

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Mustard, and Mr. Speaker—6.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,
Passed the Senate.

Mr. Chandler, from the Corporations, reported back, with favorable recommendation, the House bill entitled,

“An act to incorporate the Madison Street Club Stables,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Mustard, and Mr. Speaker—6.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

Ordered to be returned to the House, and the House informed thereof.

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

“An act for the preservation of peace and good order.”

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

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

Was read,

And, on his motion, the House bill entitled,

“ An act to incorporate the “ Dover Glass Works Company,”

Was read.

On motion of Mr. Cooper,

The House joint resolution appropriating eight hundred dollars to the contingent expenses of the office of Secretary of State.

Was taken up for consideration,

And, on his motion, was read, and, on his further motion,
was *Concurred in.*

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

On motion of Mr. Cooper,

The House joint resolution appointing a janitor,

Was read, and on his further motion, was *Concurred in.*

Ordered that the House be informed thereof, and the joint resolution returned to that body.

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

Resolved, That when the Senate adjourn it be to meet on Monday next, the 29th inst., at 4 o'clock P. M.

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

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

Resolved, That the following be and is hereby made an additional rule of the Senate :

RULE 26. No member shall absent himself from the Senate more than one day at a time, without first having obtained leave,

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

Mr. Cooper, from the Committee on Revised Statutes, reported with a favorable recommendation, 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,’”

Which, on his motion,

Was taken up for consideration, and, on his further motion, was read by paragraphs, in order to pass the Senate.

The question, “Shall this bill pass the Senate?” was decided in the affirmative, and the bill *Passed the Senate.*

Ordered to the House for concurrence.

Mr. Mustard, from the Committee on Education, reported, with favorable recommendation, the House bill entitled,

“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,

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

The question, “Shall this bill pass the Senate?” was decided in the affirmative, and the bill *Passed the Senate.*

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

Mr. Mustard presented the remonstrance of Robert B. Workman, and other persons, against the passage of the bill creating a new district from Districts Nos. 62, 63, 64, and 86, in Georgetown hundred, Sussex county

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

On motion, the Senate adjourned.

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

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

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

“An act to incorporate the Pioneer Coach Company.”

Which, on his motion, was read.

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

“An act in relation to marriage licenses.”

On motion of Mr. Cooper, the 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 Revised Statutes.

Mr. Horsey presented the petition of Joseph B. Tindall, and eighteen others, praying for a stock law for School District No. 41, in Sussex county,

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

“An act to re-enact the act of incorporation of The Kent County Mutual Insurance Company,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

Ordered that the bill be returned to the House, and the House informed thereof.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had passed and asked the concurrence of the Senate in the following House bills, viz. :

“An act to authorize the Delaware and Chesapeake Railway to consolidate and form a union with the Philadelphia, Wilmington and Baltimore Railroad Company,”

“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 they had adopted House joint resolution entitled,

Joint resolution relating to increased representation.

And presented the same to the Senate for concurrence.

The Speaker laid before the Senate the written opinion o

Hon. Willard Saulsbury, Chancellor of the State, upon the questions submitted by joint resolution of both houses.

On motion of Mr. Horsey, the opinion 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 by law 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 second 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 necessary, 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, hereinbefore 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 ninth 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.

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

"A supplement to the act entitled, An act to consolidate the public Schools of the town of Smyrna,"

Which, on his motion, was read.

Mr. Horsey presented the petition of Stephen T. Records, praying for an act to divorce him from his wife, Sarah E. Records,

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

On motion of Mr. Roe,

The House joint resolution relating to increased representation,

Was read, and, on his further motion, was *Concurred in.*

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

Resolved, That the Clerk of the Senate be and he is hereby directed to procure nine copies of the Digest of the School Laws of Delaware, for the use of the Senate,

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

On motion of Mr. Roe, 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.

Mr. Chandler, from the Committee on Corporations, reported back, with an amendment, the Senate bill entitled

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

On his motion, the bill was taken up for consideration, and on his motion, the amendment was read, and on his further motion, was *Adopted.*

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

Ordered to the House for concurrence.

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

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

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

Also, on his motion, the House bill entitled,

"An act to incorporate the Capitol Building and Loan Association,"

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

Mr. Horsey presented a petition of John W. McGee and 21 others, praying for an act changing the course of a public road in Little Creek hundred, Sussex county,

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

Mr. Chandler, from the Committee on Corporations, reported back, with an amendment, the Senate bill entitled,

"An act to incorporate the Johnson Forge Company."

On his motion, the bill was taken up for consideration, and, on his motion, the amendment was read, and, on his further motion, was adopted. Further on his motion, the bill as amended was read a third time, by paragraphs, in order to pass the Senate.

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the constitutional majority,

Passed the Senate.

Ordered to the House for concurrence.

On motion of Mr. Cavender, 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,"

Was read.

Mr. Horsey moved that the opinion in writing of Chancellor Saulsbury, as presented and read in the Senate, be returned to the Speaker of the Senate, to be by him delivered to the Speaker of the House, in accordance with the request of the Chancellor,

Which motion

Prevailed.

On motion, the Senate adjourned.

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

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

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

“An act to incorporate the Wilmington Market Company,”

Also,

A bill entitled,

“An act to incorporate the Wilmington Glass Company.”

Mr. Horsey presented a petition of J. M. Elliott and 32 others, for the repeal of an act prohibiting live stock from running at large in School District No. 87, in Sussex county.

Also,

A remonstrance from Elijah M. Oliphant and 37 others, against such repeal,

Which, on motion of Mr. Betts, were read.

On motion of Mr. Horsey, the petition and remonstrance were referred to the Committee on Agriculture.

On motion of Mr. Cavender, the 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.

Mr. Cavender also presented what purported to be a certified copy of a resolution adopted at a meeting of the school voters of the consolidated districts of the town of Smyrna, authorizing and requesting the Board of Directors of the Smyrna Public Schools to ask from the General Assembly an amendment to the act entitled

“An act to consolidate the Public Schools of Smyrna,”

And moved that it be referred to the Committee on Education, which motion *Prevailed.*

On motion of Mr. Betts the bill entitled,

“An act to incorporate the Pioneer Coach Company,”

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

Mr. Mustard presented a petition from E. W. W. Marsh, and 32 others, for a stock law in School District No. 89, in Sussex county.

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

Mr. Horsey presented a petition of William C. King, and 17 others, for a stock law for School District No. 39, in Sussex county,

Also,

A remonstrance of George W. James, and 29 others, against the same.

On motion of Mr. Mustard, the petition and remonstrance were read, and, on motion of Mr. Horsey, were referred to the Committee on Agriculture.

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

“An act in relation to marriage licenses,”

Which, on his motion, was read.

On motion of Mr. Roe, 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, was referred to the Committee on Roads and Highways.

On motion of Mr. Cavender, 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. Cooper offered an amendment, which, on his motion, was read, and, on motion of Mr. Cavender, was *Adopted.*

On motion of Mr. Cavender, the bill as amended was read a third time, by paragraphs, in order to pass the Senate.

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill *Passed the Senate.*

Ordered to the House for concurrence.

Mr. Cooper, from the joint committee on the Librarian's report, presented the report of the committee,

Which, on his motion was read.

On motion of Mr. Cavender, the report was adopted and committee discharged.

Mr. Cooper moved that the report of the committee be transmitted and the report of the Librarian returned to the House,

Which motion

Prevailed.

On motion, the Senate adjourned till 3 o'clock P. M.

SAME DAY—3 o'clock, P. M.

Senate met pursuant to adjournment.

Mr. Cooper, from the Committee on Revised Statutes, at the request of a majority of the committee, reported adversely the Senate bill entitled,

“An act abolishing the wearing of a convict's jacket as a badge of crime.”

On motion of Mr. Cooper, the bill was taken up for consideration, and, on his further motion, was read a third time, by paragraphs, in order to pass the Senate.

On the question, “Shall this be Section 1 of the bill?” the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Chandler, Cooper, Roe, and Mr. Speaker—5.

Nays—Messrs. Cavender, Horsey, Houston, and Mustard—4.

So the question was decided in the affirmative, and this was declared to be Section 1 of the bill.

The enacting clause was read,

And,

On the question, "Shall this be the enacting clause of the bill?" the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Chandler, Cooper, Roe, and Mr. Speaker—5

Nays—Messrs. Cavender, Horsey, Houston, and Mustard—4.

So the question was decided in the affirmative, and this was declared to be the enacting clause of the bill.

The title was read,

And,

On the question, "Shall this be the title of the bill?" the yeas and nays were ordered, which being taken, were as follows :

Yeas—Messrs. Betts, Chandler, Cooper, Roe, and Mr. Speaker—5.

Nays—Messrs. Cavender, Horsey, Houston, and Mustard—4.

So the question was decided in the affirmative, and this was declared to be the title of the bill.

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Chandler, Cooper, Roe, and Mr. Speaker—5.

Nays—Messrs. Cavender, Horsey, Houston, and Mustard—4.

So the question was decided in the affirmative, and the bill
Passed the Senate.

Ordered to the House for concurrence.

Mr. Cooper, from the Committee on Revised Statutes, reported with favorable recommendation the Senate bill entitled,

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

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

The question, “Shall this bill pass the Senate?” it was decided in the affirmative, and the bill *Passed the Senate.*

Ordered to the House for concurrence.

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

“An act authorizing Andrew J. Horsey to construct and build a tumbling dam at his mill in Little Creek hundred, Sussex county.”

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

“An act to amend Chapter 117 of Volume 13, Laws of Delaware, entitled, An act to raise revenue, etc.”

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

“An act to amend Chapter 390, Volume 13, of the Laws of Delaware, entitled, An act providing revenue for this State,”

Which, on his motion, was read,

Mr. Cooper, from the Committee on Revised Statutes, reported back with favorable recommendation the Senate bill entitled,

“An act to amend an act entitled, An act to provide a uniform ballot for election purposes,”

Which, on his motion, was taken up for consideration, and, on motion of Mr. Cavender, was read a third time, by paragraphs, in order to pass the Senate.

Mr. Roe moved that the bill be postponed until Thursday, at 11 o'clock A. M.,

Which motion

Prevailed.

And the bill was so

Postponed.

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

"An act to incorporate the Capitol Building and Loan Association,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, the petition of the Board of Trustees of the Wesleyan Female College, with a bill entitled,

"An act to revoke an act entitled, An act to re-incorporate the Wesleyan Female College."

On motion of Mr. Betts, the bill was read.

Mr. Waples, Clerk of the House, being admitted, presented to the Speaker of the Senate, by order of the Speaker of the House, the opinion of the Hon. Joseph P. Comegys, Chief Justice of the State, upon the questions submitted by joint resolution of the two houses.

On motion of Mr. Cooper, the opinion 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. It is 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 were 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 birth-right 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 the 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 pretence 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 1796, 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 8th Section of Article 1 of the U. S. Constitution, Congress has power to “coin money, regulate the value thereof,” etc. 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 for 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 of 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 such as may become amenable to some national law, or the jurisdiction of the national courts under constitutional pro-

visions 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 every thing, 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 1, 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 one hundred and five of population. The convention to amend the Constitution met in 1831, in November. By this time manufactories of cotton and woollen 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 any 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 noth-

ing 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. Waples, Clerk of the House, being admitted, informed the Senate that the House had adopted the following joint resolutions, and requested the concurrence of the Senate therein :

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

“Joint resolution concerning stationery for the use of Legislature,”

“Joint resolution referring judicial opinions to the special committees of two houses acting as joint committee on increased representation.”

On motion of Mr. Cooper,

The House joint resolution for printing the opinions of the Chancellor and Chief Justice,

Was read, and, on motion of Mr. Cavender, was
Concurred in.

On motion of Mr. Cooper,

The House joint resolution referring the judicial opinions to the special committees of the two houses, acting as a joint committee on increased representation,

Was read, and on motion of Mr. Cavender, was
Concurred in.

On motion of Mr. Cooper,

The House joint resolution concerning stationery for use of the Legislature,

Was read, and on motion of Mr. Cavender, was
Concurred in.

On motion, the Senate adjourned.

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

The Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

Mr. Mustard moved, that the vote by which the House joint resolution for the printing of the opinions of the Chancellor and Chief Justice, be re-considered.

Subsequently, Mr. Mustard, having obtained unanimous consent, withdrew the motion.

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

“An act to encourage immigration, and to foster the agricultural interests of the State,”

Was directed to be engrossed by the Clerk.

Mr. Cooper moved, that when engrossed, the bill be submitted to the Committee on Enrolled Bills,

Which motion

Prevailed.

Mr. Roe, from the Committee on Agriculture, reported adversely on the petition of J. M. Elliott, and 32 others, for the repeal of an act prohibiting live stock from running at large in School District No. 87, in Sussex county.

On motion of Mr. Betts, the report was

Adopted.

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

"An act for the relief of Robert H. Jones."

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

"An act to amend Chapter 449, Volume 16, of the Laws of Delaware, entitled, An act regulating pilots and pilotage of and in the Bay and River of Delaware,"

Which, on his motion, was read.

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

"An act to amend Chapter 117 of Volume 13, Laws of Delaware, entitled, An act to raise revenue and provide for the current expenses of the State government,"

Which, on his motion, was read.

On motion of Mr. Cooper, the bill entitled,

"An act in relation to marriage licenses,"

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. Cavender, 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,"

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

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

"An act to amend Chapter 390 of the Laws of Delaware, entitled, An act providing revenue for the State,"

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

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

“An act to incorporate the Wilmington Glass Company,”

Which, on his motion, was read.

Mr. Waples, clerk of the House, being admitted, informed the Senate that the House had passed and asked the concurrence, of the Senate in the following bills:

“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,”

“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 incorporate the Ancient Order of Hibernians, Division No. 4, of the City of Wilmington, Delaware,”

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

“An act to revive and re-enact an act entitled an act to incorporate the Tomahawk Branch Ditch Company.”

Also,

That the House had concurred in the following Senate bills:

“An act to incorporate St. Mary's Total Abstinence Beneficial Pioneer Corps, of Wilmington, Delaware,”

“An act to incorporate the Brandywine Catholic Literary Association of Brandywine, Delaware.”

"An act to incorporate the Delaware Fertilizer Company, of Clayton, Delaware,"

"An act to incorporate the Diamond State Organ Company."

"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,"

And returned the same to the Senate.

Also,

That the House had concurred, with an amendment, in the Senate bill entitled,

"An act to incorporate the Pusey and Scott Company,"

And asked the concurrence of the Senate therein.

Mr. Mustard, from the Committee on Education, reported, back, with favorable recommendation, the Senate bill entitled,

"A supplement to the act entitled, An act to consolidate the Public Schools of Smyrna,"

Which, on motion of Mr. Cavender, was taken up for consideration, and, on his further motion, was read a third time, by paragraphs, in order to pass the Senate.

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,
Passed the Senate.

Ordered to the House for concurrence.

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

“An act to incorporate the The Wilmington Market House Company,”

Which, on his motion, was read.

Mr. Chandler, from the Committee on Corporations, reported with an amendment, the House bill entitled,

“An act to incorporate the Dover Glass Works Company.”

On his motion, the bill was taken up for consideration, and, on his motion, the amendment was read, as follows:

Amend Section 10, by striking out the word “State” in the fifth line thereof,

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

Further, on his motion, the bill was read a third time, by paragraphs, in order to pass the Senate.

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,
Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the Senate bill entitled,

“An act to incorporate the Pioneer Coach Company,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

Ordered to the House for concurrence.

Mr. Cavender, from the Committee on Enrolled Bills, reported the following Senate bills as duly and correctly enrolled, and ready to receive the signature of the Speaker of the Senate, viz.:

“An act to amend Section 11 of Chapter 109 of the Revised Statutes of the State of Delaware, entitled, ‘Of juries,’”

“An act in reference to the competency of jurors in capital cases.”

“An act to incorporate the Robbins Hose Company, No. 1, of Dover, Delaware.”

“An act to incorporate the Springer, Morley and Gause Company.”

Also, as correctly engrossed, the bill entitled,

“An act to encourage immigration, and to foster the agricultural interests of the State.”

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

"An act to revoke an act entitled, An act to re-incorporate the Wesleyan Female College,"

Was read a second time, by its title; he further moved to refer the bill to the Committee on Revised Statutes.

Mr. Cooper moved, as an amendment, to refer the bill to the Committee on Corporations,

Which motion

Prevailed.

And the amendment to the motion was

Adopted.

Whereupon the question recurring on the original motion as amended, it was

Adopted.

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

"An act to prohibit live stock from running at large in School District No. 41, in Sussex county,"

Was read a second time by its title.

Mr. Houston, from the Committee on Roads and Highways, to whom was referred the petition of M. W. McGee, and 21 others, praying for an act to change the course of a public road in Little Creek hundred, in Sussex county, reported a bill entitled,

"An act to change the course of a public road in Little Creek hundred, in Sussex county."

Which, on his motion, was read.

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

"An act to incorporate the Pusey and Scott Company," as amended by the House,

Was taken up for consideration, and, on his motion, the House amendment was read, as follows:

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

HOUSE OF REPRESENTATIVES,

January 30, 1883.

Extract from Journal.

E. W. WAPLES,

Clerk of House of Representatives.

Mr. Betts moved that the amendment be concurred in.

On the question, "Shall the amendment be concurred in?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority, was

Concurred in.

Ordered that the House be informed thereof.

Mr. Houston, from the Committee on Roads and Highways, reported with favorable recommendation, the House bill entitled,

"An act to lay out a new public road in Mispillion hundred, in Kent County,"

Which, on his motion, was taken up for consideration.

Mr. Mustard moved that the bill be laid on the table.

On the question, "Shall this bill be laid on the table?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, and Mustard—3.

Nays—Messrs. Chandler, Cooper, Horsey, Houston, Roe, and Mr. Speaker—6.

So the question was decided in the negative, and the motion that the bill be laid on the table, was *Lost*.

Pending the consideration of the bill, the Senate, on motion, adjourned till 3 o'clock P. M.

SAME DAY—3 o'clock P. M.

Senate met pursuant to adjournment.

The Senate resumed the consideration of the House bill entitled,

“An act to lay out a new public road in Mispillion hundred, in Kent county.”

Mr. Cooper moved that the further consideration of the bill be indefinitely postponed.

On the question, “Shall the further consideration of the bill be indefinitely postponed?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender Cooper, and Mustard—4.

Nays—Messrs. Chandler, Horsey, Houston, Roe, and Mr. Speaker—5.

So the question was decided in the negative, and the motion that the bill be indefinitely postponed, was *Lost*.

On motion of Mr. Horsey, the bill, was read a third time, by paragraphs, in order to pass the Senate.

On the question, "Shall this bill pass the Senate,?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Chandler, Horsey, Houston, Roe, and Mr. Speaker—5.

Nays—Messrs. Betts, Cavender, Cooper, and Mustard—4.

So the question was decided in the affirmative, and the bill
Passed the Senate.

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

Mr. Roe, from the Committee on Agriculture, to whom was referred the petition of E. W. W. Marsh, and 32 others, praying for a stock law for School District No. 89, in Sussex county, reported a bill entitled,

"An act to prevent live stock from running at large in School District No. 89, in Sussex county,"

Which, on his motion, was read.

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

"An act to incorporate the Montifore Mutual Benefit Society, of Wilmington,"

Was read.

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

"An act to authorize Andrew J. Horsey to construct and build a tumbling dam at his mills in Little Creek hundred, Sussex county,"

Which, on his motion, was read.

Mr. Roe, from the joint committee to settle with C. S. Pennewill, presented a report, which, on motion of Mr. Betts, 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.

S. D. ROE,
D. L. MUSTARD,
Senate Committee.

J. V. CRAWFORD,
S. H. MESSICK,
B. L. LEWIS,
House Committee.

On motion of Mr. Roe, the report was adopted and the committee on part of the Senate discharged.

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

"An act to incorporate the Ancient Order of Hibernians, Division No. 5, of Hockessin, Delaware,"

Was read.

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

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

Was read.

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

WHEREAS, It appears by a report of the joint committee appointed to settle with C. S. Pennewill, that the State is indebted to Mr. Pennewill in the sum of \$39.85; therefore,

" Be it resolved by the Senate and House of Representatives, of the State of Delaware, in General Assembly met, That the State Treasurer be and he is hereby authorized and directed to pay to the said C. S. Pennewill the sum above named, on his draft for the same.

And, on his further motion, was

Adopted.

Mr. Cooper, in pursuance of previous notice, asked; and, on motion of Mr. Betts, obtained leave to introduce a bill entitled,

" An act in relation to contested elections, other than for members of the Legislature and Governor,"

Which, on his motion, was read.

Mr. Cooper moved that the Committee on Printing be instructed to have 250 copies of the bill printed,

Which motion

Prevailed.

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

" An act to revive and re-enact an act entitled, An act to incorporate the Tomahawk Branch Ditch Company,"

Was read.

On motion of Mr. Betts, 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.

Also,

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

“An act to incorporate the Mutual Loan Association of Townsend, Delaware,”

Was read,

Mr. Mustard presented the petition of A. T. Dutton and 16 others, for a stock law for School District No. 63,

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

Mr. Mustard moved that certain petitions and accompanying papers, praying for an act creating a new district in Georgetown hundred, from Districts Nos. 62, 63, 64, and 86, be referred to the Committee on Education, without reading,

Which motion

Prevailed,

And they were so referred.

On motion the Senate adjourned.

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

Senate met pursuant to adjournment.

Prayer by the chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

On motion of Mr. Roe, the bill entitled,

“An act to prohibit live stock from running at large in School District No. 41, in Sussex county,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Chandler, Houston, Mustard, Roe, and Mr. Speaker—5.

Nays—Messrs. Betts, Cavender, Cooper, and Horsey—4.

So the question was decided in the affirmative, and the bill
Passed the Senate.

Ordered to the House for concurrence.

Mr. Cooper, from the Committee on Revised Statutes, to whom were referred a petition of Henry C. Conrad and 36 others, and a petition of Christian Febiger and 8 others, for an act to amend the laws with reference to weights and measures, reported a bill entitled,

“An act to provide for the regulation of weights and measures,”

Which, on his motion, was read.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had passed the following bills, and asked the concurrence of the Senate in the same, viz.:

"An act concerning the George P. Whitaker Company,"

"An act to incorporate The Star Publishing Company,"

"An act to incorporate The Gazette Publishing Company."

He also presented for the signature of the Speaker of the Senate, the following duly and correctly enrolled 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 Newport, Delaware,"

"An act to incorporate the Journeymen Bricklayers' Protective and Beneficial Association, of Wilmington, Delaware,"

"An act to incorporate the Madison Street Club Stables,"

"An act to incorporate the Rehoboth Beach Hotel Company,"

"An act to enable William McKay to convey certain real estate,"

"Joint resolution appropriating eight hundred dollars to the contingent expenses of the office of the Secretary of State,"

"Joint resolution appointing a janitor."

He also presented to the Speaker of the Senate, by order of the Speaker of the House, the opinion of the Honorable Edward Wootten, one of the Associate Judges of the Superior Court, on the questions submitted to the Chancellor and Judges by joint resolution of the two houses.

On motion of Mr. Cooper, the opinion of Judge Wootten 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 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 or 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 question 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 mem-

bers cannot be made elective by districts, except by constitutional amendment.

EDWARD WOOTTEN.

January 29th, 1883.

Mr. Betts presented petitions from voters and others of New Castle, Kent, and Sussex counties, praying for a local option law,

And, on his motion, the petition from New Castle county, signed by Edward Bringhurst and 2104 others, was read.

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

Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That a joint committee of eight, three on the part of the Senate, and five on the part of the House, be appointed, to whom all matters relating to intemperance shall be referred,

And, on his motion, was

Adopted.

On motion of Mr. Roe, the bill entitled,

"An act to prevent live stock from running at large in School District No. 89, in Sussex county,"

Was read a second time, by its title.

On motion of Mr. Cooper, the bill entitled,

"An act in relation to contested elections other than for members of the Legislature and Governor,"

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

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

"An act to revive and re-enact an act entitled, An act to incorporate the Tomahawk Branch Ditch Company,"

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

Mr. Cavender called for the order of the day, whereupon the Senate bill, entitled

“An act to provide a uniform ballot for election purposes,”

Was taken up for its final passage.

On motion of Mr. Cooper, the bill was recommitted to the Committee on the Revised Statutes.

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

“An act for the relief of Robert H. Jones,”

Which, on his motion, was read.

On motion of Mr. Cavender, the bill entitled

“An act to authorize Andrew J. Horsey to construct and build a tumbling dam at his mills in Little Creek hundred, Sussex county,”

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

On motion of Mr. Betts, the bill entitled,

“An act to amend Chapter 117 of Volume 13, Laws of Delaware, entitled, An act to raise revenue and provide for the current expenses of the State Government,”

Was read a second time, by its title, and, on motion of Mr. Cooper, was referred to the Committee on Finance.

On motion of Mr. Mustard, the bill entitled,

“An act to amend Chapter 449, Volume 16, Laws of Delaware, entitled, An act regulating pilots and pilotage in the Bay and River 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. Betts, the bill entitled,

"An act to incorporate the Wilmington Glass Company,"

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

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

"An act to incorporate the Wilmington Market House Company,"

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

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

"An act to incorporate the Montifore Mutual Benefit Society, of Wilmington,"

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

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

"An act to incorporate the Ancient Order of Hibernian, Division No. 5, of Hockessin, Delaware,"

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

On motion of Mr. Betts, 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 Corporations.

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

"An act to incorporate The Gazette Publishing Company,"

Was read.

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

"An act to incorporate The Star Publishing Company,"

Was read.

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, 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,"

Which, on his motion, was taken up for consideration, and, on motion of Mr. Cavender, was read a third time, by paragraphs, in order to pass the Senate.

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Mustard, Roe, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

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

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

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the opinion of Judge Wootten upon the questions of increased representation, and the opinions of Judges Houston and Wales, when they shall have been received, be printed with the opinions of the Chancellor and Chief Justice, already ordered to be printed, so that all of the said opinions shall be in one pamphlet,

And, on his further motion, was

Adopted.

Ordered to the House for concurrence.

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

"An act concerning the George P. Whitaker Company,"

Was read.

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

Resolved, That the Committee on Printing be directed to have printed, for the use of the two houses, three hundred copies of the Senate bill entitled,

"An act to provide for the regulation of weights and measures,"

And, on his further motion, was

Adopted.

Mr. Horsey 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 Laurel Grange Co-operative Store Company.

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

"An act to incorporate the town of Frankford, Sussex county."

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

SAME DAY—3 o'clock, P. M.

Senate met pursuant to adjournment.

Mr. Waples, Clerk of the House, being admitted, returned to the Senate as duly and correctly enrolled, signed by the Speakers of the two houses, the Senate bill entitled,

“An act in reference to the competency of jurors in capital cases.”

The Speaker announced as members of the Joint Committee on Matters Relating to Intemperance, on the part of the Senate, Messrs. Betts, Roe, and Horsey.

Mr. Waples, Clerk of the House, being admitted, informed the Senate the House had passed the following bills, and requested the concurrence of the Senate in the same, viz.:

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

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

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

“An act to incorporate the Harrington Library Association, Kent county, Delaware.”

Also, the House has examined and found duly and correctly enrolled, with the signature of the Speaker, the Senate bill entitled

“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,”

And returned the same to the Senate.

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

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

Was read.

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

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

Was read.

Mr. Betts moved that when the Senate adjourns it be to meet at 8 o'clock to-morrow morning,

Which motion

Prevailed.

Mr. Houston, from the Committee on Roads and Highways, reported back, with favorable recommendation, 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,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill

Passed the Senate.

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

On motion of Mr. Mustard, 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 read.

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

“An act to change the course of a public road in Little Creek hundred, Sussex county,”

Was read a second time, by its title.

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

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

Was read.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had adopted, and asked the concurrence of the Senate in a joint resolution relating to opinions of the Judges.

On motion of Mr. Roe, the House joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the opinions of the Judges be referred to the special committee of the two houses, acting as a joint committee on increased representation, as they are presented, and 500 copies each be printed.

Mr. Chandler moved that the House joint resolution be concurred in.

Mr. Cavender moved to lay the resolution on the table,

Which motion

Prevailed,

And the resolution was

Laid on the table.

The Speaker laid before the Senate a communication from the Delaware State Temperance Alliance, inviting the General Assembly to meet the members of the Alliance on Thursday evening, February 8th.

On motion of Mr. Betts, the invitation was read.

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

" Joint resolution granting an audience to the Delaware State Temperance Alliance :

"*Resolved*, That the members of the Senate and House of Representatives do hereby accept the invitation of the State Temperance Alliance to meet them and hear their representations, and do hereby fix Thursday, the eighth day of February, A. D. 1883, at eight o'clock in the evening, for that purpose, to meet in the hall of the House of Representatives."

And, on his further motion, was

Adopted.

Ordered to the House for concurrence.

On motion, the Senate adjourned.

FRIDAY, February 2nd, 1883—8 o'clock A. M.

Senate met pursuant to adjournment.

The Speaker being absent, the Senate was called to order by the Clerk.

On motion of Mr. Cavender, Mr. Betts was chosen Speaker *pro tempore*.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, and Roe.

Journal read and approved.

Immediately after the reading of the Journal the Speaker appeared and took the chair.

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the Senate bill entitled,

“An act to incorporate The Wilmington Market House Company,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Horsey,, Houston, Mustard, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

Ordered to the House for concurrence.

Mr. Chandler, from the Committee on Corporations, reported with favorable recommendation the House bill entitled,

"An act to incorporate the Ancient Order of Hibernians, Division No. 5, of Hockessin, Delaware,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

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

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

Was read, and, on his further motion, was referred to the Committee on Corporations.

Mr. Chandler, from the Committee on Corporations, reported back, with a favorable recommendation, the Senate bill entitled,

"An act to incorporate The Wilmington Glass Company,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,
Passed the Senate.

Ordered to the House for concurrence.

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

"An act to incorporate the Montiflore Mutual Benefit Society of Wilmington,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,
Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported favorably the House bill entitled,

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

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

Ordered that the House be informed thereof, and the bill be returned to that body. ♣

Mr. Cavender, from the Committee on Enrolled Bills, reported as duly and correctly enrolled, signed by the Speaker of the House, and ready for the signature of the Speaker of the Senate, the following House bills and joint resolutions:

"An act to incorporate the Journeymen Bricklayers' Protective and Beneficial Association, of Wilmington, Delaware,"

"An act to incorporate the J. A. Cranston Company, of Newport, Delaware,"

An act to enable William McKay to convey certain real estate,"

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

"An act to incorporate the Rehoboth Beach Hotel Company,"

"An act to incorporate the Madison Street Club Stables,"

"A joint resolution appointing a janitor,"

"A joint resolution appropriating eight hundred dollars to the contingent expenses of the office of Secretary of State."

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

"An act authorizing the Levy Court of New Castle county to make a loan for the completion of a new Alms House and building for the insane,"

Mr. Betts offered a resolution that when the Senate adjourns this morning, it be to meet on Monday next, at 4 o'clock P. M.,

Which, on his motion, was *Adopted.*

On motion of Mr. Betts, 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 Corporations.

On motion of Mr. Betts, 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 Corporations.

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

"An act concerning the George P. Whitaker Company,"

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

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

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

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

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

"An act for the relief of Robert H. Jones,"

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. Betts, 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 Corporations.

On motion of Mr. Betts, 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 Revised Statutes.

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

"An act to amend Chapter 391, 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.

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

"An act to prevent live stock from running at large in School District No. 89, in Sussex county,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, and the bill *Passed the Senate.*

Ordered to the House for concurrence.

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

"An act to change the course of a public road in Little Creek Hundred, in Sussex county,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill *Passed the Senate.*

Ordered to the House for concurrence.

On motion of Mr. Mustard, 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 read a second time, by its title, and, on his further motion, was referred to the Committee on Corporations.

Mr. Waples, Clerk of the House, being admitted, informed the Senate the House had passed, and asked the concurrence of the Senate in, the bill entitled

"An act to convert that part of the Turnpike of the President, Managers, and Company of the Wilmington and Christiana Turnpike road, within the limits of the City of Wilmington, into a free public highway or street."

Also, had adopted joint resolution, and asked the concurrence of the Senate in the same, entitled

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

He also informed the Senate that the House had concurred in the following Senate joint resolutions, viz.:

"Joint resolution granting an audience to the Delaware State Temperance Alliance."

"Joint resolutions on printing opinions of judges."

He also informed the Senate that the House had non-concurred in Senate joint resolution entitled

"Joint resolution for appointment of joint committee on matters relating to intemperance."

He also presented to the Senate, for the signature of the Speaker, the same having been signed by the Speaker of the House, the following duly and correctly enrolled bill:

“An act to authorize the Delaware and Chesapeake Railway to consolidate and form a union with the Philadelphia, Wilmington and Baltimore Railroad Company.”

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

“An act to incorporate the the town of Frankford,”

And moved that it be read for the information of the Senate,
which motion *Prevailed.*

The bill having been read as far as to the end of the 14th section, Mr. Mustard moved that the further reading of the bill be suspended until Monday next, which motion *Prevailed.*

On motion, the Senate adjourned.

MONDAY, February 5th, 1883—4 o'clock P. M.

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Horsey, Roe, and Mr. Speaker.

Journal read and approved.

The Speaker announced as unfinished business the reading of the Senate bill entitled,

“An act to incorporate the town of Frankford,”

Whereupon the reading of the bill was concluded.

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

“An additional supplement to an act entitled, An act to enable the owners and possessors of the marsh meadows on the north side of the Christiana river, called Middleburgh Marsh, to keep the banks, dams, and sluices in repair, and to raise a fund to defray the expenses thereof, passed in the year 1769.”

Mr. Horsey, in pursuance of previous motion, asked, and on motion of Mr. Cavender, obtained leave to introduce a bill entitled,

“An act entitled, An act to amend an act to incorporate the Laurel Grange Co-operative Store Company,”

Which, on his motion, was read.

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

"An act to authorize the Levy Court of New Castle county, to make a loan for the completion of a new Alms House and building for the insane,"

Which, on his motion, was read.

Mr. Waples, Clerk of the House, being admitted, presented to the Speaker, by order of the Speaker of the House, the opinion of Hon. John W. Houston, Associate Judge of the Superior Court, on the questions submitted by joint resolution of the two houses to the Chancellor and Judges.

On motion of Mr. Roe, the opinion 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 instant, 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 ground for a candid difference of opinion in the exposition of them.

What was formerly called and known as the Three Lower Counties on 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 free 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 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 equal 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.

DOYER, January 31, 1883.

Mr. Waples, Clerk of the House, being admitted, presented to the Speaker, the opinion of Hon. Leonard E. Wales, Associate Judge of the Superior Court, on the questions submitted to the Chancellor and Judges, by joint resolution of the two houses.

On motion of Mr. Chandler, the opinion 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 or proper. All legislative bodies must be entrusted with more or less of discretionary power, being responsible for its misuse to their constituents. Our predecessors 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 readjusting 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 Dela-

were 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 residence. 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.

Mr. Waples, Clerk of the House, being admitted, presented to the Speaker a supplementary opinion of Hon.

Edward Wootten, associate Judge of the Superior Court, on the questions submitted to the Chancellor and Judge by joint resolution of both houses.

The Speaker read note of Judge Wootten, accompanying the supplementary opinion.

On motion of Mr. Chandler, the supplementary opinion was read.

Mr. Roe 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 passed at Dover, April 8th, 1869, entitled, An act to incorporate the town of Felton.”

On motion, the Senate adjourned.

TUESDAY, February 6, 1883 — 10 o'clock, A. M.

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

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

Resolved, That the Sergeant-at-Arms, of the Senate, be and he is hereby authorized and directed to procure shades for the windows of the Senate chamber, and have them hung,

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

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

“ An act entitled, An act to amend an act to incorporate the Laurel Grange Co-operative Store Company,”

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

Mr. Roe moved that an additional member from New Castle county be added to the special committee on increased representation,

Which motion *Prevailed*,

And the Speaker appointed Mr. Betts as such additional member.

Mr. Chandler, from the Committee on Corporations, reported, with an amendment, the House bill entitled,

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

Which, on his motion, was taken up for consideration.

Mr. Chandler moved that the bill be read a third time, by paragraphs, in order to pass the Senate,

Which motion *Prevailed.*

Section 1 of the bill was read, and adopted.

Mr. Chandler moved that the vote by which Section 1 of the bill was adopted, be re-considered,

Which motion *Prevailed,*

And the vote was *Reconsidered.*

On motion of Mr. Houston, the vote by which the bill was read by paragraphs was *Reconsidered.*

On motion of Mr. Chandler, the amendment to the bill was read, as follows :

Amend Section 8, by striking out the word "public" in the second line and inserting the word "private" in lieu thereof,

And, on his further motion, was *Adopted,*

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Mustard, Roe, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported, with favorable recommendation, the House bill entitled

"An act to incorporate the Harrington Library Association, Kent County, Delaware,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Mustard, Roe, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,
Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled

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

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Mustard, Roe, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

“An act to incorporate The Gazette Publishing Company,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority, -
Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

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

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, 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,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported with favorable recommendation, the House bill entitled,

“An act to revive and re-enact an act entitled, An act to incorporate the Tomahawk Branch Ditch Company,”

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

"An act to incorporate The Star Publishing Company,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

Mr. Betts presented the claim of Wm. D. Walls for \$188.67 against the State, for introducing water into the State House,

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

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

“An act authorizing the Levy Court of New Castle County to make a loan for the completion of a new Alms House and Building for the Insane,”

Was read a second time, by its title, and, on his further motion, was referred to a special committee, consisting of the Senators from New Castle County.

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

“An additional supplement to an act entitled, An act to enable the owners and possessors of the marsh meadows on the north side of the Christiana river, called Middleburgh Marsh, to keep the banks, dams, and sluices in repair, and raise a fund to defray the expenses thereof, passed in the year 1769,”

Which, on his motion, was read.

On motion, the Senate adjourned till 3 o'clock P. M.

SAME DAY — 3 o'clock P. M.

Senate met pursuant to adjournment.

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

“An act providing for the appointment of a State Chemist, and for other purposes.”

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

"An act supplementary to Chapter 85 of the Revised Code of this State, relating to the sale of intestate real estate."

Mr. Waples, Clerk of the House, being admitted, informed the Senate the House had amended the following Senate bills, viz.:

"An act to incorporate the National Dredging Company,"

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

And asked the concurrence of the Senate in the amendments.

Mr. Cavender, from the Committee on Enrolled Bills, reported as duly and correctly enrolled, and ready for the signature of the Speaker, the Senate bills entitled,

"An act to incorporate the Delaware Lumber Company,"

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

Also,

The House bill, duly and correctly enrolled, signed by the Speaker of the House, and ready for the signature of the Speaker of the Senate, entitled,

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

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

"An act to incorporate The National Dredging Company,"

Was taken up for consideration, and, on his motion, the House amendment was read, as follows:

HOUSE OF REPRESENTATIVES,
February 6th, 1883.

Amend by striking out of Section 8 of said act, in lines six and seven, the words "for sufficient cause."

E. W. WAPLES,
Clerk of House of Representatives.

Extract from Journal.

Mr. Betts moved that the House amendment be concurred in.

On the question, "Shall the amendment be concurred in?" the yeas and nays were ordered, which being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority, was
Concurred in.

Ordered that the House be informed thereof.

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

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

As amended,

Was taken up for consideration, and, on his further motion, the House amendment to Section 8 was read, as follows : 14

HOUSE OF REPRESENTATIVES,
February 6th, 1883.

Amend Section 8, in the fifth line, by striking out the words
“for sufficient reason.”

E. W. WAPLES,
Clerk of the House of Representatives.

Extract from Journal.

Mr. Betts moved that the House amendment be concurred in.

On the question, “Shall the amendment be concurred in?”
the yeas and nays were ordered, which, being taken, were as
follows :

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston,
Mustard, Rœe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the
amendment, having received the required constitutional majority,
was *Concurred in.*

Ordered that the House be informed thereof.

On motion, the Senate adjourned.

WEDNESDAY, February 7, 1883—10 o'clock A. M.

The Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

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

“An act supplementary to Chapter 85 of the Revised Code of this State, relating to the sale of intestate real estate,”

Which, on his motion, was read.

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

“An act to incorporate the River Front Land Improvement Company,”

Was taken up for consideration, and, on his further motion, the House amendments were read as follows :

HOUSE OF REPRESENTATIVES,
February 6, 1883.

Amend Section 2 of the act 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 so use its property, capital, and funds, as will best secure its interests and,” in lines seven, eight, nine, 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."

E. W. WAPLES,
Clerk of House of Representatives.

Extract from Journal.

Mr. Betts moved that the House amendment to Section 2 be concurred in.

On the question, "Shall the amendment be concurred in?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority,

Was

Concurred in.

Mr. Betts moved that the House amendment to Section 3, as read, be concurred in.

On the question, "Shall the amendment be concurred in?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority, was

Concurred in.

Ordered that the House be informed of the Senate's concurrence in the amendments.

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

“An act to incorporate The American Union Insurance Company.”

Mr. Betts presented the following local option petitions :

A petition signed by 83 voters and 81 other persons residing in New Castle county,

A petition signed by 14 voters and 17 other persons residing in Kent county, and

A petition signed by 45 voters and 4 other persons residing in Sussex county.

On motion of Mr. Betts, one of the petitions was read.

Mr. Betts moved that these petitions and those previously received on the same subject be referred to a special committee of three members, with leave to report by bill or otherwise,

Which motion

Prevailed.

The Speaker appointed as such committee Messrs. Betts, Roe, and Horsey.

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

“An additional supplement to an act entitled, An act to enable the owners and possessors of the marsh meadows on the north side of the Christiana river, called Middleburg Marsh, to keep the banks, dams, and sluices in repair and raise a fund to defray the expenses thereof, passed in the year 1769,”

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

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

“An act to provide for the regulation of weights and measures,”

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

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had passed, and asked the concurrence of the Senate in, the following House bills, viz.:

"An act to incorporate the Young Men's Democratic Club, of Wilmington, Delaware,"

"An act limiting the power of the road commissioners of Christiana hundred to levy and collect a tax,"

"An act to incorporate the J. M. Pusey Company,"

"An act to amend Section 5, Chapter 34, Revised Statutes,"

"An act to amend Sections 4 and 5 of Chapter 4 of the Revised Code, entitled, Of the passing and publications of laws and journals,"

"An act dividing Christiana hundred Northern Election District into two election districts."

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the Senate bill entitled,

"An act entitled, An act to amend an act to incorporate the Laurel Grange Co-operative Store Company,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

Ordered to the House for concurrence.

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

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

Was read.

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

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

Was read.

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

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

Was read.

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

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

Was read.

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

“An act to amend Section 5, Chapter 34, Revised Statutes of the State of Delaware, entitled, Of constables,”

Was read,

On motion of Mr. Roe, 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 Journals,”

Was read.

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

"An act to convert that part of the turnpike of the President, Managers, and Company of the Wilmington and Christiana turnpike road within the limits of the city of Wilmington into a free public highway or street,"

Was read.

On motion of Mr. Betts,

The House joint resolution in reference to securing and preserving Temple Farm and the Moore House, at Yorktown, Virginia,

Was read, and, on his further motion was *Concurred in.*

On motion, the Senate adjourned till three o'clock p. m.

SAME DAY — 3 o'clock P. M.

Senate met pursuant to adjournment.

Mr. Roe 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 entitled, An act for the suppression of intemperance," Passed at Dover, April 5, 1881.

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

"An act to authorize the Mayor and Council of Wilmington

to borrow \$180,000 to increase the water supply, purchase water rights, lay new pipes, and enlarge reservoir."

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

"An act providing for the appointment of a State Chemist, and for other purposes,"

Which, on his motion, was read.

Mr. Mustard presented petitions from R. E. Lyons and 31 others, praying for the consolidation of School Districts Nos. 124 and 16, in Sussex county,"

Which, on his motion, were read, and, on his further motion, were referred to the Committee on Education, with power to report by bill or otherwise.

Mr. Cavender, from the Committee on Revised Statutes, reported, with favorable recommendation, the House bill entitled,

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

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

Mr. Mustard moved that the bill be laid on the table.

On the question, "Shall this bill be laid on the table?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Chandler, Houston, Mustard, and Mr. Speaker—5.

Nays—Messrs. Cavender and Horsey—2.

So, the question was decided in the affirmative, and the bill was *Laid on the table.*

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

"An act to amend Chapter 536, Volume 14, entitled, An act to incorporate the town of Lewes, and for other purposes."

Mr. Cavender, from the Committee on Revised Statutes, reported back, with favorable recommendation, the Senate bill entitled,

"An act for the relief of Robert H. Jones,"

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

The question, "Shall this pass the Senate?" was decided in the affirmative, so the bill *Passed the Senate.*

Ordered to the House for concurrence.

Mr. Mustard presented the remonstrance of W. P. Jones and Samuel J. Lank, and 8 others, against the consolidation of School Districts Nos. 16 and 124, in Sussex county,"

Which, on his motion, was referred to Committee on Education.

Mr. Horsey, from the Committee on Revised Statutes, reported back, with favorable recommendation, 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,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill *Passed the Senate.*

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

On motion, the Senate adjourned.

THURSDAY, February 8, 1883—10 o'clock A. M.

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Cooper, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

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

"An act to amend an act entitled, An act for the suppression of intemperance," passed at Dover, April 5, 1881,

Which, on his motion, was read.

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

"An act to incorporate the American Union Insurance Company,"

Which, on his motion, was read.

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

"An act to amend Section 5, Chapter 34, Revised Statutes of the State of Delaware, entitled, Of constables,"

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. Mustard, the Senate bill entitled,

"An act supplementary to Chapter 85 of the Revised Code of this State, relating to the sale of intestate real estate,"

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the Senate bill entitled,

“An additional supplement to an act entitled, An act to enable the owners and possessors of the marsh meadows on the north side of the Christiana river, called Middleburgh Marsh, to keep the banks, dams, and sluices in repair, and raise a revenue to defray the expenses thereof, passed in the year 1769,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Mustard, Roe, and Mr. Speaker—6.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,

Passed the Senate.

Ordered to the House for concurrence.

On motion of Mr. Betts, 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 Corporations.

On motion of Mr. Betts, 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 the Committee on Corporations.

On motion of Mr. Betts, 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 the Committee on Elections.

On motion of Mr. Betts, the House bill entitled

"An act to convert that part of the Turnpike of the President, Managers, and Company of the Wilmington and Christiana Turnpike road within the limits of the City 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 Corporations.

On motion of Mr. Betts, 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 Highways.

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

"An act to amend Chapter C of the Revised Statutes of the State of Delaware."

Mr. Cavender, from the Committee on Enrolled Bills, reported as duly and correctly enrolled, and ready for the signature of the Speaker, the Senate bills and joint resolutions entitled,

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

"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,"

"Joint resolution on printing the opinions of the Chancellor and Judges,"

"Joint resolution granting an audience to the Delaware State Temperance Alliance."

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

"An act to amend an act passed at Dover, April 8th, 1869, entitled, An act to incorporate the town of Felton,"

Which, on his motion, was read.

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

"An act providing for the appointment of a State chemist, and for other purposes,"

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

On motion of Mr. Roe, 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 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, the Senate adjourned until 3 o'clock P. M.

SAME DAY—3 o'clock, P. M.

Senate met pursuant to adjournment.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had examined and found duly and

correctly enrolled, with the signature of both Speakers, the following Senate bills, viz.:

"An act to amend an act entitled, An act to incorporate the Delaware Beet Sugar Company, passed at Dover, March 25th, 1879,"

"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 1 of Chapter 397, Volume 11, Laws of Delaware, entitled, An act in relation to insane persons,"

And returned the same to the Senate.

He also informed the Senate that the House had concurred in the following Senate bills, viz.:

"An act to incorporate the Philadelphia and Smyrna Transportation Company,"

"A supplement to the act entitled, An act to consolidate the Public Schools of the town of Smyrna,"

"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,"

Also he informed the Senate that the House had concurred in the Senate amendment to the House bill entitled

"An act to incorporate the Hickory Grove Cemetery Company of New Castle county."

He also informed the Senate that the House had passed, and asked the concurrence of the Senate in, the following bills, viz.:

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

"An act to amend Chapter 16, Section 1, of the Revised Statutes of the State of Delaware."

Mr. Cooper, from the Committee on Revised Statutes, reported back, with favorable recommendation, the Senate bill entitled,

“An act to amend Chapter 449, Volume 16, of the Laws of Delaware, entitled, An act regulating pilots and pilotage of and in the Bay and River Delaware,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Mustard, Roe, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the bill,
Passed the Senate.

Ordered to the House for concurrence.

Mr. Cooper, from the Committee on Revised Statutes, reported back, with an amendment, the Senate bill entitled,

“An act to provide for the regulation of weights and measures.”

On his motion, the amendment was read, and, on his further motion, was adopted, and, on his motion, the bill, as amended, was taken up for consideration.

Mr. Cavender moved that the further consideration of the bill be postponed until Thursday next, at 11 o'clock,

Which motion *Prevailed,*

And the further consideration of the bill was postponed until Thursday next, at 11 o'clock.

Mr. Betts offered a joint resolution to re-imburse the Adjutant-

General of this State, for amount expended by him in connection with the centennial celebration at Yorktown, Va., in excess of the amount appropriated therefor by the General Assembly.

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

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had passed, and asked the concurrence of the Senate in, the following House bills, viz.:

"An act to authorize the Mayor and Council of Wilmington to borrow \$20,000,"

"An act to amend an act entitled, An act to incorporate the Capelle Hardware Company."

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

"An act to authorize the Mayor and Council of Wilmington to borrow \$20,000,"

Was read.

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

"An act to amend an act, entitled, An act to incorporate the Capelle Hardware Company,"

Was read.

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

"An act in relation to the powers of the Levy Court,"

Was read.

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

"An act to amend Chapter 16, Section 1, of the Revised Statutes of the State of Delaware,"

Was read.

15

Mr. Cooper, from the Committee on Revised Statutes, reported back, with favorable recommendation, the Senate bill entitled,

"An act to amend Chapter 390, Volume 13, of the Laws of Delaware, entitled, An act providing revenue for this State,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill *Passed the Senate.*

Ordered to the House for concurrence.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had passed and asked the concurrence of the Senate in the following House bills, viz.:

"An act authorizing Thomas W. Wilson to straighten and extend the road leading from the town of Smyrna to the town of Dover,"

"An act to amend Chapter 385, Volume 13, Laws of Delaware, entitled, An act dividing Christiana hundred in two election districts."

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

"An act to amend Chapter 387, Volume 15, Delaware Laws, in relation to fish, oysters, and game."

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

"An act to amend Chapter 385 of Volume 13, Laws of Delaware, entitled, An act dividing Christiana hundred into two districts,"

Was read.

On motion of Mr. Roe, 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,

And, on his further motion, the petition accompanying the bill, signed by J. L. Smith and 401 others,

Was read.

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

“An act in relation to corporal punishment.”

On motion, the Senate adjourned.

FRIDAY, February 9th, 1883—10 o'clock A. M.

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

Mr. Chandler, from the Committee on Corporations, reported back with favorable recommendation the House bill entitled,

"An act to incorporate The Young Men's Democratic Club of Wilmington, Delaware,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

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

"An act to amend an act entitled, An act for the suppression of intemperance, passed at Dover April 5th, 1881,"

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. Roe, the Senate bill entitled,

"An act to amend an act passed at Dover, April 8th, 1869, entitled, An act to incorporate the town of Felton,"

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

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

"An act to prevent injury to burial grounds, and the removal of bodies therefrom."

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

"An act to incorporate the J. M. Pusey Company,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill having received the required constitutional majority,

Passed the Senate.

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

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

“An act in relation to corporal punishment,”

Which, on his motion, was read.

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the House bill entitled,

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

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

On motion of Mr. Roe, 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, and, on his further motion, was referred to the Committee on Roads and Highways.

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

“An act to incorporate the American Union Insurance Company,”

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

On motion of Mr. Betts, 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 Corporations.

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

“An act to authorize the Mayor and Council of Wilmington to borrow \$20,000,”

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

Mr. Cooper, from the Committee on Revised Statutes, reported back with favorable recommendation the House bill entitled

“An act to amend Section 5, Chapter 34, Revised Statutes of the State of Delaware, entitled, Of Constables,”

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

The question, “Shall this bill pass the Senate?” was decided in the affirmative, so the bill

Passed the Senate.

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

Mr. Roe, from the Committee on Claims, reported favorably the Senate joint resolution to re-imburse the Adjutant General of this State for the amount expended by him in connection with the Centennial celebration at Yorktown, Virginia, in excess of the amount appropriated therefor by the General Assembly.

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

Ordered to the House for concurrence.

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

"An act to amend Chapter 100 of the Revised Statutes of the State of Delaware."

Which, on his motion, was read.

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

"An act in relation to the powers 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.

On motion of Mr. Betts, 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 Elections.

On motion of Mr. Betts, 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,"

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

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

"An act to incorporate the town of Frankford,"

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

Mr. Roe moved that when the Senate adjourned, it should be to meet at 4 o'clock P. M., on Monday next,

Which motion

Prevailed.

Mr. Waples, Clerk of the House, being admitted, presented for the signature of the Speaker of the Senate, the following duly and correctly enrolled House bills and joint resolutions:

"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 concerning the George P. Whitaker Company,"

"An act to incorporate the Montiflore Mutual Benefit Society of Wilmington, Delaware,"

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

"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,"

"Joint resolution concerning stationery for use of the Legislature,"

"Joint resolution relating to increased representation,"

"Joint resolution referring judicial opinions to the special committee."

He also informed the Senate that the House had concurred in the Senate amendment to the House bill entitled,

"An act to incorporate the Dover Glass Works Company."

Mr. Cavender, from the Committee on Enrolled Bills, reported as duly and correctly enrolled, signed by the Speaker of the House, and ready for the signature of the Speaker of the Senate, the House bill entitled,

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

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had adopted a joint resolution entitled,

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

And asked the concurrence of the Senate,

Also,

He informed the Senate that the House had concurred in the Senate joint resolution entitled,

"Joint resolution in relation to C. S. Pennewill,"

And returned the same to the Senate.

On motion, the Senate adjourned.

MONDAY, February 12th, 1883—4 o'clock P. M.

Senate met pursuant to adjournment.

Prayer by the chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

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

"An act to prevent injury to burial grounds and the removal of bodies therefrom."

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

"An act to incorporate the Seidel & Hastings Company,"

Mr. Cavender, from the Committee on Enrolled Bills, reported as duly and correctly enrolled, the following House bills and joint resolutions, signed by the Speaker of the House and ready for the signature of the Speaker of the Senate:

"An act concerning the George P. Whitaker Company,"

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

"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,"

"Joint resolution concerning stationery for use of the Legislature,"

"Joint resolution relating to increase of representation,"

"Joint resolution referring judicial opinions to the special committees of the two houses."

On motion of Mr. Chandler, the Senate bill entitled

"An act to amend Chapter 100 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.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had adopted a joint resolution entitled

"A joint resolution concerning the Robbins Hose Company,"

And asked the concurrence of the Senate in the same.

On motion of Mr. Cavender, the House

Joint resolution concerning the Robbins Hose Company,

Was read.

On motion of Mr. Cooper, the joint resolution was taken up for consideration, and, on motion of Mr. Cavender, was

Concurred in.

Ordered that the House be informed thereof, and the joint resolution returned to that body.

Mr. Betts, from the Committee on Cities and Towns, reported, with favorable recommendation, the House bill entitled,

"An act to authorize the Mayor and Council of Wilmington to borrow twenty thousand dollars,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

Mr. Cavender, from the Committee on Enrolled Bills, reported as duly and correctly enrolled, ready for the signature of the Speaker, the following bills :

"An act to incorporate the Diamond State Organ Company,"

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

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

"An act to establish the State Library."

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

"An act in relation to corporal punishment,"

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

Mr. Betts, from the Committee on Cities and Towns, reported back, with favorable recommendation, the Senate bill entitled,

"An act to amend an act passed at Dover, April 8th, 1869, entitled, An act to incorporate the town of Felton,"

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

On the question, "Shall this bill pass the Senate?" the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,

Passed the Senate.

Ordered to the House for concurrence.

On motion, the Senate adjourned.

TUESDAY, February 13th, 1883—10 o'clock A. M.

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender. Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker.

Journal read and approved.

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

“An act to incorporate the Seidel and Hastings Company,”

Which, on his motion, was read.

Mr. Horsey, from the Committee on Elections, reported back, with favorable recommendation, the House bill entitled,

“An act to amend Chapter 16, Section 1, of the Revised Statutes of the State of Delaware,”

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

The question, “Shall this bill pass the Senate?” was decided in the affirmative, so the bill

Passed the Senate.

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

On motion of Mr. Roe, the House joint resolution concerning Volume 16, Laws of Delaware.

Was read, and on his further motion, was referred to the Committee on Claims.

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, House the bill entitled

“An act to amend an act entitled, An act to incorporate the Capelle Hardware Company,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—8.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

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

Mr. Horsey, from the Committee on Elections, reported back, with favorable recommendation, 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,

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

The question, “Shall this bill pass the Senate?” was decided in the affirmative, so the bill
Passed the Senate.

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

Mr. Cooper, from the Committee on Revised Statutes, reported back, with favorable recommendation, the Senate bill entitled,

"An act to amend an act entitled, An act for the suppression of intemperance, passed at Dover, April 5th, 1881,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill

Passed the Senate.

Ordered to the House for concurrence.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had passed, and asked the concurrence of the Senate in, the House bill entitled,

"An act in relation to requisitions for fugitives from justice."

Mr. Cooper, from the Committee on Revised Statutes, reported back, with favorable recommendation, the Senate bill entitled,

"An act in relation to corporal punishment,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill

Passed the Senate.

Ordered to the House for concurrence.

Mr. Horsey, from the Committee on Elections, reported, with favorable recommendation, the House bill entitled

"An act dividing Christiana Hundred Northern Election District into two election districts,"

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill

Passed the Senate.

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

Mr. Chandler, from the Committee on Corporations, reported back, with favorable recommendation, the Senate bill entitled

“An act to incorporate the American Union Insurance Company,”

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

On the question, “Shall this bill pass the Senate?” the yeas and nays were ordered, which, being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Cooper, Horsey, Houston, Mustard, Roe, and Mr. Speaker—9.

Nays—None.

So the question was decided in the affirmative, and the bill, having received the required constitutional majority,
Passed the Senate.

Ordered to the House for concurrence.

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

“An act in relation to requisitions for fugitives from justice,”

Was read.

Mr. Mustard offered an amendment to Senate rule 22, which, on his motion, was read, as follows :

“Amend Rule 22 by adding, And no joint resolution appropriating money from the State Treasury, shall be passed upon on the day of introduction.”

Subsequently, Mr. Mustard, by unanimous consent, withdrew the amendment.

Mr. Mustard presented the petition of Ebe Walters, and 46

others, for the passage of an act of incorporation of the town of Frankford.

Which, on his motion, was read, and, on his further motion, was referred to the Committee on Cities and Towns, with power to report by bill, or otherwise.

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

“An act to establish a State Library,”

Which, on his motion, was read.

On motion, the Senate adjourned till 3 o'clock P. M.

SAME DAY—3 o'clock P. M.

Senate met pursuant to adjournment.

Mr. Mustard presented a petition of James B. Deputy and 21 others, praying for a new school district in Cedar Creek hundred, Sussex county,

Which, on his motion, was read, and, on his further motion, the petition, with the accompanying papers, was referred to the Committee on Education.

Mr. Roe, from the Committee on Claims, reported back, with favorable recommendation, the House joint resolution concerning Volume 16, Laws of Delaware,

Which, on his motion, was taken up for consideration, and, on his motion, was read, and, on his further motion, was
Concurred in.

Ordered that the House be informed thereof, and the joint resolution returned to that body.

Mr. Cavender, from the Committee on Enrolled Bills, reported as duly and correctly enrolled and ready for the signature of the Speaker of the Senate the following Senate bills, viz.:

“An act to incorporate the National Dredging Company,”

“An act to incorporate the Pusey and Scott Company,”

“An act to incorporate the Wesleyan College,”

“An act to amend an act entitled, An act to incorporate the Jackson Lime and Marble Company,”

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

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

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

“An act to prevent injury to burial grounds, and the removal of bodies therefrom,”

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

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

“An act to amend Chapter 387 of Volume 15, Laws of Delaware,”

Which, on his motion, was read.

Mr. Mustard presented a paper in relation to the consolidation of School Districts Nos. 16 and 124,

Which, on his motion, was referred, without reading, to the Committee on Education.

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had reconsidered the vote by which the Senate amendment to the House bill entitled,

“An act to incorporate the Dover Glass Works Company,”

Was concurred in, and had amended the same by adopting a substitute therefor, and asked the concurrence of the Senate in the same.

Also,

That the House had passed and asked the concurrence of the Senate in the following bills, viz. :

“A supplement to the act entitled An act to incorporate the Delaware Steam Fire Engine Company, No. 3, of Wilmington, Delaware,”

“An act to lay out a new public road in Mispillion hundred, in Kent County,”

“An act to incorporate the Young Mens’ Republican Club, of Wilmington, Delaware.”

Also,

He informed the Senate that the House had concurred in the Senate bill entitled,

“An act to incorporate the Pioneer Coach Company,”

With two amendments,

And asked the concurrence of the Senate in the amendments.

Mr. Houston, from the Committee on Roads and Highways, reported back, with two amendments, the Senate bill entitled,

“An act to authorize Andrew J. Horsey to construct a tumbling dam at his mill in Little Creek hundred, Sussex county.”

On motion of Mr. Houston, the amendments were read, and, on his motion, the first amendment was *Adopted.*

And, on his further motion, the second amendment was *Adopted.*

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

The question, "Shall this bill pass the Senate?" was decided in the affirmative, so the bill *Passed the Senate.*

Ordered to the House for concurrence.

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

"An act to incorporate the Pioneer Coach Company,"

As amended by the House, was taken up for consideration, and, on his motion, the House amendments was read as follows ;

HOUSE OF REPRESENTATIVES,
February 13, 1883.

"Amend Section 2, by adding at the end thereof, the words, 'any such mortgage or mortgages of personal property shall be subject to the general provisions of law respecting chattel mortgages,' "

Also,

"Amend Section 7, by adding at the end thereof, the words, 'but nothing herein contained shall affect any debt or liability heretofore incurred by any of the individuals composing the said incorporated company, and the remedy hereby given against the corporations, shall be cumulative to any existing remedy or remedies.' "

E. W. WAPLES,
Clerk of the House of Representatives.

Extract from Journal.

Mr. Betts moved that the House amendment to Section 2 be concurred in.

On the question, "Shall the amendment to Section 2 be concurred in?" the yeas and nays were ordered, which being taken, were as follows :

Yeas—Messrs. Betts, Chandler, Cooper, Horsey, Houston, and Mr. Speaker—6.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority, was
Concurred in.

Mr. Betts moved that the House amendment to Section 7 be concurred in.

On the question, "Shall the amendment to Section 7 be concurred in?" the yeas and nays were ordered, which being taken, were as follows :

Yeas—Messrs. Betts, Cavender, Chandler, Houston, Roe, and Mr. Speaker—6.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority, was
Concurred in.

Ordered that the House be informed thereof.

Mr. Houston offered a joint resolution directing State Treasurer to pay James Kirk & Sons, the sum of \$448.90.

Which, on his motion, was read,

And, on motion of Mr. Cavender, the bill of items of Messrs. Kirk & Sons, was read, and, on his motion, the joint resolution was referred to the Committee on Accounts.

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

"A supplement to the act entitled, An act to incorporate the Delaware Steam Fire Engine Company, No. 3, of Wilmington, Delaware,"

Was read.

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

"An act to incorporate the Young Men's Republican Club,
in the city of Wilmington, Delaware,"

Was read.

On motion, the Senate adjourned.

WEDNESDAY, February 14, 1883—10 o'clock A. M.

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called. Members present, Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, and Mr. Speaker.

Journal read and approved.

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

“An act to revive and extend the time for recording the act entitled, An act to incorporate the Delaware Avenue Club Stables.”

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

“An act to incorporate the Seidel and Hastings Company,”

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

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

“A supplement to the act entitled, An act to incorporate the Delaware Steam Fire Engine Company, No. 3, of Wilmington, Delaware,”

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

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

“An act to incorporate the Young Men's Republican Club, in the city of Wilmington, Delaware,”

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

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

“An act in relation to requisitions for fugitives from justice,”

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

Mr. Horsey, from the Committee on Judiciary, reported back, with favorable recommendation, the Senate bill entitled,

“An act to prevent injury to burial grounds, and the removal of bodies therefrom,”

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

The question, “Shall this bill pass the Senate?” was decided in the affirmative, so the bill *Passed the Senate.*

Ordered to the House for concurrence.

Mr. Chandler presented the petition of Julia Mohlen, praying for an act to divorce her from her husband, Charles T. Mohlen,

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

Mr. Waples, Clerk of the House, being admitted, informed the Senate that the House had passed, and asked the concurrence of the Senate in, the following bills, viz.:

“An act relating to School District No. 81, New Castle county,”

“An act to provide for the maintenance of a ferry across the Nanticoke river, at Woodland, in Sussex county,”

“An act to prohibit live stock from running at large in School District No. 68, Sussex county,”

He also informed the Senate that the House had concurred in the following Senate bills and joint resolution viz.:

"An act to prohibit live stock from running at large in School District No. 41, in Sussex county,"

"An act to prevent live stock from running at large in School District No. 89, in Sussex county,"

"An act to punish the procurement of abortion,"

"An additional supplement to an act entitled, An act to enable the owners and possessors of the marsh meadows on the north side of the Christiana river, called Middleburgh Marsh, to keep the banks, dams, and sluices in repair, and raise a fund to defray the expenses thereof, passed in the year 1769,"

"An act abolishing the wearing of a convict's jacket as a badge of crime,"

"Joint resolution to re-imburse the Adjutant General of the State."

Also,

He informed the Senate that the House had amended the following Senate bills:

"An act to incorporate the Wilmington Market House Company,"

"An act to incorporate the Wilmington Glass Company,"

And asked the concurrence of the Senate in the amendments.

He also returned to the Senate the following duly and correctly enrolled Senate bills and joint resolutions, with the signature of the Speakers of both houses, viz.:

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

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

"An act to incorporate The Springer, Morley and Gause Company,"

"An act to incorporate the Robbins Hose Company, No. 1, of Dover, Delaware,"

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

"An act to incorporate The Diamond State Organ Company,"

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

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

"An act to incorporate the Delaware Lumber Company,"

"Joint resolutions on printing the opinions of the Chancellor and Judges,"

"Joint resolution granting an audience to the Delaware State Temperance Alliance."

On motion of Mr. Betts, the Senate bill, as amended by the House, entitled,

"An act to incorporate the Wilmington Market House Company,"

Was taken up for consideration, and, on his further motion, the amendment was read, as follows:

HOUSE OF REPRESENTATIVES,
February 13, 1883.

Amend Section 7, by striking out the words, "for sufficient cause" in line five thereof.

E. W. WAPLES,
Clerk of the House of Representatives.

Extract from Journal for concurrence.

Mr. Betts moved that the amendment be concurred in.

On the question, "Shall the amendment be concurred in?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority, was
Concurred in.

Ordered that the House be informed thereof.

On motion of Mr. Betts, the Senate bill, as amended by the House, entitled,

"An act to incorporate the Wilmington Glass Company."

Was taken up for consideration, and, on his further motion, the House amendment was read, as follows:

HOUSE OF REPRESENTATIVES,
February 13, 1883.

Amend Section 7, by striking out the words, "for sufficient cause," in lines five and six, thereof.

E. W. WAPLES,
Clerk of House of Representatives.

Extract from Journal.

Mr. Betts moved that the amendment be concurred in.

On the question, "Shall the amendment be concurred in?" the yeas and nays were ordered, which, being taken, were as follows:

Yeas—Messrs. Betts, Cavender, Chandler, Horsey, Houston, Mustard, and Mr. Speaker—7.

Nays—None.

So the question was decided in the affirmative, and the amendment, having received the required constitutional majority, was
Concurred in.

Ordered that the House be informed thereof.

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

"An act to provide for the establishment and maintenance of a ferry across the Nanticoke river at Woodland, in Sussex county,"

Was read.

Also, on his motion, a petition of W. W. Wright and 190 others, praying for said ferry, was read.

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

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

Was read.

On motion, the Senate adjourned till 3 o'clock P. M.

SAME DAY — 3 o'clock P. M.

Mr. Cavender presented a remonstrance of John Collins and 270 others, against the passage of the bill authorizing Thomas W. Wilson to straighten the road between Smyrna and Dover,

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