,

“An Act to amend section 2 of chapter 354, of volume 16, of the Laws of Delaware, entitled an act in ‘Relation to the Collection of Taxes for school purposes,’ ”

Was read a second time, by its title, and, on his further motion, was referred to the committee on Revised Statutes.

On motion of Mr. Frazer, the House bill, entitled,

“An act authorizing Thomas W. Wilson to straighten and extend the road leading from the town of Smyrna to the town of Dover,”

Was read a second time, by its title.

On motion of Mr. Comegys, the Senate bill, entitled,

"An act for the preservation of Peace and good order,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Crimes and Punishments.

On motion of Mr. Sutton, the House bill, entitled,

"A Supplement to an Act, entitled, 'An Act to incorporate Delaware City Public Schools, and for other purposes,' " passed at Dover, March 4, 1873,

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Education,

On motion of Mr. Comegys, the Senate bill, entitled,

"An act abolishing the wearing of a convict's jacket as a badge of Crime,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Crimes and Punishments.

On motion of Mr. Justis, the House bill, entitled,

"An act to amend Chapter 16, Section 1, of the Revised Statutes of the State of Delaware,"

Was read a second time, by its title, and, on his further motion, was referred to the Committee on Revised Statutes.

On motion of Mr. Comegys, the House bill, entitled,

"An Act authorizing the 'Prothonotary of New Castle County to copy a certain Judgment Index,' "

Was read a second time, by its title, and, on his further motion, was referred to the committee on the Judiciary.

On motion of Mr. Comegys, the House bill, entitled,

"An Act to amend the Act, entitled 'An Act to Incorporate the Capelle Hardware Company,

Was read a second time, by its title, and, on his further motion, was referred to the committee on Private Corporation.

On motion of Mr. Justis, the House bill, entitled,

“An Act to authorize the ‘Mayor and Council of the city of Wilmington, to borrow twenty thousand dollars,’”

Was read a second time, by its title, and, on his further motion, was referred to the committee on Municipal Corporation.

The House proceeded to the business on the Calendar.

The Senate amendment to the House bill, entitled,

“An Act to incorporate the ‘Hickory Grove Cemetery Company of New Castle County, Delaware,

Was taken up for consideration ;

On motion of Mr. Barlow, the amendment was read as follows :

SENATE CHAMBER, February 6th, 1883.

Amend section 8, by striking out the word “public” in the second line, and inserting the word “private,” in lieu thereof.

C. W. WHILEY, JR.,  
*Clerk of the Senate.*

Extract from Journal.

Non-concurrence.

On the question, “Shall the House concur in the Amendment ?”

The Yeas and Nays were ordered, which, being taken, were as follows :

Yeas: Messrs. Barlow, Comegys, Cooch, Crawford, Frazer, Jacobs, Justis, Lewis, Lowe, Messick, Perry, Rawlins, Sutton, Temple, Watson, Wheatly, Williams and Mr. Speaker, 18.

Nays: None.

So the amendments having received the required constitutional majority was  
*Concurred in.*