

are, and they must be, under our form of government especially, the very foundation of social and public character and political prosperity.

The matter of inquiry intrusted to your committee is specific, and limited to the subject suggested in the resolution under which they were appointed. But were their duty more general, it would be impossible upon the present occasion, to point out the defects in the present system of free schools, and the errors and imbecility in its administration—or to propose any particular or partial changes or modification. To advance merely theoretical opinions as to a reformation, either in the principles or operation of the system, would conduce to no beneficial or practical result. The subject is too vast to be grasped by the mind, without adequate and laborious investigation. It would require the patient exercise of much research and reflection, to obtain a thorough and available mastery of it, without which all suggestions must necessarily be but the crude theories of imperfect knowledge. That many errors and imperfections exist, is almost universally acknowledged;—and all men will admit, that there is much room for improvement, if not an absolute necessity for entire and radical reformation.

Your committee believe that the matter of most pressing importance, is to institute a careful and comprehensive investigation into the actual and practical results of the present school system, since the period of its adoption. Without this, neither its real value, nor its evils and abuses can be properly ascertained; and as the object of any change would be strict utility and the most economical mode of improvement, it is indispensably pre-requisite to begin in the proper manner, and to understand precisely what is the disease which is to be remedied. The object should be, not merely to ascertain all the matters connected with the organization and management of the free schools throughout the different districts of the State, but also to inquire into the character and mode of tuition, the average qualifications of the teachers usually employed, and the intellectual results developed by the pupils. When these things shall be known, the condition, progress, and prospects of education among us can be intelligently appreciated.

Throughout Europe, and in many States of the Union, much attention has been recently directed towards the improvement of the various systems of popular education; and there is at the present period a pervading and simultaneous movement in this great cause. Are the people of Delaware to sit down in the vacant complacency of ignorance, and view the stately march of intellect sweeping by them, without a single effort to join in its triumphant progress? If so, they will be recreant to their former character and deaf to the voice of interest and necessity. It is believed that the exigencies of the case and the temper of the times, demand that some step should be taken towards the improvement of the school system. The subject, however, cannot safely be entrusted to the consideration or decision of a legislative committee. To make a proper examination into the improvements recently adopted and suggested, both at home and abroad, would be the labor of much time and assiduity; and to digest the materials acquired, into a scheme suited to our means and circumstances, would demand the serious and continued attention of the most matured and enlightened judgments.

Your committee acknowledge with regret, that it may perhaps be difficult to select competent persons whose private official duties would permit

them to bestow the necessary attention to this important subject: but as they feel that this is the most feasible and auspicious plan which their own reflections have suggested, they beg leave to recommend the appointment of commissioners, whose duty it shall be to investigate the organization, management, and actual results of the present system of free schools; to institute a thorough examination of the different plans of popular education now in operation, or recommended by competent authority in this country and in Europe; to advise such improvements or alterations in the existing laws relating to this subject as they may deem most conducive to the general interests of the State, and best suited to the character and condition of the people; and to determine what scheme and mode of instruction shall be adopted for the common government of the public schools.

As the time intervening between the present session and the next biennial meeting of the Legislature, would not be more than sufficient for these purposes, your committee recommend that the commissioners be appointed for that period; and that a full and detailed report of the results of their several investigations shall be laid before the next General Assembly for their approval and adoption.

In furtherance of these views, your committee pray leave herewith to report a bill for the purposes aforesaid.

#### *AN ACT to provide for the reformation of the system of Free Schools.*

**SECTION 1.** *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That*

*be, and they are hereby appointed Commissioners for the purpose of carrying into effect the provisions hereinafter enacted.*

**SEC. 2.** It shall be the duty of the said Commissioners, as soon as practicable, to institute an inquiry into the actual condition of the free schools in the several districts of this State, and to collect full and particular information in relation to their organization, progress and success;—especially in reference to the general qualifications of the teachers employed, the amount of their compensation, the modes of instruction adopted, and the general intellectual results exhibited by the pupils, so far as the same may be ascertained; also in relation to the mode in which aid subsidiary to the public fund has been collected in each district, whether by voluntary contribution or taxation; and generally to obtain such information as may illustrate the actual condition and value of each of the public schools throughout the State.

**SEC. 3.** It shall be the further duty of the said Commissioners to investigate the principles and operation of the several school systems adopted in the other States of this Union or Europe, as may seem to them the most perfect, particularly those of the States of New York, Massachusetts, Ohio, Pennsylvania, and the kingdom of Prussia—to ascertain the recent improvements suggested or adopted; and to digest such a new scheme, or recommend such alterations in the existing laws, as may seem to them best adapted to the interests of the State, and the character and wants of the people.

SEC. 4. It shall be the further duty of the said Commissioners, after the foregoing provisions shall have been accomplished, to prepare a full and particular report of all the matters aforesaid, to be by them laid before the General Assembly of this State at their next biennial session, including all the information obtained in accordance with the directions of the second and third sections of this act; the system to be by them digested, as the result of their investigations; and also a recommendation of the best method of instruction to be adopted for the general government of the public schools.

SEC. 5. Each of the said Commissioners shall receive for his services in discharge of the duties hereinbefore prescribed the sum of \_\_\_\_\_ together with the repayment of all sums actually expended in procuring the information aforesaid, as well travelling expenses, as the cost of such books, documents, and papers as shall be by them procured for the purposes aforesaid.

SEC. 6. For the purpose of prosecuting the objects and intent of this act, the sum of \_\_\_\_\_ is hereby appropriated, to be subject to the orders of the said commissioners and to be applied to the payment of their compensation and contingent expenses; and it shall be the duty of the said commissioners to keep a just and true account of the said last mentioned expenditures, and to lay it before the General Assembly at their next biennial session.

SEC. 7. In case of the death or resignation of either of the said Commissioners, it shall be lawful for the Governor of this State to fill the vacancy or vacancies thus occasioned, by the appointment of such person or persons as may be competent to perform the duties hereinbefore prescribed.

Mr. Dilworth moved,

That two hundred copies of said report, and fifty copies of said bill, be printed for the use of the members of the Legislature,

Which motion

*Prevailed.*

Mr. Jones laid on the table the petition of the Wilmington Bridge Company, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Houston and Williamson, were appointed said committee.

Mr. Rogers laid on the table the following resolution, which

On his motion,

Was read, as follows, to wit:—

**Resolved,** That the committee to whom is referred the petition of the Wilmington Bridge Company, be specially instructed to inquire into the propriety and expediency of interfering with the suit in Chancery, ordered by the Legislature at their last biennial session; and that the report of the Attorney General recently presented, and also the report of the Trustee

of the School Fund, and of the committee appointed at the last biennial session, be also referred to them for the purposes of information.

On his motion,  
Said resolution was then

*Adopted.*

On motion of Mr. Neal,  
The bill entitled "An act granting for a limited time, an additional Justice of the Peace to the county of Sussex," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Hopkins, of N. W. F.,  
The House adjourned until 3 o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

On motion of Mr. Spruance,  
The bill entitled "An act to encourage the growth and reeling of Silk within this State," was taken up for a third reading, in order to pass the House, but at the close of the reading of the second section thereof,

On motion of Mr. Frame,  
Said bill was committed to a committee of three members, with leave to report the same back to the House, with or without amendment.

Messrs. Frame, Hopkins of N. W. F., and Kerr, were appointed said committee.

Mr. Hopkins of B. C., from the committee on the petition of Smith Timmons of Sussex county, reported a bill entitled "An act to enable Smith Timmons to locate certain vacant land, situate in Broad Creek hundred, in Sussex county, and to complete his title to the same," which

On his motion,  
Was read.

Mr. Frame, from the committee on the bill entitled "An act to encourage the growth and reeling of silk within this State," reported the following amendments thereto, to wit:—

First.—Amend the bill by inserting in the 1st section, between the words "to" and "any" in the thirty-first line, as follows, viz:—"such person or persons so claiming, or to." Second. Strike out the 2nd section, and in lieu thereof insert the following as the 2nd section, viz:—

"Section 2. *And be it further enacted,* That if any person or persons shall, in taking said oath or affirmation, under the first section of this act, wilfully swear or affirm falsely, every such person or persons so offending, shall be deemed guilty of the crime of perjury, and for every such offence, shall be indictable and punishable, in the same manner, as other



persons guilty of the crime of perjury are, by the laws of this State, indictable and punishable."

On motion of Mr. Frame,  
Said amendments were

*Adopted.*

Mr. Hopkins, of B. C., laid on the table the petition of sundry persons in Sussex county, praying for an act of Assembly relinquishing the right of the State to vacant lands in said county, in certain cases therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Hopkins of B. C., Rogers and Frazer were appointed said committee.

Mr. Frazer, from the committee on the petition of sundry persons in Little Creek Neck, praying for a law to authorize the reduction of the width of a certain road therein mentioned, reported a bill entitled "A supplement to the act entitled 'an act to strengthen and improve the roads from the banked marshes on Simon's creek in Kent county, to the village of Seaford in Sussex county, which

On his motion,  
Was read.

On motion of Mr. Frazer,  
The House adjourned until 10 o'clock to-morrow morning



WEDNESDAY, 10 o'clock A. M. January 16, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Rogers moved,

That the resolution which he had introduced on Saturday last, to enter upon the Journal of this House, the Protest of the New Castle delegation, against the resolution for choosing a Senator to represent this State, in the Senate of the United States, and the proceedings connected therewith, be taken up for consideration, this being the day to which said resolution stands postponed,

Which motion

*Prevailed.*

Mr. Rogers then moved,  
That said resolution be adopted.

The House being divided, Mr. Jones demanded the yeas and nays which were as follows:—

Yeas—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C., Hopkins, of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 yeas.

**Nays**—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 nays.

So said resolution was lost.

On motion of Mr. Frame,

**Resolved by the House**, That the Clerk do *not* enter on the Journal, the protest of the members from New Castle county, on the subject of the resolution for the election of a Senator from this State, in the Senate of the United States, the same being in the opinion of this house, disorderly and contemptuous towards this House.

The House being divided on the question of the adoption of said resolution, Mr. Frame demanded the yeas and nays, which were as follows:—

**Yeas**—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

**Nays**—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C., Hopkins, of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So said resolution was

*Adopted.*

Mr. Rogers from the committee on the bill entitled “An act for the preservation of certain game,” reported back said bill with sundry amendments, which

On his motion,

Were read, as follows, to wit:—

Amend the bill by inserting as the third section the following words:—

“Section 3. *And be it further enacted*, That no person shall kill any pheasant within this State, between the tenth day of January and the tenth day of September.”

Also, by altering the number of the remaining sections, conformably to their position.

Also, by inserting immediately after the word “wood-cock” wherever it occurs (except in the second section,) the words “or pheasant.”

Also, in what will be the 6th section (as amended) by inserting after the word “peace,” the words “in like manner as is provided by the act providing for the recovery of small debts.”

On motion of Mr. Frame,

**Resolved by the House**, That the Journal thereof be corrected by the Clerk, by striking therefrom, the reasons assigned by Mr. Rogers, for his declining to vote on the motion to lay on the table the resolution for the removal of the Speaker, said reasons being, in the opinion of this House, disorderly and contemptuous towards the House.

Pending the question on said motion,

Mr. Frame moved,

That the said resolution be amended by substituting therefor, the following resolution, to wit:

**Resolved**, That in the opinion of this House, the resolution offered by Mr. Rogers, the member from New Castle, assigning his reasons for de-

clining to vote on the motion to lay on the table the resolution for the removal of the Speaker, is disorderly and contemptuous, towards this House.

The House being divided on the question of amendment, Mr. Frame demanded the yeas and nays, which were as follows:

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins of Broad Creek, Hopkins of North West Fork, Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So the amendment was

*Adopted.*

Mr. Frame then moved,

That said resolution, as amended, be adopted. The House being divided, Mr. Jones demanded the yeas and nays, which were as follows;—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C., Hopkins of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So the resolution as amended, was

*Adopted.*

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the concurrence of the House, a bill entitled "An act to authorize Joseph Smithers to erect a gate across a road.

And he withdrew.

Mr. Jones, from the committee on the petitions of Henry Whiteley, Esquire, superintendent of the Delaware Light-house establishment, in behalf of the United States, reported.

A bill entitled "An act ceding to the United States, the jurisdiction over a certain piece of land and marsh, between the mouth of Little Creek and the mouth of Duck Creek, which

On his motion,  
Was read.

On motion of Mr. Dilworth,  
The communication from the Senate was read.

On motion of Mr. Frazer,  
The bill entitled "A supplement to the act entitled 'An act to straighten and improve the roads from the banked marshes on Simon's Creek, in Kent county, to the village of Seaford in Sussex county,'" was taken up and read a second time.

On motion of Mr. Houston,  
The House adjourned until three o'clock this afternoon.

*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Hopkins, of B. C., laid on the table the following resolution, which

On his motion,  
Was read as follows, to wit:—

*Resolved by the House of Representatives of the State of Delaware, by and with the concurrence of the Senate, That*  
be, and he is hereby appointed Auditor of Accounts.

Mr. Spruance laid on the table the account of Ezekiel Cowgill against the State, which

On his motion,

Was referred to the committee on claims.

Mr. Boulden laid on the table a memorial of twenty-three men and ninety-two women, from various parts of New Castle county, praying for an act of Assembly, increasing the penalty for the unlawful sale of intoxicating liquor, and for other alterations in the present license law, &c. which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Boulden, Spruance and Marshall, were appointed said committee.

On motion of Mr. Hopkins, of B. C.,

The bill entitled "An act to enable Smith Timmons to locate certain vacant land, situate in Broad Creek hundred, in Sussex county, and to complete his title to the same, was taken up and read a second time.

Mr. Frame proposed the following amendment to said bill, to wit:

Amend the bill by striking out the following clause in Sec. 1, to wit:—"lying in Broad Creek hundred, Sussex county, and adjoining and between the lands of the said Smith Timmons," and insert in lieu thereof as follows, viz:—"adjoining to, or lying between the lands, now owned by the said Smith Timmons, in Broad Creek hundred and Sussex county," which amendment

On motion of Mr. Hopkins, of B. C.,  
Was

*Adopted.*

On motion of Mr. Frame,

The bill entitled "An act to encourage the growth and reeling of Silk within this State," was taken up for a third reading in order to pass the House.

On the question of the passage of the first section of the said bill the House divided, and the yeas and nays were ordered by the Speaker, which were as follows:—

*Yeas*—Messrs. Boulden, Fiddeman, Frame, Frazer, Hopkins of N. W. F., Jones, Kerr, Marshall, Rees, Rogers, Spruance and Williamson—12 yeas.

*Nays*—Messrs. Biddle, Cooper, Dilworth, Hopkins of Broad Creek, Houston, Jefferson, Neal, Pratt and Mr. Speaker—9 nays.

So the first section of said bill

*Passed the House.*

On the question of the final passage of said bill, the House again divided, and the yeas and nays were ordered by the Speaker, which were as follows:—

*Yeas*—Messrs. Boulden, Fiddeman, Frame, Frazer, Hopkins of North West Fork, Jones, Kerr, Marshall, Rees, Rogers, Spruance and Williamson—12 yeas.

*Nays*—Messrs. Biddle, Cooper, Dilworth, Hopkins of Broad Creek, Houston, Jefferson, Neal, Pratt and Mr. Speaker—9 nays.

So the bill

*Passed the House.*

*Ordered*, To the Senate for concurrence.

Mr. Hopkins of North West Fork, from the committee on the petition of sundry persons in Sussex county, praying for the renewal or extension, of the act entitled “An act allowing an additional Justice of the Peace and Constable to the county of Sussex, for a limited time,” reported a bill entitled “An act to renew and extend the act entitled ‘An act allowing an additional Justice of the Peace and Constable to the county of Sussex for a limited time,’ which

On his motion,  
Was read.

On motion of Mr. Hopkins, of B. C.,  
The House adjourned until to-morrow morning at 10 o'clock.



THURSDAY, 10 o'clock, A. M. January 17, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

On motion of Mr. Jones,

The bill entitled “An act ceding to the United States the jurisdiction over a certain piece of land and marsh, between the mouth of Little Creek and the mouth of Duck Creek,” was read a second time.

He then proposed the following amendment to said bill, viz:—by inserting immediately preceding the first section thereof, the following words, to wit:—*Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That*” which said amendment was

On his motion,

*Adopted.*

Mr. Rogers laid on the table the petition of Samuel Bailey, praying for relief against the Philadelphia, Wilmington and Baltimore Rail Road Company, in certain cases therein mentioned, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Rogers, Neal and Fiddeman, were appointed said committee.

On motion of Mr. Cooper,  
The bill entitled "An act to authorize Joseph Smithers to erect gates across a road" was read a second time.

He then asked, and

On motion of Mr. Frame,  
(The rules of the House being first suspended for that purpose,) obtained leave to introduce a bill entitled "An act to amend the act entitled 'An act providing for the recovery of small debts, which

On his motion,  
Was read.

Mr. Frame moved,  
That twenty-four copies of the Rules for the government of this House be printed, for the use of the members thereof.

Which motion

*Prevailed.*

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, informed the House that the Senate had concurred in the bill entitled "An act to cede to the United States, the jurisdiction over a piece of land or marsh therein mentioned." Also in the bill entitled "An act allowing for a limited time, an additional Justice of the Peace to the county of Sussex."

And he withdrew.

On motion of Mr. Houston,  
The bill entitled "An act to enable Alexander Johnson to locate certain vacant land situate in Mispillion hundred, in Kent county, and to complete his title to the same" was read a second time.

Mr. Rogers moved,  
That the resolution growing out of the Report of the committee upon the petition of Martha Coulbourn of Sussex county, to be divorced from her husband Lewis L. Coulbourn be taken up for consideration.

Which motion

*Prevailed.*

He then moved,  
That said resolution be adopted,

Which motion also

*Prevailed.*

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, informed the House, that the Senate had concurred in the amendments of the House, to the bill entitled "An act to encourage the growth and reeling of Silk within this State."

And he withdrew.

On motion of Mr. Rees,  
The House adjourned until 3 o'clock this afternoon.

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*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Rogers laid on the table the petition of William Inskeip, of New Castle county, praying for an Act of Assembly, to alter and amend the provisions of the act entitled "A supplement to the act entitled 'An act to enable William Inskeip, of New Castle county, to raise his mill-dam, and for other purposes therein mentioned,'" which

On his motion,

Was read, and together with the accompanying papers, referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Spruance, Hopkins, of N. W. F., and Jefferson, were appointed said committee.

Mr. Frame laid on the table the petition of sundry persons in Kent county, praying for an Act of the Legislature, to prohibit the setting of wears and hedges in Spring Creek, and for other purposes therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Cooper, Frame and Kerr, were appointed said committee.

Mr. Jones laid on the table the petitions of a large number of citizens of Sussex county, praying for a law to authorize the Thompsonian practitioners of medicine within this State, to charge and enforce by law, the payment of a reasonable compensation for their services as such practitioners of medicine, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Jones, Hopkins, of N. W. F., and Pratt, were appointed said committee.

Mr. Pratt also presented the petition of sundry persons in Kent county, praying for a like law, which

On his motion,

Was referred to the same committee appointed on the petitions from Sussex county on the same subject.

Mr. Frame moved,

That the House do now take up for consideration, the resolution for the appointment of an Auditor of Accounts,

Which motion

*Prevailed.*

He then moved,  
That the House do now proceed to ballot for a person to fill the blank in the resolution offered by Mr. Hopkins, of Broad Creek, for the appointment of an Auditor of Accounts.

Which motion

*Prevailed.*

The House then proceeded to ballot for a choice, and the first ballot stood:—

For Simon Spearman      11 votes.

Nathaniel P. Harris,   10 “

The Speaker then declared that Simon Spearman, having received a majority of all the votes, was duly elected Auditor of Accounts.

Mr. Frame moved,

That the blanks in said resolution be filled with the name of Simon Spearman.

Which motion

*Prevailed.*

He then moved,

That said resolution (the blanks being filled with the name of Simon Spearman,) be adopted.

Which motion

*Prevailed.*

On his motion also,

Said resolution was

*Ordered,* To the Senate for concurrence.

He then laid on the table the following resolution, which

On his motion,

Was read as follows, to wit:—

*Resolved by the House of Representatives of the State of Delaware, by and with the concurrence of the Senate, That*

be, and he is hereby appointed State Treasurer.

He then moved,

That the House do now proceed to elect by ballot, a person to fill the blank in the resolution just offered.

Which motion

*Prevailed.*

The House then proceeded to ballot for a choice, and the first ballot stood:—

For Elijah Cannon,      20 votes.

Blank                      1 “

The Speaker then declared that Elijah Cannon, having a majority of all the votes given, was duly elected State Treasurer.

On motion of Mr. Frame,

The blank in said resolution, was filled with the name of Elijah Cannon.

He then moved,

(The blank being filled with the name of Elijah Cannon,) that said resolution be adopted,

Which motion

*Prevailed.*



On motion of Mr. Jones,

*Ordered*, To the Senate for concurrence.

Mr. Spruance laid on the table the petition of George W. Cummins and Simon Spearman, the committee in behalf of the citizens of Smyrna and its vicinity, praying for an Act of incorporation for a Steamboat Company, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Spruance, Houston and Dilworth, were appointed said committee.

Mr. Pratt, from the committee on the petition of John Hutchins, Thomas M. Hutchins and Lydia his wife, Fanny H. Hutchins, Lydia Ann Hutchins and Louisa O. Hutchins, reported

A bill entitled "An act for the relief of John Hutchins, Thomas M. Hutchins and Lydia his wife, Fanny H. Hutchins, Lydia Ann Hutchins and Louisa O. Hutchins, of Kent county," which

On his motion,

Was read.

Mr. Rogers, from the committee on the petition of Samuel Bailey, reported a bill entitled "An act for the relief of Samuel Bailey and for other purposes therein mentioned," which

On his motion,

Was read.

Mr. Jones, from the committee on the petition of Mary Ann Humphreys, laid on the table the following resolution, which

On his motion,

Was read, as follows, to wit:—

*Resolved*, That the committee on the petition of Mary Ann Humphreys, praying for a divorce from her husband, Peter A. Humphreys, be empowered to send for persons and papers, with a view of ascertaining the facts in said case.

On motion of Mr. Jones,

Said resolution was

*Adopted.*

Mr. Houston laid on the table the petition of sundry persons in Sussex county, praying for a law appointing commissioners, with authority to raise by contribution or by a lottery, or both, a sum sufficient to embank out the waters of the Atlantic ocean from the marshes adjacent thereto, between certain points therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Houston, Frazer and Jefferson, were appointed said committee.

Mr. Dilworth laid on the table the following resolution, which

On his motion,

Was read, as follows, to wit:—

*Resolved*, That a committee to consist of three members, be appointed ~~on~~ so much of the Governor's Message, as relates to the subject of imprisonment for debt.

On motion of Mr. Dilworth,  
Said resolution was

*Adopted.*

And Messrs. Dilworth, Fiddeman and Marshall, were appointed said committee.

On motion of Mr. Hopkins, of B. C.,

The bill entitled "An act to enable Smith Timmons to locate certain vacant land, situate in Broad Creek hundred, in Sussex county, and to complete his title to the same" was read a third time by paragraphs, and

*Passed the House.*

*Ordered*, To the Senate for concurrence.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, informed the House that the Senate had concurred in the resolution thereof, appointing Elijah Cannon State Treasurer, and that the resolution appointing Simon Spearman Auditor of Accounts, had been amended by inserting in lieu of the name of the said Simon Spearman, the name of Nathaniel P. Harris, and asked the concurrence of the House in said amendment.

And he withdrew.

Mr. Jones moved,

That the House concur in said resolution as amended by the Senate.

The House being divided, Mr. Jones demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C., Hopkins, of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 yeas.

*Nays*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 nays.

So the amendment of the Senate to said resolution was lost.

Mr. Houston gave notice that on to-morrow he should ask leave to introduce a bill entitled "A supplement to the act entitled 'An act concerning the office of Sheriff.'"

On motion of Mr. Houston,

The House adjourned until to-morrow morning at 10 o'clock.



FRIDAY, 10 o'clock, A. M. January 18, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Kerr laid on the table the petition of William Chandler, in behalf

of the Philadelphia, Wilmington and Baltimore Rail Road Company, praying for time to prepare a *statement* of the facts in the case of the complaint of Samuel Bailey against said company, and for leave to be heard before this House by their counsel or otherwise, which

*On his motion,*  
Was read.

Mr. Jones laid on the table the petition of sundry officers of the Grand Lodge of the State of Delaware, for an act to carry into effect, an act therein mentioned, which

*On his motion,*  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Jones, Rees and Neal were appointed said committee.

Mr. Frame, chairman of the committee on the petition of the Wilmington Bridge Company asked, and

*On motion of Mr. Rees,*  
Obtained further time to report.

*On motion of Mr Houston,*  
The bill entitled "An act to authorize Alexander Johnson to locate certain vacant land in Mispillion hundred, and to complete his title to the same" was read a third time by paragraphs and *Passed the House.*

*Ordered,* To be returned to the Senate.

Mr. Spruance, from the committee on the petition of George W. Cummins and Simon Spearman, the committee appointed by the citizens of Smyrna and its vicinity, to memorialize the Legislature on the subject of chartering a steamboat company, as in said memorial is described, reported a bill entitled "An act to incorporate the Smyrna, Leipsic and Philadelphia Steam-boat Company," which

*On his motion,*  
Was read.

Mr. Frame moved,  
That fifty copies of said act of incorporation be printed for the use of the Legislature.

Which motion *Prevailed.*

He then laid on the table the memorial of the Chesapeake and Delaware Canal Company, praying for an act of Assembly to increase the tolls on certain articles therein mentioned, and for the appointment of a special magistrate to reside at or near the Lock, on said canal at Delaware City, which,

*On his motion,*  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Dilworth and Houston were appointed said committee.

On motion of Mr. Pratt,

The bill entitled "An act for the relief of John Hutchins, Thomas M. Hutchins and Lydia his wife, Fanny H. Hutchins, Lydia Ann Hutchins, and Louisa O. Hutchins of Kent county, was read a second time.

Mr. Rogers moved,

The consideration of the bill entitled "An act for the relief of Samuel Bailey, and for other purposes therein mentioned," be made the order of the day for Friday the 25th inst., and that the parties respectively have liberty to be heard by counsel,

Which motion

*Prevailed.*

On motion of Mr. Cooper,

The bill entitled "An act to authorize Joseph Smithers to erect gates across a road," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To be returned to the Senate.

On motion of Mr. Frazer,

The bill entitled "A supplement to the act entitled 'an act to strengthen and improve the roads from the banked marshes on Simon's creek in Kent county, to the village of Seaford in Sussex county,'" was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Jones,

The bill entitled "An act ceding to the United States, the jurisdiction over a certain piece of land and marsh, between the mouth of Little Creek and the mouth of Duck Creek," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To be returned to the Senate for concurrence.

Mr. Rogers laid on the table the petition of William T. Reed of New Castle county, praying for an act of Assembly authorizing him to sell, under certain restrictions and provisions therein mentioned, certain real estate in the town of New Castle, which

On his motion,

Was read and referred to a committee of three members with leave to report by bill or otherwise.

Messrs. Rogers, Cooper and Hopkins, of N. W. F., were appointed said committee.

Mr. Dilworth from the committee on the petition of sundry persons in Kent county, praying for a law to appropriate such sum of money as the Legislature shall think proper, jointly with the Levy-court of Kent county, for the purpose of effecting certain repairs on the State House, reported

A bill entitled "An act directing certain repairs to be done on the State House," which

On his motion,

Was read.

On motion of Mr. Jones,  
The House adjourned until 3 o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Rogers laid on the table the following resolution, which

On his motion,  
Was read as follows, to wit:—

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That when the two Houses adjourn this afternoon, they will adjourn over to Wednesday morning next, at 10 o'clock.

On his motion also,  
Said resolution was adopted.

*Ordered,* To the Senate for concurrence.

Mr. Frame laid on the table the petition of the heirs of John Bowers, dec'd., praying for an act of the Legislature to renew, or continue in force, an act entitled "An act to authorize John Bowers, his heirs, executors, administrators or assigns, to erect a toll-gate across the public road running to Bowers' beach, or Mulberry point, on Delaware bay, and for other purposes," which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Marshall and Williamson, were appointed said committee.

Mr. Rees laid on the table the petition of sundry persons in Kent county, praying for an act of incorporation of a company in Kent county, for the cultivation of the mulberry tree, the rearing of silk worms, and for other purposes therein mentioned, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Rees, Jefferson and Kerr, were appointed said committee.

Mr. Houston asked, and

On motion of Mr. Frame,  
Obtained leave to introduce a bill entitled "A supplement to the act entitled 'An act concerning the office of Sheriff,'" which

On his motion,  
Was read.

Mr. Hopkins of B. C., from the committee on the petitions of sundry persons in Sussex county, on the subject of vacant lands in said county, which has for a long time been held and possessed by adjacent and surrounding landholders, &c., asked, and

On motion of Mr. Dilworth,  
Obtained further time to report.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, informed the House that the Senate had concurred in the joint resolution, fixing Wednesday next at ten o'clock, as the time to which the two Houses will adjourn, when they adjourn this afternoon,

And he withdrew.

On motion of Mr. Frame,

The Rules of the House were suspended, to authorize him to introduce a bill entitled "An act for recording certain evidences of public debt," which said bill

On his motion,  
Was read.

On motion of Mr. Jones,

The House adjourned until Wednesday morning next, at 10 o'clock.



### WEDNESDAY, 10 o'clock A. M. January 23, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Frame laid on the table the petition of Nehemiah Clark, of Kent county, praying to be discharged from the payment of a certain sum of money therein mentioned, which

On his motion,

Was read and referred to a committee of three members with leave to report by bill or otherwise.

Messrs. Frame, Biddle and Neal, were appointed said committee.

On motion of Mr. Frame,

The bill entitled "An act to provide for the recording of certain evidences of public debt," was read a second time.

Mr. Rees laid on the table sundry petitions for a law to alter and modify the present license law of this State, which

On his motion,

Were referred to the committee heretofore appointed on petitions of a similar import.

He then presented another petition on the same subject, signed by a large number of females, but somewhat different in its prayer, which

On his motion,  
Was read and referred to the same committee, as those first presented.

Mr. Bouliden also presented sundry petitions from New Castle county, signed by a large number of petitioners, both male and female, on the same subject, which

On his motion,  
Were referred to the same committee as those presented by Mr. Rees.

He then moved,  
The enlargement of the committee on said petitions, by the appointment of three other members, in addition to those already appointed on the same subject.

Which motion *Prevailed.*

Messrs. Pratt, Jefferson and Kerr, were appointed said additional members of said committee.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the concurrence of the House, a bill entitled "An act to incorprtte the Delaware Iron Company."

And he withdrew.

On motion of Mr. Dilworth,  
The communication from the Senate was read.  
Mr. Laws, Clerk of the Senate being again admitted, presented for the concurrence of the House, a bill entitled "An act to enable Clement Layton and Warren Kinder, to locate certain vacant land situate in North West Fork hundred, in Sussex county, and to complete their title to the same."

And he withdrew.

On motion of Mr. Neal,  
The communication from the Senate was read.

Mr. Frame, from the committee on the petition of Nehemiah Clark, to be released from the payment of a certain sum of money therein mentioned, reported a joint resolution on the subject, which

On his motion,  
Was read, as follows, to wit:—

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Nehemiah Clark, of Kent county, be and he is hereby released, acquitted, and fully discharged of, and from, the balance, or sum of one hundred and thirty-six dollars and four cents, which is set forth, and stated to be due from him to the said State, in the Report of the Auditor of Accounts, made to this General Assembly, at the present session thereof: And that the Auditor of Accounts of this State be, and he is hereby authorized and required, to audit the accounts between the said State and Nehemiah Clark, and to allow to him an abatement, or credit for, and to the amount of, the said balance so as to close said accounts and liquidate and square the said balance.

On motion of Mr. Hopkins, of N. W. F.,  
The bill entitled "An act to renew and extend the act entitled 'An act allowing an additional Justice of the Peace and Constable, to the county of Sussex for a limited time,'" was read a second time.

He then moved,  
That said bill be re-committed to the same committee that had reported it.  
Which motion *Prevailed.*

On motion of Mr. Houston,  
The House adjourned until 3 o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Dilworth presented sundry petitions, signed by a large number of ladies and gentlemen of various parts of New Castle county, praying for an alteration in the present license law, which

On his motion,  
Was referred to the committee heretofore appointed on the same subject.

Mr. Kerr also presented a petition on the subject of further legislation, respecting the sale and use of intoxicating drinks, which

On his motion,  
Was read and referred to the committee on that subject.

Mr. Frame laid on the table the petition of Ann Cabbage, praying for a divorce from her husband George Cabbage, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Dilworth and Hopkins, of B. C., were appointed said committee.

He also laid on the table the petition of the Cow-Marsh Company, praying for a law to authorize the Levy-court of Kent county, to make appropriations annually, to aid and assist in keeping open and in repair, the ditches and drains of said company, for reasons in their said petition set forth, which said petition

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Cooper and Frazer, were appointed said committee.

He also laid on the table the petition of the "White-Marsh Company," praying for a repeal of their charter, or act of incorporation, for reasons in said petition set forth, which



On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Fiddeman, Marshall and Biddle, were appointed said committee.

Mr. Rogers asked, and

On motion of Mr. Dilworth,

Obtained leave to introduce a bill entitled "A further supplement to the act entitled "An act for regulating inn-holders, tavern-keepers, and other public house-keepers, within this government, and empowering the justices to settle the rates of liquor, which

On his motion,

Was read.

On motion of Mr. Pratt,

The bill entitled "An act for the relief of John Hutchins, Thomas M. Hutchins and Lydia his wife, Fanny H. Hutchins, Lydia Ann Hutchins, and Louisa O. Hutchins of Kent county, was read a third time by paragraphs, and  
*Passed the House.*

Mr. Frame, from the committee on the petition of the Cow-marsh Company, reported a bill entitled "An act for the relief of the Cow-Marsh Company," which

On his motion,

Was read.

On motion of Mr. Boulden,

The House adjourned until 10 o'clock to-morrow morning,



THURSDAY 10 o'clock, A. M. January 24, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c,

Mr. Spruance laid on the table an account of the Secretary of State, which

On his motion,

Was referred to the committee on claims.

Mr. Jones laid on the table the memorial of the committee appointed at the Common School Convention, to memorialize the Legislature of this State, on the subject of an amendment to the school law of said State, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Jones, Spruance and Hopkins, of N. W. F., were appointed said committee.

On motion of Mr. Neal,

The bill entitled "An act to enable Clement Layton and Warren Kinder, to locate certain vacant land situate in North West Fork hundred in Sussex county, and to complete their title to the same," was read a second time.

Mr. Dilworth laid on the table a remonstrance, signed by the owners of the St. George's marsh, against the Delaware and Chesapeake Canal Company's being discharged from the payment of tax on the marsh by them owned, which

On his motion,

Was read and referred to the same committee appointed on the petition of the said Delaware and Chesapeake Canal Company.

Mr. Hopkins, of B. C., laid on the table the petition of Isaac Cannon (of E.,) praying for an act of Assembly to enable him to secure a title to certain vacant land in said petition mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Hopkins of B. C., Cooper and Boulden, were appointed said committee.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate, being admitted, returned to the House, the bill entitled "An act to enable Smith Timmons to locate certain vacant land in Broad Creek hundred, in Sussex county, and to complete his title to the same," and requested information of the House, as to where a certain amendment accompanying said bill, should be inserted, said amendment being on a separate paper from said bill.

And he withdrew.

Mr. Hopkins, of Broad Creek, laid on the table the petition of Ebenezer Gray of Sussex county, praying for a law to enable him to secure a title to a certain piece of vacant land in said petition described, which

On his motion,

Was read and referred to the same committee appointed on the petition of Isaac Cannon of E., for a similar law.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the concurrence of the House a bill entitled "An act for the relief of Isaac Walker of Appoquinimink hundred, in the county of New Castle."

And he withdrew.

On motion of Mr. Dilworth,

The communication from the Senate was read.

On motion of Mr. Spruance,

The bill entitled "An act to incorporate the Smyrna, Leipsic and Philadelphia Steamboat Company," was read a second time.

On motion of Mr. Hopkins, of N. W. F.,

The bill entitled "An act to enable Smith Timmons to locate certain va-

cant lands in Broad Creek hundred in Sussex county, and to complete his title to the same," was returned to the Senate, with the explanation by that body desired.

On motion of Mr Houston,

The bill entitled "A supplement to the act entitled 'An act concerning the office of Sheriff,'" was read a second time.

Mr. Neal laid on the table the petition of sundry persons in Sussex county, praying for the passage of a law to make the expense of keeping the roads and bridges in said county in repair, a county charge, the same as is now the law, in regard to such expenses in the county of Kent, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Neal, Marshall and Houston, were appointed said committee.

On motion of Mr. Dilworth,

The act entitled "An act for the preservation of certain game, and the protection of land holders," was read a second time.

He then proposed the following amendments to said bill, to wit:—"Amend the bill by adding to the first section at the end thereof, the following, viz:

*Provided*, That the provisions of this act shall not be construed to extend to the owners or occupants of lands within the said limits so as to prevent them from killing or destroying the said birds on their own premises."

Also, amend the 2nd section of the bill by adding between the words "shall" and "shoot" in the first line thereof the word "wilfully."

Also, amend the 4th section of the bill at the end thereof, by substituting in lieu of "county of Sussex," the words "counties of Kent and Sussex."

Also amend said bill adding Section 6, in the following words—"Section 6, *And be it enacted*, That the Secretary of State is hereby required as soon as practicable to cause this act to be published in two or more of the newspapers printed in this State, for the space of at least two months."

He then moved,

That the amendments to said bill be adopted,

Which motion

*Prevailed.*

The Speaker communicated to the House the certificate of the Secretary of State, concerning the bond and sureties of Elijah Cannon as State Treasurer.

On motion of Mr. Hopkins, of B. C.,

The communication from the Secretary of State was read, as follows, to wit:—

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

In obedience to the act of the General Assembly of the State of Delaware, entitled "An act requiring the State Treasurer to give security for the faithful performance of his official duties," passed at Dover, January

29, 1827, I do hereby certify that the bond of Elijah Cannon, State Treasurer, with Thomas Jacobs, Joseph W. Neal, Robert Houston, Aaron Marshall, jr., Charles Polk, P. Spruance, William Tharp, Warren Jefferson, Robert Hopkins, Richard Jefferson and John Frazer as his sureties, bearing date the twenty-second day of January, in the year of our Lord one thousand eight hundred and thirty-nine, was approved by Cornelius P. Comegys, Esquire, Governor of the State of Delaware, on the 23d day of January 1839.



In testimony whereof, I have hereunto set my hand and affixed the seal of the Secretary's office at Dover, the 24th day of January 1839.

CH. MARIM,

*Secretary of the State of Delaware.*

On motion of Mr. Frame,  
The joint resolution for the relief of Nehemiah Clark, was taken up for consideration.

He then moved,  
That said resolution be adopted,

Which motion

*Prevailed.*

*Ordered,* To the Senate for concurrence.

Mr. Rogers laid on the table the memorial of A. S. Naudain, C. S. Green, and Daniel Corbit, a committee on the part of the citizens of St. George's and Appoquinimink hundreds in New Castle county, praying for an act of incorporation of a company to be called "The Union Silk Company of New Castle county," which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Rogers, Spruance and Hopkins, of N. W. F., were appointed said committee.

Mr. Spruance laid on the table an account of George S. Adkins, which

On his motion,  
Was referred to the committee on claims.

Mr. Pratt laid on the table the petition of the Meredith's branch ditch company, praying for some further Legislative relief, in addition to their present act of incorporation, and its supplement, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Pratt, Jones and Jefferson, were appointed said committee.

Mr. Rogers from the committee on the petition from Sussex county, on the subject of vacant lands in said county in certain cases, made the following report, which

On his motion,  
Was read and  
As follows, to wit:—

*Adopted.*

The committee to whom was referred the petition of certain citizens of Sussex county, praying the passage of a law to grant all the right and title of the State to vacant lands, not included in the boundaries or adjacent tracts, to such persons as may have been in possession thereof for a period of twenty years, respectfully report:—That although the frequency of individual applications of this nature would seem to indicate the propriety of some general enactment, yet as the particular facts must vary in different cases, and as your committee have not the means of ascertaining the probable effect of a general provision upon the interests of the State and the rights of private citizens, they cannot feel it prudent now, to report a bill in answer to the prayer of the petitioners.

Although it is unquestionably the interest of the community that litigation should be diminished, and that special legislation should be dispensed with, as far as is practicable, yet your committee fear that the passage of such a law as is asked for, might injuriously interfere with questions which, from the facts stated in the petition, would appear properly to fall within the cognizance of the judicial power. It would be undertaking too much by one sweeping enactment, to determine and establish the conflicting boundaries of different surveys, which result might, in many instances, be arbitrary and unjust. Your committee therefore conclude that it is inexpedient, at the present time, to legislate upon the subject, and they ask to be discharged from the further consideration of the petition.

On motion of Mr. Jones,  
The House adjourned until 3 o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Spruance laid on the table the petition of Thomas L. Temple, praying for a law to authorize him to sell under certain restrictions, certain real estate belonging to his two sons, Charles and Henry M. Temple, which

On his motion,  
Was read.

Mr. Rogers, from the committee on the petition of A. Snow Naudain, C. S. Green and Daniel Corbit, in behalf of the citizens of St. George's and Appoquinimink hundreds in New Castle county, reported

A bill entitled "An act to incorporate the Union Silk Company of New Castle county," which

On his motion,  
Was read.

Mr. Houston presented the following resolution, which

On his motion,  
Was read, as follows, to wit:—

*Resolved by the House of Representatives of the State of Delaware, by and with the concurrence of the Senate, That*  
be, and he is hereby appointed Auditor of Accounts.

He then moved,  
That the House now proceed to ballot for a person to fill the blank in said resolution,

Which motion *Prevailed.*

The House then proceeded to ballot for a person to fill said blank, and the first vote stood—

For Liston A. Houston, 11 votes.  
Nathaniel P. Harris, 10 “

The Speaker then declared that Liston A. Houston, having received a majority of all the votes, was duly elected Auditor of Accounts.

Mr. Houston then moved,  
That the blank in said resolution be filled with the name of Liston A. Houston,

Which motion *Prevailed.*

Mr. Frame moved,  
That said resolution (the blank therein being filled with the name of Liston A. Houston,) be adopted,

Which motion *Prevailed.*

*Ordered,* To the Senate for concurrence.

Mr. Jones presented the remonstrance of Benjamin Whiteman, against the petition of William Inskeip, for a further supplement to the act entitled “An act to enable William Inskeip, of New Castle county, to raise his mill-dam, and for other purposes therein mentioned,” which

On his motion,  
Was read and referred to the same committee appointed on the petition of the said William Inskeip.

He also presented the petition of sundry persons in Sussex county, praying for a law to authorize Thompsonian physicians to charge, and collect by law, a reasonable compensation for their services as such physicians, which

On his motion,  
Was referred to the same committee heretofore raised on a petition from the same county on the same subject.

On motion of Mr. Frame,  
The bill entitled “An act to record certain evidences of public debt,” was read a third time by paragraphs, and *Passed the House.*

*Ordered,* To the Senate for concurrence.

The Speaker communicated to the House, certain statements and accounts prepared by the Secretary of State, together with a letter accompanying the same, which were read as follows, to wit:—

SECRETARY OF STATE'S OFFICE,

*Dover, January 24, 1839.*

SIR,

I have the honor, herewith to submit to the House of Representatives, my account with the State for moneys received for retailers' licenses, pedlars' licenses, commissions, impressions of great seal, &c. Also, my account with the school fund for moneys received from marriage and tavern licenses; and also, my account with the contingent expenses of the Secretary's office.

These accounts comprehend a period from the 17th of January 1837, to this day. From the accounts with the State, it will appear, that in the aforesaid period I have received and paid over to the State Treasurer, the sum of \$2693 54; from the accounts with the school fund it will appear that, in the aforesaid period I have received and paid over to the Trustee of the Fund the sum of \$4015—and from the accounts with the contingent expenses of the Secretary's office, it will appear, that, in the same period, I have disbursed the sum of \$459 77.

Be pleased to lay these accounts before the House of Representatives.

With high consideration,  
Your obedient servant,

CH. MARIM,

*Secretary of the State of Delaware.*

Hon. JOHN P. BRINKLOE,

*Speaker of the House of Representatives.*

*Charles Marim, Secretary of State, in account with the Fund for establishing Schools in the State of Delaware.*

DEBTOR.

		Dolls.	Cts.
1837.			
February 14,	To this sum from R. Houston, Esq., for a private act to enable Joseph B. Ford of the city of Wilmington to export a slave	5	00
April 29.	To cash received from T. S. Hilyard, Esqr., Clerk of the Peace in Kent county, for 13 tavern licenses granted in April	156	00
June 5.	To do from do for 2 Ale-house licenses	24	00
20.	To do from J. Gordon, Esq., Clerk of the Peace in New Castle county, for 79 tavern licenses, granted at the May term of the court of General Sessions	948	00
	To do from T. S. Hillyard, C. P. in Kent county, for 121 marriage licenses and one Ale-house do.	254	00
		<hr/>	<hr/>
		1387	00

## CREDITOR.

1837.

Dolls. Cts.

December 15, By my check on the Farmers' Bank at Dover,  
in favor of P. S. Parker, Trustee of S. Fund 1387 00  
Rec'd., this 15th December, 1837, of Charles  
Marim, Secretary of State, his check on the Far-  
mer's Bank of the State of Delaware, for the above  
sum of thirteen hundred and eighty-seven dollars  
for the use of the Fund for establishing schools in  
the State of Delaware.

P. S. PARKER,

*State Treasurer and Trustee S. Fund.*


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1387 00

Settled the above account with the Auditor, Dec. 15, 1837.

## DEBTOR.

1837.

Dolls. Cts.

December 29. To this amount in check on Farmers' Bank at  
Georgetown, received from S. P. Houston,  
Esq. Clerk of the Peace of Sussex county,  
on account of marriage and tavern licenses  
dispensed by him 300 00

1838.

January 9. To do from J. Gordon, Esq. Clerk of the  
Peace in New Castle county, in check on  
Bank of Delaware, on account of marriage  
and tavern licenses dispensed by him 1500 00

December 10, To do from do being part of his check  
on Bank of Delaware, for \$500, whereof 200  
are credited to the State on account of re-  
tailers' licenses, and the balance to the school  
fund for marriage and tavern licenses 300 00

12 To this amount from G. M. Manlove, Esqr.,  
Clerk of the Peace in Kent county, for ta-  
vern and Ale-house licenses 228 00

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2328 00

## CREDITOR.

1838.

Dolls. Cts.

December 14, By check on the Farmers' Bank at Dover, in  
in favor of P. S. Parker, Trustee 2328 00

*Amount carried forward,*


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2328 00



1838.

*Amount brought forward,*Dolls. Cts.  
2328 00

Received of Charles Marim, this 14th December 1838, his check on the Farmers' Bank of this date, for the above sum of two thousand three hundred and twenty eight dollars, for the use of the fund for establishing schools in the State of Delaware.

PETER S. PARKER,  
*State Treasurer.*

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2328 00

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Settled the above with the Auditor, December 15, 1838.

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DEBTOR.

1838.

Dolls. Cts.

December 24, To this sum from J. S. Layton, Esq., late Clerk  
of the Peace in Sussex county, on account

1839.

of marriage licenses

200 00

January 2,

To

do

do

200 00

---

300 00

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CREDITOR.

1839.

Dolls. Cts.

January 24, By this amount paid to Elijah Cannon, Esq.,  
Trustee

300 00

Received the above sum from C. Marim, this  
24th January, 1839.

ELIJAH CANNON, *Trustee,*

---

300 00

---

Respectfully submitted to the General Assembly in obedience to the directions of the "Act establishing certain fees for the use of the State."

January 24, 1839.

Amount paid over in 1837—1837 00

do do 1838—2328 00

do do 1839— 300 00

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\$4015 00

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*Chares Marim, Secretary of State, in account with the State of Delaware.*

DEBTOR.

		Dolls.	Cts.
1837.			
January 11.	To fee from G. R. Fisher, for commission as prothonotary of Sussex county	10	00
	To ditto from E. L. Wells, for commissions of Register in Chancery and Clerk of the Orphans' Court in Sussex county	20	00
	To ditto from N. P. Harris, for commission as Recorder of Deeds in Sussex county	10	00
	To ditto S. P. Houston, for commission as Clerk of the Peace in Sussex county	10	00
	To do from Peter Adams, as Recorder of deeds in Kent county	10	00
	To do from J. H. Eccleston, for commission as prothonotary in Kent county	10	00
	To do from J. C. Mansfield, for ditto in New Castle county	10	00
	To do from M. Kean, for commission as Recorder of deeds in New Castle county	10	00
Feb. 20.	To cash from W. Carmichael, Esquire, for an impression of the great seal	1	00
Mar. 3.	To ditto of M. W. Bates, Esq. for ditto	1	00
17.	To fee from Thomas Stevenson, for commission of justice of the Peace in Kent county	10	00
27.	To do from W. Nicholson, for commission of justice of the peace in New Castle county	10	00
	To cash from J. H. Eccleston, prothonotary in Kent county, for laws sold	14	96
April 3.	To cash from Jacob King, for lottery license	100	00
14.	To ditto from Z. B. Glazier, for ditto	100	00
17.	To do from J. Tharp, for impression of G. Seal	1	00
	To do from W. Streets, for ditto	1	00
23.	To do from G. R. Fisher, pothonotary in Sussex county, for laws sold	5	70
	To Joseph Green, for commission of Justice of the peace in Kent county	10	00
May 21.	To do from E. T. Bailey, for lottery license	100	00
	To do from Ch. Marim, for impression of great seal	1	00
June 20.	To do from J. Gordon, Esquire, clerk of the peace, in New Castle county, for fees on 9 constables' appointments	45	00
July 12.	To cash from Lemuel A. Hall, for impression of great seal	1	00
Aug. 16.	To do from R. Burton, Esquire, for ditto	1	00
30.	To do from Charles Ralph, Caleb Ross and J. Hosea, each \$1 for ditto to a patent	3	00
<i>Amount carried forward,</i>		\$495	66

		<i>Dolls.</i>	<i>Cts.</i>
1837.	<i>Amount brought forward,</i>	495	66
Sep. 23.	To ditto from Louvana Harris, for ditto	1	00
30.	To do from S. P. Houston, clerk of the peace in Sussex county, for fees from twenty constables' appointments	100	00
	To do from G. R. Fisher, prothonotary of Sussex county, for laws sold	4	75
Nov. 5.	To fee from P. W. Matthews, for commission of justice of the peace in Sussex county	10	00
	To do from A. Bradley, for do in N. C. county	10	00
14.	To do from C. C. Windsor, for ditto in Sussex county	10	00
Dec. 9.	To cash from D. Cannon, for impression of G. seal	1	00
	To cash from T. S. Hilyard, Esquire, clerk of the peace in Kent county, for fees on constables' appointments	75	00
	To do from ditto for fees on retailers' licenses	171	00
		<u>\$878</u>	<u>41</u>

## CREDITOR.

		<i>Dolls.</i>	<i>Cts.</i>
1837.			
Dec. 15.	By check of C. Marim on the Farmers' Bank at Dover, in favor of P. S. Parker, State Treasurer for	878	41
	Received of Ch. Marim, Secretary of State, this 15th Dec. 1837, eight hundred and seventy-eight dollars and forty-one cents, the amount of the above check for the use of the State of Delaware.		

PETER S. PARKER,  
*State Treasurer.*

\$878 41

Settled the above account with the Auditor Dec. 15, 1837.

## DEBTOR.

		<i>Dolls.</i>	<i>Cts.</i>
1837.			
Dec. 18.	To cash from Geo. R. Fisher, prothonotary in Sussex county, for laws sold	19	50
	To do from Jacob Caulk, Esquire, for commission of Register in New Castle county	10	00
<i>Amount carried forward,</i>		<u>\$29</u>	<u>50</u>

		<i>Dolls. Cts.</i>
1837.	<i>Amount brought forward,</i>	\$29 50
29.	To do from J. C. Mansfield, prothonotary in N. Castle county, for laws sold	13 50
1838.		
Feb. 1.	To do. from M. Deputy, F. Hollis and G. Hearne, each for an impression of the great seal \$1	3 00
Mar. 19.	To do from W. B. Wilson, for commission of justice of the peace in Sussex county	10 00
26.	To do from Z. B. Glazier, for lottery license	100 00
28.	To do from G. M. Manlove, for commission of clerk of the peace in Kent county	10 00
Apl. 9.	To ditto from Abraham Egbert, for commission of justice of the peace in N. Castle county	10 00
	To ditto from W. H. J. Comegys, for commission of Register in Kent county	10 00
17.	To ditto from F. A. Raybold, for an impression of great seal	1 00
26.	To ditto from Geo. R. Fisher, prothonotary in Sussex county, for laws sold	10 90
May 12.	To ditto from Wm. Hazzard, for commission of justice of the peace in Sussex county	10 00
	To ditto from Martin W. Bates, for impression of great seal	1 00
24.	To ditto of W. C. Hook, for lottery license	100 00
	To do from E. T. Baily for ditto	100 00
June 6.	To do from Alexander Johnson, for commission of justice of the peace in Kent county	10 00
	To do from John M. West, for ditto in Sussex county	10 00
23.	To do from G. A. Ewing, for ditto ditto	10 00
	To do from C. B. Sipple, for commission of recorder in Sussex county	10 00
	To do from Martin W. Bates, for impression of great seal	1 00
July 7.	To do from W. Moore, for do.	1 00
	To do from Caleb Ross, for 2 do do	2 00
Aug. 20.	To do from J. L. Harper, for 1 do	1 00
Sep. 21.	To do from C. Foster, for commission of Constable in St. George's hundred, N. Castle county	5 00
Oct. 3.	To do from W. H. Cooper, for commission of Recorder in Kent county,	10 00
22.	To do from Charles Jones, for commission of Justice of the Peace in Kent county	10 00
	To do from Nehemiah Stockley, for do	10 00
25.	To do from J. P. Numbers, n., for impression of the great seal to manumission	1 00
Nov. 1.	To do from Hon. J. R. Black, for impression of great seal and copy of Digest	2 00
<i>Amount carried forward,</i>		<u>\$591 90</u>

1838.		<i>Dolls. Cts.</i>
	<i>Amount brought forward,</i>	591 90
16.	To do from Elihu Jefferson, for commission of Sheriff of New Castle county, and for writ of assistance	20 00
	To do from Archibald Gordon, for commission of Coroner of New Castle county	10 00
	To do from David H. Stayton, for commission of Sheriff of Kent county and for writ of Assistance	20 00
	To do from Armwell Lockwood, for commission of Coroner of Kent county	10 00
18.	To do from W. O. Redden, for commission as Sheriff of Sussex county and for writ of assistance	20 00
27.	To do from Samuel Grace, for a commission as Justice of the Peace in Kent county	10 00
Dec. 10.	To do from J. Gordon, Clerk of the Peace in N. Castle county, being a part of the amount of a check of the 6th instant, on the Bank of Delaware for \$500, whereof 300 is credited to the school fund and 200 to the State, for retailers' licenses	200 00
12.	To cash from W. K. Lockwood, for commission of Clerk of the Orphans' Court and Register in Chancery in Kent county	20 00
	To do from G. M. Manlove, Clerk of the Peace in Kent county for retailers' licenses dispensed	217 03
		<hr/> \$1018 93 <hr/>

## CREDITOR.

1838.		<i>Dolls. Cts.</i>
Dec. 14.	By the check of Ch. Marim, in favor of Peter S. Parker, State Treasurer, on the Farmers' Bank of the State of Delaware, for	1018 93
	Rec'd. this 14th day of December 1838, of Ch. Marim, his check on the Farmerr' Bank, at Dover, for the above-sum of one thousand and eighteen dollars ninety-three cents, for the use of the State of Delaware.	

PETER S. PARKER,  
*State Treasurer.*

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1018 93

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Settled the above account with the Auditor, December 14, 1838.

## DEBTOR.

		<i>Dolls.</i>	<i>Cts.</i>
1838.			
Dec. 18.	To cash from G. Walston, Esq. for commission of Justice of the Peace in Kent county	10	00
	To do from T. S. Hilyard, Esq., late Clerk of the Peace in Kent county, for retailers' licenses and fees on Constable's appointments	200	00
31.	To do from Hon. C. S. Layton, former Clerk of the Peace in Sussex county, a balance due from him to the State of Delaware	150	00
1839.			
Jan. 3.	To do from George R. Fisher, Esq., prothonotary in Sussex, for laws sold	4	45
15.	To do from Isaac P. Walker, for impression of great seal	1	00
	To this sum from S. P. Houston Esq., Clerk of the Peace Sussex county, for retailers' licenses	400	00
21.	To this sum from J. C. Mansfield, prothonotary N. C. county, for laws sold	30	75
		<u>\$796</u>	<u>20</u>

## CREDITOR.

		<i>Dolls.</i>	<i>Cts.</i>
1839.			
Jan. 24.	By this am't. paid to Elijah Cannon, Esq., State Treasurer	796	20

Received the above sum of Charles Marim for the use of the State.

ELIJAH CANNON,  
*State Treasurer.*

\$796 20

Respectfully submitted to the General Assembly in obedience to the directions of the "Act establishing certain fees for the use of the State."

January 24, 1839.

Amount received and paid over in 1837—	878	41
do do 1838—	1018	93
do do 1839—	796	20
Making in the aggregate	<u>\$2693</u>	<u>54</u>

*The contingent expenses of the Secretary's office in account with Charles Marim, Secretary of State.*

DEBTOR.

1837.		<i>Dolls. Cts.</i>
Jan.	To copy of act furnished the State Treasurer, entitled "An act authorizing and appointing the State Treasurer to receive this State's share of the surplus revenue in the U. S. Treasury"	1 25
	Cash paid for removing case	25
Feb. 22.	Copy of act for payment of claims for State Treasurer	1 25
	Paid S. Kimmey, for blank licenses and commissions,	49 50
	Copy of act for payment of certain claims on account of the survey of the Delaware rail road, for State Treasurer	18
	Copies of acts for extending time for recording of deeds, furnished editors of newspapers	56
	Paid J. R. Bostick, for 2 quires of long paper	50
March 16.	Paid S. Minner, for glazing window, &c., in the Secretary's office	18 <sup>3</sup> / <sub>4</sub>
21	Paid T. Lister, for a ruler	37 <sup>1</sup> / <sub>2</sub>
April 1	Paid J. Stevenson, for postage	7 00
12	Paid for copying laws of 1837, for the press	74 62
17	Paid for bringing paper from Wilmington	25
20	Paid G. Barcus for attention to the Secretary's office, and services as per bill rendered	5 00
June 1.	Paid J. C. Collins, for putting up stove	75
8	Paid bill of expenses in transporting laws to New Castle and Georgetown, including packing and freight, &c.	2 00
16	Paid for, pens, ink, tape, &c.	2 00
17	" Joseph Scott for ream of envelope paper	4 25
	" D. M. Smith, for paper	1 00
	" bill of expenses incurred in removing books, cases &c. from old to new Secretary's office and library	2 50
July 1	" James H. Stevenson, for postage	15 11
Aug. 7.	" 1 ream superfine paper	6 00
14	" S. Kimmey, for one ream of long ditto	3 37 <sup>1</sup> / <sub>2</sub>
25	" for blanks	20 75
Oct. 2	" J. H. Stevenson, for postage	8 40
Nov. 6.	" W. C. Price, for lock, &c., &c.,	2 62 <sup>1</sup> / <sub>2</sub>
11	" R. & J. B. Porter, for printing in Delaware Journal, the act to extend the time for recording of deeds	10 00
	" P. B. Porter, for binding 100 copies of the 8th vol. Delaware Laws	39 50
Dec. 8	" J. R. Bostick, for candles and for cloth for table	4 22
<i>Amount carried forward,</i>		<u>\$263 40 <sup>1</sup>/<sub>2</sub></u>

		Dolls.	Cts.
1837.	<i>Amount brought forward,</i>	263	40½
12	" G. Barcus, for bringing screw from Georgetown, and sundry boxes of documents, &c., from Little Creek landing	10	00
13	" S. Wise, for freight on boxes to and from Wilmington and to Georgetown	2	75
	" G. M. Manlove's account for sundry articles furnished the Secretary's office	8	73
15	balance due from the Secretary this day on settlement with the Auditor	159	68
		<hr/> \$444 56½ <hr/>	

## CREDITOR.

		Dolls.	Cts.
1837.			
Feb. 10.	By cash of R. Frame, Esq., late Secretary of State	44	56½
	By do from the State Treasurer, being the amount appropriated by the Legislature	400	00
		<hr/> \$443 56½ <hr/>	

## DEBTOR.

		Dolls.	Cts.
1838.			
Jan. 1	To cash paid J. H. Stevenson, for postage	11	01
Feb. 5	" for a letter stamp for Secretary's office	3	50
April 14	" J. H. Stevenson, for postage paper from Bostick & Co.	10	52
May 16	" paid J. N. Harker, for publishing in Delaware Gazette the act extending the time for recording of deeds	10	20
	" W. C. Price, for repairs on cases, and for making desk &c., for Secretary's office	16	37½
July 13	" Mrs. Wise, for stage fare on box of books to New Castle	1	00
Sept. 18.	" S. Kimmey, for blank retailers licences	7	50
28	" Isaac Kello, for painting Secretary's office	16	50
		<hr/> \$77 35½ <hr/>	
		<i>Amount brought forward,</i>	



1838.		<i>Dolls. Cts.</i>
	<i>Amount brought forward,</i>	77 35½
Oct. 1.	To cash paid J. H. Stevenson, for postage	12 21
Dec. 12	“ G. M. Manlove & Son's account	2 92
14	balance due from the Secretary this day on a settlement with the Auditor	67 19½
		<hr/> \$159 68 <hr/>

## CREDITOR.

1838.		<i>Dolls. Cts.</i>
Jan. 1	By balance due from the Secretary, as per contra	159 68
		<hr/> \$159 68 <hr/>

## DEBTOR.

1839.		<i>Dolls. Cts.</i>
Jan. 1	To cash paid J. H. Stevenson, for quarters postage	6 28
	To do J. N. Harker, for publishing in Delaware Gazette the Governor's proclamation, in relation to the election of Representative in Congress	2 00
	To do for putting up stove, &c., in Secretary's office	50
21	To do S. M. Harrington, for stove	9 50
	To do W. Spencer, for hauling 16 boxes from landing	8 00
23	To do J. P. Comegys, for sundry copying as per bill	53 87
		<hr/> \$82 40 <hr/>
1839, Jan. 24	To balance due the Secretary per contra	\$15 21

## CREDITOR.

1838.		<i>Dolls. Cts.</i>
Dec. 14	By balance due from the Secretary this day on settlement with the Auditor	67 19½
	Balance overpaid by the Secretary	15 21
		<hr/> \$82 40 <hr/>

Respectfully submitted to the General Assembly, in obedience to the directions of the second section of the "Act for the payment of claims against the State," passed on the 22d. February 1837.

The vouchers of the above disbursements are on file in this office, subject to inspection.

To meet the expenses of the current and succeeding year, the undersigned respectfully suggests the propriety of appropriating the sum of four hundred dollars.

CH. MARIM,

*Secretary of State.*

Mr. Pratt laid on the table the remonstrance of sundry persons in Kent county, against the petition of the heirs of John Bowers, deceased, for an extension or renewal of the law authorizing a toll-gate near the beach, called and known by the name of Bowers' Beach, in Murderkill hundred in said county, which

On his motion,

Was read and referred to the same committee appointed on the petition of the heirs of the said John Bowers, deceased.

Mr. Jones gave notice that on to-morrow, he should ask leave to introduce a bill entitled "An act to amend the act entitled 'An act concerning the keeping of the papers belonging to the Executive Department, and the acts of the General Assembly, and the printing and disposal of the Laws and Journals.'"

Mr. Houston gave notice that on to-morrow, he should ask leave to introduce a bill entitled "A supplement to the act entitled 'An act to authorize the building of a Court-house and fire-proof offices at Georgetown, in Sussex county.'"

Mr. Jones laid on the table the memorial of three hundred and nineteen women of the city of Wilmington, New Castle county, praying the Legislature to pass a resolution abolishing slavery in this State, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Jones, Houston and Frame, were appointed said committee.

Mr. Neal gave notice that on to-morrow, or at some early day thereafter, he should ask leave to introduce a bill entitled "An additional supplement to the act entitled 'An act to extend the time for recording of deeds.'"

On motion of Mr. Dilworth,

The bill entitled "An act to incorporate the Delaware Iron Company" was read a second time by its title.

He then moved,

That said bill be committed to a committee of three members, with leave to report back said bill, with or without amendments.

Messrs. Dilworth, Frazer and Neal, were appointed said committee.

Mr. Rogers asked, and

On motion of Mr. Kerr,  
Obtained leave to introduce a bill entitled "An act empowering the State Treasurer to collect all balances due to the State from sheriffs, constables and justices of the peace, which

On his motion,  
Was read.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate, being admitted, informed the House, that the Senate had concurred in the bill entitled "An act ceding to the United States, the jurisdiction over a certain piece of land and marsh between the mouth of Little creek and the mouth of Duck creek."

And he withdrew.

Mr. Rogers laid on the table the petition of Arthur Rich, junior, of the city of Baltimore, in the State of Maryland, praying for an act of Assembly, to authorize him to sell certain real estate therein mentioned.

Mr. Fiddeman, from the committee on the petition of the White-Marsh Company, reported a bill entitled "An act to repeal an act entitled 'An act to incorporate the White Marsh Company, for the purpose of draining and reclaiming certain marshes, low grounds and cripple in Murderkill and Mispillion hundreds, in Kent county,'" which

On his motion,  
Was read.

Mr. Jones from the committee on the Thompsonian petitions, reported a bill entitled "An act to amend the act entitled 'A supplement to the act entitled, An act to incorporate a number of the Physicians of the Delaware State, and for other purposes therein mentioned,'" which

On his motion,  
Was read.

A message from the Senate by the Clerk.

Me. Laws, Clerk of the Senate being admitted, returned to the House, the joint resolution for the relief of Nehemiah Clark, the Senate having concurred therein.

And he withdrew.

On motion of Mr. Kerr,  
The House adjourned until 10 o'clock to-morrow morning.



FRIDAY, 10 o'clock, A. M. January 25, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Frame laid on the table sundry petitions on the subject of temperance, and the repeal or modification of the present license law of this State, which

On his motion,

Were referred to the committee heretofore raised on the same subject.

Mr. Cooper laid on the table the petition of the Gravelly Run Ditch Company, praying for a law to revive and re-establish in full force and effect, the act entitled "An act to incorporate the Gravelly Run Marsh Company, and for other purposes therein mentioned," which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Cooper, Biddle and Neal, were appointed said committee.

On motion of Mr. Spruance,

The bill entitled "An act to incorporate the Union Silk Company of New Castle county," was read a second time.

On motion of Mr. Fiddeman,

The bill entitled "An act to repeal an act entitled 'An act to incorporate the White-Marsh Company, for the purpose of draining and reclaiming certain marshes, low grounds and cripple, in Murderkill and Mispillion hundreds, in Kent county,'" was read a second time.

Mr. Frame moved,

That the House now proceed to the order of the day,

Which motion

*Prevailed.*

Mr. Rogers then moved,

That the further consideration of the question made the order of the day for to-day, be postponed until three o'clock this afternoon,

Which motion

*Prevailed.*

Mr. Jones asked, and

On motion of Mr. Frame,

Obtained leave to introduce a bill entitled "An act to amend the act entitled 'An act concerning the keeping of the papers belonging to the Executive Department, and the acts of the General Assembly, and the printing and disposal of the Laws and Journals,'" which

On his motion,

Was read.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate, being admitted, informed the House, that the Senate had concurred in the joint resolution appointing Liston A. Houston, Auditor of Accounts, with an amendment.

And he withdrew.

On motion of Mr. Jones,

The communication from the Senate was read, as follows, to wit:—

*Resolved by the House of Representatives of the State of Delaware, by and with the concurrence of the Senate, That William Porter be, and he is hereby appointed Auditor of Accounts.*

Mr. Frame moved,

That the resolution as amended, be rejected.

The House being divided, Mr. Jones demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C., Hopkins of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So said resolution was rejected.

Mr. Hopkins, of N. W. F., from the committee on the bill entitled “An act to renew and extend the act entitled ‘An act allowing an additional Justice of the Peace and Constable to the county of Sussex for a limited time,’ reported said bill back, without amendment.

On motion of Mr. Rogers,

The bill entitled “A supplement to an act entitled ‘An act for regulating fees,’ ” was read a second time.

He then moved,

The following amendments thereto, to wit:—Amend the said bill by adding as the 4th section the following:—

Section 4. *And be it further enacted*, That the Prothonotary of the Superior Court in each of the counties of this State, shall be entitled to receive the following fees for the services specified, which are not now provided for:—For writs made out by the Prothonotary, when exceeding forty lines, in addition to the fee now allowed, one cent per line for each line of ten words. For taking the declaration of a garnishee fifty cents. For entering judgment in the judgment docket, except when entered upon bond by warrant of Attorney, or by the Prothonotary, under the act of 1830, twenty-five cents. For entering a surrender by bail and commitment twenty-five cents. For entering on the record of a suit, any general or special rule for which no fee is now provided, twenty-five cents. For notice of such rule, when furnished, twenty cents.” Also, by altering the number of the second section to five.

He then moved,

The adoption of said amendments, but pending the question of their adoption, at the suggestion of Mr. Dilworth, said amendments were laid on the table for further consideration.

Mr. Jones from the committee on the abolition petition of 319 ladies of the city of Wilmington, made the following Report, which

On motion of Mr. Frame,

Was read as follows, to wit:—

The committee to whom was referred the petition of 319 “women of the city of Wilmington and county of New Castle, praying for the abolition of slavery throughout this State” beg leave to

## REPORT :—

That they consider the petitioning of "*women*" to our national and State Legislatures (which they regret to see is becoming so general a practice,) as derogating from that refinement and delicacy, which should in all cases, accompany the female character, and as an unwarranted interference in subjects that more properly should belong to their fathers, husbands or brothers,

Your committee are also decidedly of opinion that the petitioners, whose names are affixed to the memorial under consideration, would confer more real benefit upon society, if they hereafter would confine their attention to matters of a *domestic nature*, and be more solicitous to *mend the garments* of their husbands and children, than to patch the *breaches* of the Laws and Constitution.

*January 25, 1839.*

Mr. Frame then moved,  
That said Report be laid on the table for the present.

Mr. Rogers, from the committee on the resolution to inquire into the propriety of some general enactment to provide for the sale of the real estate of minors in certain cases, reported a bill entitled "An act empowering the Orphans' Court to direct the sale of the real estate of minors," which

On his motion,  
Was read.

On motion of Mr. Neal,  
The bill entitled "An act to enable Clement Layton and Warren Kinder, to locate certain vacant land situate in North West Fork hundred in Sussex county, and to complete their title to the same," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To be returned to the Senate.

On motion of Mr. Cooper,  
The bill entitled "An act for the relief of the Cow-Marsh Company was read a second time.

Mr. Houston asked, and

On motion of Mr. Frame,  
Obtained leave to introduce a bill entitled "A supplement to the act entitled 'An act to authorize the building of a Court-house and fire-proof of-fices at Georgetown, in Sussex county,' which

On his motion,  
Was read.

On motion of Mr. Dilworth,  
The bill entitled "An act directing certain repairs to be done on the State-house" was read a second time.

He then moved,  
The following amendments thereto, to wit:—Amend the said bill by filling the blank in the seventh line with the words "two hundred," and the

blank in the twelfth line thereof, with the words "one hundred," and the blank in the 2nd Section, with the names of Samuel M. Harrington, Caleb H. Sipple and Joseph P. Comegys.

He then moved,  
That said amendments be adopted,  
Which motion

*Prevailed.*

Mr. Rogers, from the committee on the petition of William T. Reed, trustee of Mary G. Reed, reported a bill entitled "A supplement to the act entitled 'An act to vest in the Court of Chancery, the care of idiots and lunatics,' " which

On his motion,  
Was read.

Mr. Frame laid on the table the petition of sundry persons in Kent county, praying for a law to prohibit the use of wears, hedges and gill-nets in St. Jones' Creek, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Marshall and Williamson, were appointed said committee.

Mr. Neal asked, and

On motion of Mr. Frame,  
Obtained leave to introduce a bill entitled "An additional supplement to the act entitled 'An act to extend the time for recording of deeds,' " which

On his motion,  
Was read.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, informed the House that the Senate had concurred in the bill entitled "A supplement to the act entitled 'An act to straighten and improve the roads from the banked marshes on Simon's Creek in Kent county, to the village of Seaford in Sussex county.'"

He also presented for the concurrence of the House, a bill entitled "An act for the relief of the owners and possessors of the marsh and low grounds on and near the main branch of the head waters of Nanticoke river and its branches."

And he withdrew.

On motion of Mr. Dilworth,  
The bill entitled "An act for the relief of Isaac Walker of Appoquinimink hundred, in New Castle county," was read a second time.

Mr. Frame laid on the table the petition of a large number of the inhabitants of Milford and its vicinity, praying for a repeal of the present license law, and for other matters therein mentioned, which

On motion of Mr. Rees,  
Was read and referred to the committee now raised on other petitions of a similar import.

Mr. Houston laid on the table the petition of sundry persons in Baltimore hundred, in Sussex county, praying for a law to raise by contribution or lottery, or both, a sufficient sum of money, to lay out and construct a certain road and bridge, in said petition mentioned, which

On his motion,

Was read and referred to the same committee appointed on the petition of sundry persons from the same hundred, praying for a law to raise money in a similar way, to bank out the waters of the Atlantic ocean, from certain marshes and low grounds therein mentioned.

Od motion of Mr. Rees,  
The House adjourned until 3 o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Dilworth laid on the table the following resolution, which

On his motion,  
Was read, as follows, to wit:—

*Resolved*, That the Clerk of the House is directed to invite the members of the Senate to take seats in the Representative chamber, during the debate by counsel, in the case of Samuel Bailly vs. The Philadelphia, Wilmington and Baltimore Rail Road Company.

On motion of Mr. Frame,  
Said resolution was

*Adopted.*

On motion of Mr. Jones,

*Resolved by the House*, That Samuel B. Davis, be also invited to take a seat in the House of Representatives, during said discussion.

On motion of Mr. Frame,

*Resolved*, That the same courtesy be extended to any ladies that may think proper to attend said debates.

On his motion,

The House then resolved itself into a committee of the whole, on the order of the day—Mr. Rees in the Chair.

After some time spent in committee of the whole,

Mr. Frame moved,

That the committee now rise, report progress, and ask leave to sit again.

Whereupon, the committee rose, reported progress, and asked leave to sit again, which was granted by the House.



On his motion,

The House then adjourned until to-morrow morning at 10 o'clock.



SATURDAY 10 o'clock, A. M. January 26, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Frame laid on the table the account of Pennewill, Clark & Co., against the State of Delaware, which

On his motion,

Was referred to the committee on claims.

Mr. Rogers gave notice that at some early subsequent day, he should ask leave to introduce a bill to amend the act entitled "An act to provide for certain deficiencies in the penal code."

Mr. Frame gave notice that he should ask for leave to introduce a bill entitled "A supplement to the act entitled 'An act to enable Elizabeth Caroline Whiteley, a minor, to sell and convey a certain tract of land therein mentioned.'"

Mr. Jones laid on the table the petition of the Female Benevolent Society of Trinity Church Wilmington, for an act of incorporation, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Jones, Houston and Frazer, were appointed said committee.

Mr. Cooper laid on the table the remonstrance of sundry persons in Kent county, against the petition for the repeal of the law passed in 1825, granting the privilege of setting wears and fikes in Spring creek, which

On his motion,

Was read and referred to the same committee appointed on the petition for said repeal.

Mr. Spruance laid on the table an account of Joseph P. Comegys against the State, which

On his motion,

Was referred to the committee on claims.

On motion of Mr. Neal,

The communication received from the Senate yesterday was read.

On motion of Mr. Dilworth,

The House resolved itself into committee of the whole on the bill for the relief of Samuel Bailey, and for other purposes therein mentioned—Mr. Rees in the Chair.

After some time spent in the committee of the whole,

On motion of Mr. Frame,  
The committee rose, reported progress, and asked leave to sit again,  
which was granted by the House.

On motion of Mr. Frame,  
The House adjourned until three o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

The Speaker communicated to the House a certain paper which he had received from the State of Maryland, but not being accompanied by any explanation or request, was suffered to lie on the table for the present. He also communicated a letter, addressed to the House by a committee on the part of the Dover Lyceum, which

On motion of Mr. Jones,  
Was read as follows, to wit:—

DOVER, January 17, 1839.

*To the Honorable, the House of Representatives,  
of the State of Delaware, now in session,*

The members of the Dover Lyceum respectfully solicit the use of the hall of the House of Representatives on the evening of the 31st instant, for the purpose of holding a public discussion. The favor if granted, will be duly appreciated, by the society.

W. HUFFINGTON,	} Committee on be-
G. P. FISHER,	
W. H. COOPER,	

half of the Dover  
Lyceum.

On motion of Mr. Spruance,

The House resolved itself into a committee of the whole on the "bill for the relief of Samuel Bailey and for other purposes therein mentioned."

After some time spent in committee of the whole,

On motion of Mr. Dilworth,

The committee rose, and reported said bill back to the House without amendment.

Mr. Frame, from the committee on the petition of Ann Cabbage, to be divorced from her husband George Cabbage, reported a bill entitled "An act to divorce Ann Cabbage from her husband George Cabbage," which

On his motion,  
Was read.

He also, as the chairman on the committee on the memorial of the De-

laware and Chesapeake Canal Company, praying for a law to authorize an increase of tolls on certain articles therein mentioned, and to allow an additional justice of the peace to the county of New Castle, to reside at Delaware City, reported two bills, one entitled "A further additional supplement to an act entitled 'An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeak bay, and bay or river Delaware, or the waters thereof;'" and the other entitled "An act allowing an additional justice of the peace to the county of New Castle;" both which said bills,

On his motion,  
Were read.

Mr. Jones laid on the table a petition signed by ond hundred and sixty-one petitioners of the city of Wilmington and its vicinity, praying for an act of incorporation for a bank, with a capital of three hundred thousand dollars, to be located in the said city of Wilmington, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Jones, Frame and Houston, were appointed said committee.

On his motion,  
The House then adjourned until Monday morning next, at 10 o'clock A. M.



MONDAY, 10 o'clock, A. M. January 28, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Frame laid on the table the remonstrance of sundry persons in Kent county, *against* the passage of a law to prohibit the use of wears, hedges, and gill-nets, in St. Jones' creek, which

On his motion,  
Was read and referred to the same committee appointed on the petition for a law containing the prohibitions above stated.

Mr. Rogers laid on the table the petition of the officers of sundry insurance companies in the city of Philadelphia, members of the board of trade, chamber of commerce, and merchants, praying for a law to authorize the construction of a rail road, from some point on the Philadelphia, Wilmington and Baltimore Rail Road, to the town of New Castle, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Rogers, Spruanee and Hopkins of Broad Creek, were appointed said committee.

On motion of Mr. Neal,

The bill entitled "An additional supplement to the act entitled 'An act to extend the time for recording of deeds,'" was read a second time.

Mr. Houston laid on the table the petition of Elizabeth Burton and Woolsey Burton, of Sussex county, praying for an act of Assembly to enable them to effect a division of certain real estate therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Houston, Rees and Biddle, were appointed said committee.

On motion of Mr. Neal,

The bill entitled "A supplement to the act entitled 'An act concerning the office of Sheriff,'" was taken up for a third reading, but

On motion of Mr. Dilworth,

Said bill was laid on the table.

On motion of Mr. Frame,

The bill entitled "An act to divorce Ann Cubbage from her husband George Cubbage" was read a second time.

Mr. Rogers asked, and

On motion of Mr. Dilworth,

Obtained leave to introduce a bill entitled "An act to amend the act entitled 'An act to provide for certain deficiencies in the penal code,'" which

On his motion,

Was read.

On his motion also,

The bill entitled "An act to incorporate the Union Silk Company of New Castle county," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Cooper,

The bill entitled "An act for the relief of Samuel Bailey, and for other purposes therein mentioned" was taken up for consideration.

Mr. Rogers then moved,

That the further consideration of said bill be postponed until to-morrow morning at ten o'clock, and that it then be made the order of the day.

Which motion

*Prevailed.*

On motion of Mr. Dilworth,

The bill entitled "A supplement to the act entitled 'An act concerning the office of Sheriff,'" was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Rogers,  
The amendments by him proposed to the bill entitled "A supplement to an act entitled 'An act for regulating fees'" were taken up for consideration.

He then moved,  
That said amendments be adopted.

The House being divided, Mr. Rogers demanded the yeas and nays, which were as follows:

*Yeas*—Messrs. Boulden, Cooper, Fiddeman, Frame, Frazer, Hopkins, of N. W. F., Houston, Jefferson, Marshall, Neal, Pratt, Rees, Rogers and Spruance—14 yeas.

*Nays*—Messrs. Biddle, Dilworth, Hopkins, of B. C., Kerr, Williamson and Mr. Speaker—6 nays.

So the amendments were *Adopted.*

He then moved,  
That said bill as amended, be taken up for a third reading, in order to pass the House,

Which motion *Prevailed.*

On the question of the passage of said bill the House divided, and Mr. Dilworth called for the yeas and nays, which were as follows:

*Yeas*—Messrs. Boulden, Cooper, Fiddeman, Frame, Frazer, Hopkins, of N. W. F., Houston, Jefferson, Kerr, Marshall, Neal, Pratt, Rees, Rogers and Spruance—15 yeas.

*Nays*—Messrs. Biddle, Dilworth, Hopkins of B. C., Williamson and Mr. Speaker—5 nays.

So the third section of said bill *Passed the House.*

And the bill also *Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Houston,  
The bill entitled "A supplement to the act entitled 'An act to authorize the building of a Court-house and fire-proof offices at Georgetown, in Sussex county,'" was read a second time.

On motion of Mr. Dilworth,  
The bill entitled "An act for the relief of Isaac Walker, of Appoquinimink hundred, in the county of New Castle," was read a third time by paragraphs, and *Passed the House.*

*Ordered,* To be returned to the Senate.

Mr. Hopkins, from the committee on the petition of Ebenezer Gray, reported a bill entitled "An act to enable Ebenezer Gray to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same," which

On his motion,  
Was read.

On motion of Mr. Neal,

The bill entitled "An act for the relief of the owners and possessors of the marshes and low grounds on and near the main branch of the head waters of Nanticoke river and its branches," was read a second time by its title.

Mr. Pratt laid on the table the petition of sundry persons in school districts Nos. 15, 16, 19 and 20, in Kent county, praying for a law to authorize them to form an additional district out of the four districts named, which

On his motion,

Was read and referred to a committee of three members with leave to report by bill or otherwise.

Messrs. Cooper, Neal and Williamson, were appointed said committee.

Mr. Frame, from the committee on the petition of sundry persons in Kent county, praying for a law to prohibit the setting of wears and fikes in Spring Creek, and the remonstrance against the passage of such a law, made the following report, to wit:—

That in the opinion of said committee, it is inexpedient at this time, to legislate on the subject.

He also, as Chairman of the committee on the petition for, and remonstrance against, a law to prevent the use of drag-seins or drive-seins, in St. Jones' Creek, made a similar report.

He also, as Chairmain of the committee on the petition of the heirs of John Bowers, deceased, for, and the remonstrance of sundry persons in Kent county against, a law to renew or continue in force, a law authorizing a toll-gate near what is called Bowers' Beach, made a like report.

He then moved,

That said reports be adopted,

Which motion

*Prevailed.*

On motion of Mr. Dilworth,

The bill entitled "An act directing certain repairs to be done on the State-house" was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Rees laid on the table sundry petitions on the subject of temperance and the present license law, which

On his motion,

Were referred to the committee already raised on those subjects.

On motion of Mr. Boulden,

The House adjourned until three o'clock this afternoon.

*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

On motion of Mr. Frame,

The bill entitled "A further additional supplement to an act entitled 'An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeak bay, and bay or river Delaware, or the waters thereof,'" was read a second time.

On his motion also,

The bill entitled "An act allowing an additional justice of the peace to the county of New Castle" was read a second time.

Mr. Hopkins, of B. C., from the committee on the petition of Isaac Cannon (of E.) reported a bill entitled "An act to enable Isaac Cannon (of E.) to locate certain vacant land, situate in Broad Creek hundred, in Sussex county, and to complete his title to the same," which

On his motion,

Was read.

He also laid on the table the petition of George H. Walston, of Sussex county, praying for a law to enable him to secure a title to certain vacant land therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Hopkins, of B. C., Boulden and Frazer, were appointed said committee.

Mr. Houston laid on the table the following resolution, which

On his motion,

Was read and

As follows to wit:—

*Adopted,*

*Resolved*, That the members of the Dover Lyceum, be allowed the use of the Hall of the House of Representatives, on Thursday evening the 31st instant, for the purpose of holding a public debate therein.

On motion of Mr. Pratt,

The bill entitled "An act to amend the act entitled 'A supplement to the act entitled 'An act to incorporate a number of the physicians of the Delaware State, and for other purposes therein mentioned'" was read a second time.

Mr. Frame laid on the table the petition John L. Clayton and Joshua Clayton, of New Castle county, praying for an act of Assembly, to enable them to effect a division in certain real estate therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Boulden and Marshall, were appointed said committee.

Mr. Rees, chairman of the committee of enrolment, presented to the Speaker for his signature, the following enrolled bills:—

"An act allowing for a limited time an additional Justice of the Peace to the county of Sussex."

Also "An act ceding to the United States, jurisdiction over a certain piece of land and marsh, between the mouth of Little Creek and the mouth of Duck Creek."

Also "An act to cede to the United States the jurisdiction over a piece of land and marsh therein mentioned."

Mr. Pratt laid on the table the petition of David Marvel, praying for an act of Assembly, to vest in him the title to certain lands therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Pratt, Dilworth and Jefferson, were appointed said committee.

On motion of Mr. Rogers,

The bill entitled "A supplement to the act entitled 'An act to vest in the Court of Chancery, the care of idiots and lunatics'" was read a second time.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, informed the House that the Senate had concurred in the bill entitled "An act for recording certain evidences of public debt."

And also, in the bill entitled "An act to enable Smith Timmons to locate certain vacant land situate in Broad Creek hundred, in Sussex county, and to complete his title to the same."

And he withdrew.

Mr. Rees, from the committee on the petition of sundry citizens of the town of Dover, and other persons in Kent county, praying for an act of incorporation for a Silk Company, reported a bill entitled "An act to incorporate the Dover Silk Company," which

On his motion,

Was read.

On motion of Mr. Rogers,

The bill entitled "An act empowering the Orphans' Court to direct the sale of the real estate of minors," was read a second time.

He then proposed the following amendment thereto, which

On his motion,

Was

*Adopted, to wit:—*

Amend the bill by striking out from the sixth line of the first section, the words "in this State."

On motion of Mr. Hopkins, of B. C.,

The House adjourned until to-morrow morning at 10 o'clock.



TUESDAY 10 o'clock, A. M. January 29, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Rogers moved,

That the House now proceed to the order of the day, to wit:—the consideration of the bill for the relief of Samuel Bailey, and for other purposes therein mentioned,

Which motion

*Prevailed.*

Mr. Rees then moved,

That said bill be indefinitely postponed.

The House being divided, Mr. Frame demanded the yeas and nays, which were as follows:

*Yeas*—Messrs. Boulden, Cooper, Dilworth, Fiddeman, Frame, Frazer, Hopkins, of N. W. F., Kerr, Marshall, Rees and Spruance—12 yeas.

*Nays*—Messrs. Biddle, Hopkins, of B. C., Houston, Jefferson, Neal, Pratt, Rogers and Mr. Speaker—8 nays.

So said bill was

*Indefinitely postponed.*

Mr. Frame asked, and

On motion of Mr. Houston,

Obtained leave to introduce a bill entitled "A supplement to the act entitled 'An act to enable Elizabeth Caroline Whiteley, a minor, to sell and convey a certain tract of land therein mentioned.'"

He then moved,

That said bill be read,

Which motion

*Prevailed.*

He then moved,

That by special permission of the House, said bill be read a second time.

Which motion also

*Prevailed.*

He then moved,

That by special permission of the House, said bill be read a third time by paragraphs, in order to pass the House,

Which motion also

*Prevailed.*

And said bill was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Spruance,

The bill entitled "An act to incorporate the Smyrna, Leipsic and Philadelphia Steam-boat Company," was taken up and read a third time by paragraphs, and

*Passed the House,*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Neal,

The bill entitled "An additional supplement to the act entitled 'An act to extend the time for recording of deeds,'" was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Hopkins of B. C., laid on the table the petition of sundry persons in Sussex county, praying for a law to authorize the school districts in said county to draw their proportion of the school fund, without raising any sum of money by taxation or otherwise as is now required by law, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Hopkins of B. C. Houston and Jefferson, were appointed said committee.

On motion of Mr. Houston,

The bill entitled "A supplement to the act entitled 'An act to authorize the building of a Court-house and fire-proof offices at Georgetown, in Sussex county,'" was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Frame laid on the table the following resolution, which

On his motion,

Was read, as follows, to wit:—

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following persons be, and they are hereby appointed Directors of the Farmers' Bank of the State of Delaware, on the part of the said State, agreeably to the act of the General Assembly, in such case made and provided; that is to say:—

For the principal bank at Dover, Hunn Jenkins, James S. Buckmaster and George M. Manlove.

For the branch at Wilmington, John J. Milligan, Charles I. du Pont and John Evans Young.

For the branch at New Castle, Thomas Stockton, George B. Rodney and George Platt.

For the branch at Georgetown, William D. Waples, Henry Little and George Hickman.

Mr. Pratt laid on the table the petition of Lewis D. Meconekin, praying for an act of Assembly to authorize him to bring into this State certain slaves therein mentioned, and to hold said slaves in this State, according to the laws here in force upon the subject, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Pratt, Dilworth and Marshall, were appointed said committee.

Mr. Dilworth laid on the table the following resolution, which

On his motion,

Was read as follows, to wit:—

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the sum of

dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of procuring and presenting to colonel Samuel B. Davis, a sword with suitable inscriptions, as a testimonial of the respect which this Legislature entertain of his gallant and meritorious conduct in defence of his country during the last war with Great Britain, particularly his skilful and efficient defence of the town of Lewes in this State.

*Resolved,* That the Governor of this State is hereby authorized to cause to be procured as soon as practicable for the purpose aforesaid, a sword, with such suitable devices as he may deem proper, inscribed thereon, and the State Treasurer is hereby authorized and directed to pay to the order of the said Governor the aforesaid sum of                      dollars, out of any money in the treasury not otherwise appropriated.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate, being admitted, presented for the concurrence of the House, a bill entitled "A supplement to the act entitled 'An act to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes.'" Also, a joint resolution appointing directors on the part of the State, of the Farmers' Bank of the State of Delaware."

And he withdrew.

On motion of Mr. Frame,

The communications from the Senate were read, to wit—first said bill, and secondly the said joint resolution, which was in the following words, to wit:—

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the following persons be, and they are hereby appointed directors of the Farmers' Bank of the State of Delaware, on the part of the State, agreeable to an act of the General Assembly in such case made and provided.

For the principal bank at Dover—Hunn Jenkins, David Onins and James S. Buckmaster.

For the branch at New Castle—William Booth, William H. Rogers and George Platt.

For the branch at Wilmington—Charles I. du Pont, John Clealand and James J. Brindley.

For the branch at Georgetown, Gardner H. Wright, George Hickman and Henry Little.

On motion of Mr. Frame,

Said joint resolution was postponed until to-morrow morning at 10 o'clock.

On motion of Mr. Houston,

The bill entitled "A further additional supplement to an act entitled 'An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeak bay and bay or river Delaware, or the waters thereof,'" was read a third time by paragraphs, in order to pass the House.

On the question of the final passage of said bill, the House divided, and Mr. Frame demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Biddle, Boulden, Cooper, Dilworth, Fiddeman, Frame, Frazer, Kerr, Marshall, Pratt, Rees, Rogers, Spruance and Williamson—14 yeas.

*Nays*—Messrs. Hopkins of B. C., Hopkins, of N. W. F., Houston, Jefferson, Neal and Mr. Speaker—6 nays.

So said bill

*Passed the House.*

*Ordered, To the Senate for concurrence.*

On motion of Mr. Frame,

The bill entitled "An act allowing an additional Justice of the Peace to the county of New Castle, to reside at Delaware City," was taken up for a third reading, in order to pass the House. On the question of the passage of the first section thereof the House divided, and Mr. Frame demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Boulden, Fiddeman, Frame, Frazer, Houston, Jefferson, Rees, Spruance and Mr. Speaker—9 yeas.

*Nays*—Messrs. Biddle, Cooper, Dilworth, Hopkins, of N. W. F., Kerr, Marshall, Neal, Pratt, Rogers and Williamson—10 nays.

So said bill

*Was lost.*

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the concurrence of the House, a bill entitled "An act to enable William Butler to locate certain vacant land, situate in Appoquinimink hundred in New Castle codnty, and to complete his title to the same.

And he withdrew.

On motion of Mr. Cooper,

The bill entitled "An act for the relief of the Cow-Marsh Company" was taken up for a third reading, in order to pass the House.

On the question of the passage of the first section thereof, the House divided, and Mr. Cooper demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Biddle, Cooper, Frame, Hopkins, of B. C., Houston and Jefferson—6 yeas.

*Nays*—Messrs. Boulden, Dilworth, Fiddeman, Frazer, Hopkins, of N. W. F., Kerr, Marshall, Neal, Pratt, Rees, Rogers, Spruance, Williamson, and Mr. Speaker—14 nays.

So said bill

*Was lost.*

On motion of Mr. Frame,

The bill entitled "An act to divorce Ann Cubbage from her husband George Cubbage" was read a third time by paragraphs, and

*Passed the House.*

*Ordered, To the Senate for concurrence.*

On his motion,

The House then adjourned until 3 o'clock this afternoon.

*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Cooper, from the committee on the petition of the Gravelly Run ditch company, reported a bill entitled "An act to revive the act entitled 'An act to incorporate the Gravelly Run Marsh Company,'" and to extend the time for recording the same, which

On his motion,  
Was read.

Mr. Houston laid on the table a remonstrance against the passage of a law, to allow an additional justice of the peace to the county of Sussex, to reside at Cannon's Ferry, which

On his motion,  
Was read.

The Speaker communicated to the House the petition of the widow and heirs of Joseph Vickars, late of Sussex county, deceased, praying for an act of Assembly to appoint commissioners on the part of *this State*, to act jointly with commissioners already appointed on the part of the State of *Maryland*, for the purpose of effecting a division of the lands and real estate of the said Joseph Vickars, deceased, the same being situated partly in this State, and partly in the State of Maryland. He also communicated to the House sundry other papers accompanying said petition, explaining certain matters in relation thereto.

On motion of Mr. Neal,

The bill entitled "An act for the relief of the owners and possessors of the marshes and low grounds, on and near the main branch of the head waters of Nanticoke river and its branches," was taken up for a third reading by paragraphs, in order to pass the House.

When the reading had proceeded to the sixth section of said bill, and the twenty-second line of said section, Mr. Dilworth proposed an amendment therein, by inserting between the word "changes" and the word "ownerships" the word "of," which said amendment was,

On motion of Mr. Frame,

*Adopted.*

The said sixth section of said bill, so as aforesaid amended, was again read, and

*Passed the House.*

And the bill also

*Passed the House..*

*Ordered,* To the Senate for concurrence.

Mr. Frame laid on the table an account of Peter S. Parker, and also one of John H. Eccleston, against the State, which,

On his motion,  
Was read and referred to the committee on claims.

On motion of Mr. Dilworth,  
The communications just made to the House by the Speaker were read.

Mr. Hopkins, of B. C., from the committee on the petition of George H. Walson, reported a bill entitled "An act to enable George H. Walson to locate certain vacant land in Broad Creek hundred, in Sussex county, and to complete his title to the same," which

On his motion,  
Was read.

On motion of Mr. Hopkins, of N. W. F.,  
The bill entitled "An act to renew and extend the act entitled 'An act allowing an additional Justice of the Peace and Constable to the county of Sussex for a limited time'" was taken up for a third reading by paragraphs, in order to pass the House.

On the question of the final passage of said bill, the House being divided, the yeas and nays were ordered by the Speaker, which were as follows:—

*Yeas*—Messrs. Biddle, Boulden, Dilworth, Fiddeman, Frazer, Hopkins of N. W. F., Jefferson, Rees, Spruance and Mr. Speaker—10 yeas.

*Nays*—Messrs. Frame, Hopkins, of B. C., Houston, Kerr, Marshall, Neal, Pratt, Rogers and Williamson—9 nays.

So said bill, (requiring a vote of two-thirds of the members of the House to pass it) *Was lost.*

Mr. Neal, from the committee on the petition from Sussex county, on the subject of roads and bridges in said county asked, and

On motion of Mr. Frame,  
Obtained further time to report.

On motion of Mr. Rogers,  
The bill entitled "A further supplement to the act entitled 'An act for regulating inn-holders, tavern-keepers, and other public house-keepers, within this government, and empowering the justices to settle the rates of liquor,'" was read a second time.

On motion of Mr. Boulden,  
Said bill was then postponed until Tuesday next.

On motion of Mr. Hopkins, of B. C.,  
The bill entitled "An act to enable Isaac Cannon (of E.,) to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same," was read a second time by its title.

On his motion also,  
The bill entitled "An act to enable Ebenezer Gray to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same," was read a second time by its title.

Mr. Pratt, from the committee on the petition of the Meredith's branch ditch company asked, and

On motion of Mr. Frame,  
Obtained further time to report.

On motion of Mr. Frame,  
The House then adjourned until to-morrow morning at 10 o'clock.

WEDNESDAY 10 o'clock, A. M. January 30, 1839.

The House met pursuant to adjournment.

Roll called, journal read, &c.

On motion of Mr. Frame,

The joint resolution by him yesterday laid on the table, for the appointment of directors of the Farmers' Bank of the State of Delaware, on the part of said State, was taken up for consideration.

He then moved,

That said joint resolution be adopted.

The House being divided, he demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C., Hopkins, of N. W. F., Kerr, Rogers, Williamson and Mr. Speaker—9 nays.

So said resolution was

*Adopted.*

He then moved,

That the joint resolution, on the same subject as the one just adopted, sent from the Senate for the concurrence of the House, be rejected.

The House being divided, he demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C. Hopkins, of N. W. F., Kerr, Rogers, Williamson and Mr. Speaker—9 nays.

So said resolution was rejected.

*Ordered,* To be returned to the Senate.

Mr. Houston laid on the table the petition of sundry persons in Little Creek hundred in Sussex county, praying for a law to allow an additional Justice of the Peace to said county, to reside in said hundred, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Houston, Rogers and Fiddeman, were appointed said committee.

Mr. Spruance gave notice that on to-morrow he should ask leave to introduce a bill entitled "An act to appropriate the money in the Treasury of this State."

On motion of Mr. Dilworth,

The communication from the Senate made yesterday was read.

Mr. Rees laid on the table the following joint resolution, which

On his motion,

Was read as follows, to wit:—

*Resolved by the Seate and House of Representatives of the State of Delaware, in General Assembly met, That*  
*be, and he is hereby appointed Auditor of Accounts.*

He then moved,  
 That the House now proceed to elect by ballot a person to fill the blank in said resolution.

Which motion *Prevailed.*

The House then proceeded to ballot, and the first vote stood—

For Liston A. Houston, 11 votes.

“ Nathaniel P. Harris, 9 “

The Speaker then declared that Liston A. Houston, having received a majority of all the votes, was duly elected Auditor of Accounts.

Mr. Rees then moved,  
 That the blank in said resolution, be filled with the name of Liston A. Houston,

Which motion *Prevailed.*

He then moved,  
 That said resolution (the blank being filled with the name of Liston A. Houston,) be adopted,

Which motion also *Prevailed.*

*Ordered,* To the Senate for concurrence.

Mr. Fiddeman laid on the table a petition signed by a number of citizens of New Castle and Kent counties, praying for a law authorizing horse racing in this State, under certain restrictions, which

On his motion,  
 Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Fiddeman, Biddle and Houston, were appointed said committee.

On motion of Mr. Cooper,

The bill entitled “An act to revive the act entitled ‘An act to incorporate the Gravelly Run Marsh Company, and to extend the time for recording the same’” was read a second time.

Mr. Rogers gave notice that on to-morrow, he should ask leave to introduce a bill entitled “A supplement to the act entitled ‘A further supplement to the act entitled ‘An act concerning the probate of wills and the administration of the personal estate of deceased persons.’”

Also, a bill entitled “An act to authorize the purchase of a library for Newark College.”

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the concurrence of the House, a bill entitled “An act to improve the navigation of Cedar Creek.”

He also returned to the House, the joint resolution which originated in



the House, appointing Joseph Maull a Senator from this State, in the Senate of the United States, for the constitutional term to commence on the fourth day of March next, and informed the House that the Senate had refused to concur therein. He also laid on the table the report of a committee appointed by the Senate on said joint resolution, which had been adopted by the Senate, assigning the reasons why they had refused to concur in said joint resolution.

And he withdrew.

On motion of Mr. Dilworth,

The report of the Senate on the subject of said joint resolution was read as follows, to wit:—

“IN SENATE, *January 24, 1839.*

The committee to whom was referred the joint resolution on the subject of the choice of a Senator from this State, in the Senate of the United States, for the constitutional term of six years, commencing on the fourth of March next, adopted by the House of Representatives, and sent to the Senate for concurrence, beg leave to

#### REPORT:—

That your committee have endeavored to devote to the subject referred to them, the consideration demanded by its importance. In discharging this duty, their attention has been particularly directed to the inquiry, whether there be not at this time, a law of the State prescribing the manner of holding elections for Senators in Congress, differing from that proposed by the resolution.

They are aware that it is insisted, that the Act on this subject passed on the 28th of January 1825, is repealed; *first*, by implication of the Amended Constitution, in the provision for biennial sessions of the General Assembly; and *secondly*, expressly by the Act entitled “An act to amend the act entitled An act directing the time place and manner of holding elections for Senators from this State, in the Senate of the United States.”

Your committee can find nothing in the provision for biennial sessions, or in any other part of the Amended Constitution, from which they can imply a repeal of this Act, but much as *they* think, to lead them to a contrary conclusion. The ninth section of the seventh article of that instrument *expressly* provides, “that *all* laws of the State, existing at the *time* of making it, and not inconsistent with it, shall continue in force until altered by future laws.” Is then the law of 1825 inconsistent with the Amended Constitution? Certainly not, with the provision for biennial sessions of the General Assembly. The constitution was amended in convention, in the fall of 1831. A General Assembly had already been elected for the session of 1832; yet it was provided, that another should be elected in the fall of 1832, to meet in January 1833. If, in the opinion of the convention a General Assembly, sitting biennially, would meet the wants of the people, why was provision made for successive annual sessions, in the years 1832 and 1833? The session of 1832 commenced a month after the convention was closed, and the Amended Constitution published, and as had been foreseen and provided for; laws were *then* enacted, embracing all that was deemed necessary for carrying it into full effect. The offices of the *then* Senators and Representatives, were by the convention extend-

ed, to suit the change made in the time of holding elections. *Why* were they not extended until the second Tuesday in November 1833, instead of 1832? *Why* was not the sitting in 1832 fixed upon as the first biennial session, and the expense and inconvenience of an election in '32 and a session of '33 dispensed with, under the new order of things? The only reason your committee ever heard assigned is, that the latter arrangement would not have been adapted to the expiration of the constitutional terms of our Senators in Congress, while the one adopted *was*; and accorded precisely with, the provisions of the act of 1829. Nor can your committee imagine a case, in relation to which, the law just mentioned could be made to appear inconsistent with the arrangement for biennial sessions, or in fact any other provision of the Amended Constitution.

In connexion with this subject, your committee would further remark, that our present learned Chief Justice and late able Senator, of whose talents in the Senate and on the bench, your committee need not speak, was once elected, under both the Amended Constitution, and the law of 1825; and the same remark is true in relation to the present Senator, and the late Chief Justice of the same name, with the single and unimportant exception of the *place* of meeting having been changed by the Legislature.

Your committee have entered thus at length into this question of *constructive* repeal, from deference to the high standing of gentlemen who insist upon it. For themselves, they are convinced not only, that the Amended Constitution does not contain any such repeal, but that the convention had not the power to effect it, either by implication, or direct action upon the subject.

The constitution of the United States, adopted by the respective States, and thereby made the supreme law of the land, provides (Sec. 4, of Article 1,) that "the times, places and manner of holding elections for Senators and Representatives (in Congress,) shall be prescribed in each State, by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators." For passing the Act of 1825, (and all other laws of like character,) the Legislature derives its authority entirely and directly from the federal constitution. It is not questioned, but that the Legislature, under the same authority, might modify that Act, or repeal it, and substitute *other* times, places or manner of holding such elections; but to your committee it seems manifest, that no other power of the State, not even a convention of the people, forming a State Constitution, can "nullify" or touch it, so long as the constitution of the United States is recognized as the paramount law of the land. Your committee have not time, nor do they deem it necessary to carry out this argument in detail. They are satisfied with barely calling to it, the attention of the Senate.

Nor can your committee consider the Act of 1825, as repealed by that of 1837. They agree that in the construction of the Act of '37 there are difficulties, and fair grounds for difference of opinion. Looking to the Act itself, it would seem to your committee about as likely to mean one thing as another, if indeed, *any* meaning can be found in it: but availing themselves of other lights to which they feel justified in resorting, where a statute is inexplicable, or ambiguous in its terms, they feel assured at once, that a design to repeal the Act of '25, or in any respect alter it, except as to the *place* of meeting, was never entertained by the Legislature. The very title of the Act under which the repeal is now claimed, conveys a flat

negation of any such intent; and the history of its construction, in the manner of electing a Senator immediately afterwards, by the same Legislature which passed it, conclusively shows that no such effect was at *that* time so much as *suspected*.

It is also worthy of particular remark that Mr. Marim, the present Secretary of State, being a member of the House of Representatives during *part* of the session of 1837, drew this Act, and introduced it in the form of a bill, on leave; and that in the index to the laws of that session, afterwards prepared by him as Secretary of State, he refers to it as an Act, *merely* changing the *place* of holding the election for Senators in Congress. Your committee attach importance to this circumstance, as it furnishes the testimony of a lawyer, (now a high executive officer of the State,) explaining the meaning and legal operation of his *own* words—and this too, at a time when the whole subject was fresh upon his memory, and in the absence of those *biassing* excitements, for which allowance must be made at *this* time.

But admitting for the argument, that the Act of '25 was repealed by that of '37, does it not follow as a necessary consequence, that the Act on the same subject, passed in 1799, and the supplement passed in 1817, which recognize no manner of electing a Senator, except in *joint* ballot of the two Houses, are revived and in force?

From such premises your committee conclude, that there is at this time existing and in full force, a law of the State, prescribing the manner of holding elections for Senators in Congress, and directing that these elections shall be in joint ballot. They could not, therefore, give their votes for concurrence in the resolution referred to them, without infringing upon the integrity of the oaths of office they have taken; and oaths of office are, in their opinion, like other oaths, too solemn to be trifled with.

But independently of this consideration, your committee look upon joint ballot of the Senate and House of Representatives, as decidedly the safest, and best manner of electing a Senator in Congress. They deem it better calculated to secure the rights of a majority—less liable to abuse, and more in accordance with the spirit of our institutions, than any other in the power of the Legislature to adopt. In this manner our first, and every subsequent Senator have been elected. It has endured the scrutiny of conflicting and alternately triumphing parties, for nearly half a century; and during all this time has stood approved by the people, and the people's representatives of all parties; not a single complaint, to the knowledge of your committee, has ever been uttered against it until now, although the State has had its wise men and its patriots, before the present school. Your committee would greatly prefer adhering to it still, and they recommend such adherence, as in their opinion, the only safe course to be pursued. They do not doubt the *power* of the Legislature to repeal the existing law and substitute other modes, but they are unwilling to shut their eyes upon past experience, and abandon a system which has worked well so long—to cast off from the safe anchorage of "well enough" and launch, uncalled by any indication of public sentiment, into a sea of untried, and as they think, unpromising experiment. They therefore return the resolution referred to them, to the Senate, and recommend its rejection or some disposition of it, equivalent to rejection; and further, they report and recommend to the Senate, the following resolutions:

*Resolved by the Senate of the State of Delaware,* That this Senate sincerely desires, and will use all just and proper means to effect, the election of a Senator from this State, in the Senate of the United States, for the constitutional term, commencing on the 4th of March next, by joint ballot of the Senate and House of Representatives.

*Resolved further, That the members of this Senate cannot consistently with their obvious duty,* concur in any measure which proposes the election of a Senator in any other manner than by joint ballot, until such other manner shall be provided and prescribed by the Legislature, both Houses concurring."

This report read and adopted by the Senate this 30th January 1839.

S. G. LAWS, *Clerk.*

Mr. Frame moved,

That the further consideration of the communication from the Senate be postponed until Friday next.

The House being divided (as usual,) Mr. Frame demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C., Hopkins, of N. W. F., Kerr, Rogers, Williamson, and Mr. Speaker—9 nays.

So the further consideration of the communication was postponed until Friday next.

On motion of Mr. Rogers,

The bill entitled "An act for the preservation of certain game" was taken up for a third reading, in order to pass the House. At the close of the reading of said bill, and before the question was taken on the final passage thereof,

Mr. Spruance moved,

That said bill be postponed until to-morrow, in order that it may be copied, and all the amendments thereto properly inserted before its final passage.

Which motion

*Prevailed.*

Mr. Rogers then laid on the table the following resolution, to wit:—

*Resolved,* That in all cases where material amendments are made to a bill, it shall be the duty of the Clerk to transcribe the same, previous to its proceeding to a third reading, with a view to its final passage.

On motion of Mr. Dilworth,

The House adjourned until 3 o'clock this afternoon.

*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the concurrence of the House a joint resolution, fixing Thursday the 31st instant, as the time when, and the Hall of the House of Representatives as the place where, the two Houses will meet, in order to elect by joint ballot, a Senator from this State, in the Senate of the United States, for the constitutional term of six years, to commence on the fourth day of March next.

And he withdrew.

Mr. Houston, from the committee on the petition of sundry persons in Little Creek hundred in Sussex county, praying for a law allowing an additional Justice of the Peace to the county of Sussex, reported a bill entitled "An act allowing for a limited time an additional Justice of the Peace to the county of Sussex," which

On his motion,  
Was read.

On motion of Mr. Frame,  
The communication from the Senate was read, as follows, to wit:—

IN SENATE, *January 30, 1839.*

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Legislature of this State will, on Thursday the thirty-first instant, at four o'clock in the afternoon, in joint meeting in the Hall of the House of Representatives, hold an election by ballot, for the purpose of choosing a Senator from this State, in the Senate of the United States, for the constitutional term to commence on the fourth day of March next.

Adopted by the Senate, and ordered to the House for concurrence.

*"Extract from the Journal."*

S. G. LAWS, *Clerk.*

He then moved,

That said joint resolution be indefinitely postponed.

The House being divided, Mr. Frame demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Neal, Pratt, Rees and Spruance—10 yeas.

*Nays*—Messrs. Biddle, Dilworth, Hopkins of B. C., Hopkins, of N. W. F., Kerr, Marshall, Rogers, Williamson and Mr. Speaker—9 nays.

So said joint resolution was

*Indefinitely postponed.*

On motion of Mr. Rees,

The bill entitled "An act to incorporate the Dover Silk Company," was read a second time.

He then moved,

That the blank in said resolution be filled with the names of Samuel M.

Harrington, Charles Kimmey, sen'r., William P. Smithers and Daniel Cowgill,

Which motion

*Prevailed.*

Mr. Frame, from the committee on the petition of the Wilmington Bridge Company, made the following report, in writing, to wit:—

*In the House of Representatives, January 30, 1839.*

The committee to whom was referred the petition of the Wilmington Bridge Company," on the subject of the claims made by the State, in behalf of the school fund, against said company, and of the suit in Chancery instituted in behalf of the State, for the recovering of said claims, together with the reports respectively of the Attorney General, of the Trustee of the School Fund, and of the committee appointed on the part of the House of Representatives, at the last biennial session of the Legislature, on the same subject, with special instructions to inquire into the propriety and expediency of interfering with the said suit in Chancery, beg leave to report:

That your committee have bestowed upon the subject referred to them, all the attention and consideration, which the discharge of their other duties, as members of this House, would warrant: yet from the intricacy of the matters submitted to them, involving as they do, an investigation into the affairs of said company, during a period of thirty years, it could not have been expected that the labors of your committee, in the limited time allowed them, would result in any other than very general conclusions in the premises. From the examination however, which your committee have been able to make, into the affairs and books of accounts of the said company (all which have been freely submitted to their inspection by the officers of the said company,) they have arrived at some general results hereinafter submitted, which in their opinion, may be safely relied on by the House, as sufficiently accurate.

By the twenty-third section of the act of incorporation of said company it is enacted, in substance, that when the nett profits arising or accruing to the said company from the tolls or pontage established by that act, shall exceed the sum of ten per cent. per annum, on the capital stock of the said company, then the said company, "*for each and every year*" in which the same shall happen or take place, shall pay into the hands of the Trustee of the School Fund "*the respective sums* which may be in their hands, after deducting the said nett profits of ten per cent. per annum, on their said capital stock, *which said sums respectively, in each and every year as aforesaid,* the Trustee is empowered to sue for, &c." The true construction of this section first claimed the consideration of your committee. It was contended for the company that the section should be so construed, as to allow to them a nett profit of ten per cent. per annum on an average of a series of years taken together, without regard to the nett profits of each and every year, separately considered. In other words, that the company were entitled to make up, and retain to their own use, any deficiency of the nett profits under ten per cent. for any one year, out of the excess of the nett profits above ten per cent., for any other year; and that the State should not be entitled to the excess of nett profits of any one year above ten per cent., so long as such excess might be required to make good the deficiency of the ten per cent. nett profits of other years. Such a con-

struction, in the opinion of your committee, is altogether unwarranted by the plain letter and the manifest spirit of the said section; and, inasmuch as the charter of the said company is made perpetual, such construction would lead to the impracticable and absurd result of forever suspending, and consequently defeating, the claims of the State, to any portion of the nett profits whatever. For the fact could not be known, during the existence of the company, whether the nett profits would average more than ten per cent per annum; and as their existence might continue forever, the fact would also be rendered forever incapable of ascertainment.

On the contrary, your committee are of opinion that it was the true intent of the said section to secure to the State, for the benefit of the school fund, any excess of the nett profits above ten per cent. per annum on the capital stock of said company, "*for each and every year*" in which such excess might happen, separately considered. According to this construction, and from the inspection which your committee have made of the books and accounts of the said company, they find that such excess did take place for the years 1812, 1817, 1827, 1830, 1832 and 1837, amounting in the aggregate to the sum of about \$3,000; and which the State consequently became entitled to receive from said company.

Your committee also find, that during a number of years (*including the last year,*) the company were unable to declare any dividends, or divide any profits, owing to the heavy expense of those years, in the repairs and maintenance of their bridge and other works. That during the period of thirty years, in which the company have been in operation, their whole nett profits have not *averaged* more than eight per cent. per annum on their capital stock. That the expense of keeping up and maintaining said bridge and other works, is very heavy, and such as to render the profits arising therefrom very precarious, and subject to great fluctuations. That said company have been subjected to the heavy costs of twice rebuilding the said bridge, in addition to the cost of the original construction of the same; from which fact, your committee are led to believe, that said bridge will require to be rebuilt, or thoroughly repaired, during every period of about fifteen years.

Your committee do not find that said company have accumulated any surplus funds from their profits; but on the contrary, they find the company are now actually indebted in a sum exceeding four thousand dollars.

Upon a view of the whole subject, your committee have come to the conclusion of recommending to the House, the repeal of the said twenty-third section; the discontinuance of the said suit in Chancery, and the relinquishment to the said company of the State's claims for nett profits, upon condition that the said company shall pay the costs of the said suit, and shall also pay to the State, for the use of the School Fund, a certain tax of one per cent. per annum, on their capital stock, commencing with the present year. In accordance with which recommendation, your committee beg leave to report a bill.

All which is respectfully submitted.

He also, in behalf of the majority of said committee, reported a bill entitled "A supplement to the act entitled 'An act to incorporate a company to erect a draw-bridge over the river Christiana at Wilmington, and for other purposes therein mentioned,'" which

On his motion,  
Was read.

Mr. Cooper, from the committee on the petition of the voters and inhabitants of school districts Nos. 15, 16, 19 and 20, in Kent county, reported a bill entitled "An act to create an additional school district in the county of Kent," which

On his motion,  
Was read.

On motion of Mr. Rogers,  
The bill entitled "A supplement to the act entitled 'An act to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes'" was read a second time.

He then moved,  
That the following amendments be made to said bill, to wit—Add Sec. 4 thereto, in the following words, viz:—

Sec. 4. *And be it further enacted*, That the warrant or precept which the justice is required to issue, in the sixth line of the act to which this is a supplement, may be according to the following form, viz:—

— County, ss. *The State of Delaware, to any constable of the said county, Greeting:*—We command you to notify and warn forthwith —, a non-resident free (negro or mulatto) to depart this State, and that you return this notice, and your doings thereon plainly set forth to — one of our Justices of the peace for the county aforesaid, on the — day of — next.

\*\*\*\*\*  
\* L. S. \*  
\*\*\*\*\*

Witness the hand and seal of the said justice the — day of — A. D. 18—.

Also, by adding Sec. 5, in the following words, to wit:

Sec. 5. *And be it further enacted*, That the warrant which the justice is required to issue in the sixteenth line of the act to which this is a supplement, may be according to the following form, viz:—

— county, ss. *The State of Delaware, to any constable of the said county, Greeting:*—We command you to bring — a free (negro or mulatto) forthwith, before — one of our Justices of the Peace for the county aforesaid, at — to answer wherefore he has not departed this State, in conformity with the notice he has received; and have there this warrant.

\*\*\*\*\*  
\* L. S. \*  
\*\*\*\*\*

Witness the hand and seal of the said justice the — day of — A. D. 18—.

Which said amendments,

On motion of Mr. Rogers,  
Were laid on the table for further consideration.

Mr. Frame then proposed a further amendment thereto as follows, viz: Amend the 1st section by striking out the words "three months" in the 9th line, and inserting in lieu thereof, the words "four months."



On his motion,  
Said amendment was then

*Adopted.*

On motion of Mr. Hopkins, of B. C.,  
The bill entitled "An act to enable Ebenezer Gray to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

He then moved,  
The bill entitled "An act to enable Isaac Cannon (of E.) to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same" be taken up for a third reading, in order to pass the House,

Which motion

*Prevailed.*

And said bill

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On his motion also,  
The bill entitled "An act to enable George H. Walson to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same," was read a second time.

On motion of Mr. Frame,  
The 8th rule of the House was suspended, in order that he might introduce a bill.

He then asked, and

On motion of Mr. Houston,  
Obtained leave to introduce a bill entitled "An act requiring Clerks of the Peace to pay to the State Treasurer, instead of the Secretary of State, certain sums received for fees to the State," which

On his motion,  
Was read.

Mr. Rees, from the committee of enrolment, presented for the signature of the Speaker, the following enrolled bills:

"An act to enable Smith Timmons to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same." Also,

"An act for recording certain evidences of public debt." Also,

"A supplement to the act entitled 'An act to straighten and improve the roads from the banked marshes on Simon's Creek in Kent county, to the village of Seaford in Sussex county.'"

On motion of Mr. Jefferson,  
The House adjourned until 10 o'clock to-morrow morning.

THURSDAY 10 o'clock, A. M. January 31, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Rees, from the committee of enrolment, presented for the signature of the Speaker the following enrolled bill:—

"A supplement to an act entitled 'An act to authorize Elizabeth Caroline Whitely, a minor, to sell and convey a certain tract of land therein mentioned.'"

Mr. Houston laid on the table an account of Caleb B. Sipple against the State, which

On his motion,  
Was referred to the committee on claims.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House the bill entitled "An act to incorporate the Union Silk Company of New Castle county," and also the bill entitled "An act to incorporate the Smyrna Leipsic and Philadelphia Steamboat Company," and informed the House that the Senate had concurred in both said bills.

He also presented for the concurrence of the House a joint resolution which had passed the Senate, fixing this afternoon at four o'clock as the time, and the Hall of the House of Representatives as the place, where the two Houses will meet, for the purpose of electing in joint ballot, a Senator from this State, in the Senate of the United States, for the constitutional term, to commence on the fourth day of March next.

And he withdrew.

On motion of Mr. Spruance,  
The communication from the Senate was read as follows, to wit:—

#### IN SENATE,

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the Legislature of this State, will on this day (Thursday) at four o'clock P. M., in joint meeting in the Hall of the House of Representatives hold an election by ballot, for the purpose of choosing a Senator from this State, in the Senate of the United States, for the constitutional term, to commence on the fourth day of March next.

January 31, 1839—adopted.

*"Extract from the Journal."*

S. G. LAWS, Clerk.

*"For Concurrence."*

He then moved,  
That said joint resolution be indefinitely postponed.  
The House being divided (as usual) Mr. Frame demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins, of B. C. Hopkins, of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So said resolution was

*Indefinitely postponed.*

On motion of Mr. Dilworth,

The bill entitled "An act to enable William Butler to locate certain vacant land situate in Appoquinimink hundred in New Castle county, and to complete his title to the same," was read a second time.

On motion of Mr. Jones,

The bill entitled "An act to amend the act entitled 'A supplement to the act entitled 'A supplement to the act entitled An act to incorporate a number of the physicians of the Delaware State, and for other purposes therein mentioned,'" was taken up for a third reading in order to pass the House, but at the close of the reading of the first section thereof,

On motion of Mr. Frame,

Said bill was committed to the committee which had reported it, for the purpose of amending the same.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House the following enrolled bill:—"A supplement to the act entitled 'An act to enable Elizabeth Caroline Whiteley, a minor, to sell and convey a certain tract of land therein mentioned,'" and informed the House that the same had received the signature of the Speaker of the Senate. He also returned to the House the bill entitled "An act to divorce Ann Cabbage from her husband George Cabbage," and informed the House that the Senate had concurred therein.

And he withdrew.

On motion of Mr. Houston,

The bill entitled "An act allowing for a limited time an additional Justice of the Peace to the county of Sussex," was read a second time.

Mr. Rogers, from the committee to whom was committed the bill entitled "An additional supplement to an act entitled 'An act for providing for the punishment of certain crimes and misdemeanors,'" reported said bill back, with the following amendments, to wit:—by inserting in the fifth line of the first section of said bill, between the word "a" and the word "negro" the word "free"—also in the same line between the word "negro" and the word "other," the words "or mulatto"—also by adding to the end of the second section of said bill, the following, to wit:—"And if it shall satisfactorily appear to the court, that any white convict is not able to pay the costs and fine or restitution money, then the said court shall make such order, in the premises as to them shall seem expedient, in regard to the time for which such white convict shall be detained in prison, upon failure to pay such costs and fine, or restitution money. *Provided however,* That the duration of such imprisonment shall not exceed the period of three months."

On motion of Mr. Rogers,  
Said amendments were

*Adopted.*

Mr. Pratt, from the committee on the petition of Lewis D. Meconekin, praying for a law to authorize him to bring into this State from the State of Maryland certain slaves therein mentioned, made the following report, to wit:—

That in the opinion of said committee it is inexpedient and unnecessary, to legislate on the subject, as the laws now existing, are fully sufficient to meet the case.

Mr. Rogers laid on the table the petition of sundry persons in the town and hundred of New Castle, praying for the repeal or modification, of the present license law of this State, which

On his motion,  
Was referred to the committee already raised on the same subject.

On motion of Mr. Cooper,  
The bill entitled "An act to create an additional school district in the county of Kent," was read a second time.

Mr. Frame then moved,  
The following amendment thereto, to wit:—amend the second section thereof, by striking out the word "there" in the eighth line, and inserting in lieu thereof as follows, viz:—"the said district so laid out."

He then moved,  
That said amendment be adopted,

Which motion

*Prevailed.*

Mr. Rogers asked, and

On motion of Mr. Dilworth,  
Obtained leave to introduce a bill entitled "A supplement to the act entitled 'A further supplement to the act entitled "An act concerning the probate of wills and the administration of the personal estate of deceased persons," which

On his motion,  
Was read.

He also asked, and

On motion of Mr. Dilworth,  
Obtained leave to introduce a bill entitled "An act to authorize the purchase of a library for Newark College," which

On his motion,  
Was also read.

On motion of Mr. Jones,  
The House adjourned until 3 o'clock this afternoon.

*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

On motion of Mr. Rogers,

The bill entitled "An act for the preservation of certain game," was taken up and read a third time by paragraphs, in order to pass the House.

On the question of the final passage of the said bill, the House divided, Mr. Rogers demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Biddle, Boulden, Cooper, Dilworth, Hopkins, of B. C., Hopkins of N. W. F., Houston, Jefferson, Jones, Kerr, Marshall, Neal, Pratt, Rees, Rogers, Williamson and Mr. Speaker—17 yeas.

*Nays*—Messrs. Fiddeman, Frame, Frazer and Spruance—4 nays.

So said bill

*Passed the House..*

*Ordered, To the Senate for concurrence.*

Mr. Hopkins, of B. C., from the committee on the petition from Sussex county, for a law to authorize the several school districts in said county, to draw their proportion of the School Fund of this State, without raising by tax or otherwise, any sum of money on the part of said several districts, reported a bill entitled "An additional supplement to the act entitled 'An act for the establishment of free schools and to the supplements thereto,'" which

On his motion,

Was read.

Mr. Neal, from the committee on the petition from Sussex county, on the subject of roads and bridges, in said county, reported a bill entitled "An act to alter and amend the mode of supporting public roads and bridges in Sussex county," which

On his motion,

Was read.

Mr. Pratt, from the committee on the petition of David Marvel, praying for an act of Assembly, to vest in him the title to certain lands therein mentioned, reported a bill entitled "An act for the relief of David Marvel," which

On his motion,

Was read.

On motion of Mr. Jones,

The bill entitled "An act to amend the act entitled 'An act concerning the keeping of the papers belonging to the Executive Department, and the acts of the General Assembly, and the printing and disposal of the Laws and Journals,'" was read a second time.

He then proposed the following amendment thereto, to wit:—

Amend the said bill by inserting between the 14th and 15th lines, the following words, viz: Also, by inserting between the words "Gaul Delivery" and "shall" in the forty-seventh line thereof, the words "and each attorney at law and each justice of the peace residing in said county," which said amendment

On his motion,  
Was

*Adopted.*

On motion of Mr. Rogers,  
The bill entitled "An act empowering the State Treasurer to collect all balances due the State from sheriffs, constables and justices of the peace" was read a second time.

Mr. Cooper laid on the table two petitions on the subject of the repeal or modification of the present license law of this State, which

On his motion,  
Were read and referred to the committee already raised on the same subject.

On motion of Mr. Rogers,  
The bill entitled "An act to amend the act entitled 'An act to provide for certain deficiencies in the penal code'" was read a second time.

On motion of Mr. Rees,  
The bill entitled "An act to incorporate the Dover Silk Company," was read a third time by paragraphs, and *Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Hopkins, of B. C.,  
The bill entitled "An act to enable George H. Walson to locate certain vacant land in Broad Creek hundred in Sussex county, and to complete his title to the same," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Spruance asked, and

On motion of Mr. Frame,  
Obtained leave to introduce a bill entitled "An act to appropriate the monies in the treasury of this State," which

On his motion,  
Was read.

Mr. Pratt, from the committee on the petition of the Meredith's Branch Ditch Company, reported a bill entitled "A further supplement to an act entitled 'An act to authorize the owners and possessors of the marsh and low grounds, commonly called and known by the name of Meredith's Branch, in the forest of Murderkill and Mispillion hundreds, to cut a ditch or drain through the same'" which

On his motion,  
Was read.

Mr. Jones, from the committee to whom was committed the bill entitled "An act to amend the act entitled 'A supplement to the act entitled 'An act to incorporate a number of the physicians of the Delaware State, and for other purposes'" reported back said bill with the following amendment to wit:—

Amend the said bill by striking out all after the title, and inserting in lieu thereof the following, viz:

*Section 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in the act entitled "A supplement to the act entitled 'A supplement to the act entitled 'An act to incorporate a number of the physicians of the Delaware State, and for other purposes therein mentioned'" passed at Dover, January 29, 1835, the proviso commencing in the twelfth line thereof, in the following words: "*Provided always nevertheless,* That nothing herein contained, shall be construed, held, or taken to entitle or give any right to any such person or persons so practising medicine without having such license or permission to practise the same, to charge, demand, claim, sue for or recover any fee, compensation, reward or pay whatsoever, for or on account of any such practice of medicine, or for or on account of any manner of services rendered or medicines administered, or prescribed in and about the same" shall not be deemed, held or taken to apply to any person or persons practising medicine upon the Thompsonian system exclusively.

*Sec. 2. And be it further enacted,* That any person or persons practising medicine upon the Thompsonian or botanic system exclusively, shall have full power and right, and he, she or they is, or are, hereby fully authorized, permitted and allowed to charge, demand, claim, sue for, or recover any fee, compensation, reward or pay, for or on account of any such practice of medicine, or for or on account of any manner of service rendered, or medicines administered or prescribed, in or about the same, as the nature of the case may admit, and as may be consonant to right, equity and good conscience: to be recovered in like manner as debts of the same amount are recoverable by the laws of this State, any usage, custom or law to the contrary notwithstanding."

On motion of Mr. Jones,  
Said amendment was

*Adopted.*

On motion of Mr Houston,  
The House adjourned until to-morrow morning at 10 o'clock.



FRIDAY, 10 o'clock, A. M. February 1, 1839.

The House met pursuant to adjournment.

Roll called, journal read, &c.

Mr. Frame moved,

That the report and resolutions communicated by the Senate to this House, on the subject of the joint resolution for the choice of a United States' Senator, sent from this House to the Senate for concurrence, be now taken up for consideration,

Which motion

*Prevailed.*

He then laid on the table the following resolution, which

On his motion,  
Was read, as follows, to wit:—

*Resolved*, That the report and resolutions adopted by the Senate, on the subject of the joint resolution for the choice of a Senator from this State in the Senate of the United States, for the constitutional term to commence on the fourth day of March next, adopted by this House, and sent to the Senate for concurrence, with the name of Joseph Maull therein inserted as such Senator, chosen on the part of this House, and which said report and resolutions have been communicated by the Senate to this House be, and the same are hereby referred to a committee of three members of this House, *to be chosen by this House by ballot*; and that said committee have leave to report by bill or otherwise.

On motion of Mr. Frame,  
Said resolution was

*Adopted.*

The House then proceeded to ballot for persons to compose said committee, and the first ballot stood:

For Blank	7 votes
Robert Frame	11 "
Aaron Marshall	11 "
Joseph W. Neal	11 "
For John D. Dilworth	1 vote
William H. Rogers	1 "
James Hopkins	1 "

So that Robert Frame, Aaron Marshall and Joseph W. Neal, having a majority of all the votes, were declared by the Speaker, duly elected members of said committee.

On motion of Mr. Dilworth,

The bill entitled "An act to enable William Butler to locate certain vacant land situate in Appoquinimink hundred in New Castle county, and to complete his title to the same," was read a third time by paragraphs, and

*Passed the House.*

*Ordered*, To the Senate for concurrence.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate, being admitted, asked the concurrence of the House in the bill entitled "An act to authorize James Griffin, the executor of the last will and testament of Frederick Ford, late of Mill Creek hundred, deceased, to make sale of the real estate of the said Frederick Ford, in manner and form as therein prescribed."

And he withdrew.

On motion of Mr. Dilworth,  
The communication from the Senate of the 30th January was read.

On motion of Mr. Rees,  
The communication just received was also read.

On motion of Mr. Rogers,  
The bill entitled "An additional supplement to an act entitled 'An act for providing for the punishment of certain crimes and misdemeanors'" was read a third time by paragraphs, and

*Passed the House.*

*Ordered*, To the Senate for concurrence.



On motion of Mr. Neal,

The communication from the Senate of the 30th January, on the subject of improving the navigation of Cedar Creek was read.

On motion of Mr. Rogers,

The bill entitled "An act to amend the act entitled 'An act to provide for certain deficiencies in the penal code'" was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Fiddeman, from the committee on the petition of sundry persons in Kent and New Castle counties, praying for an amendment to, or the repeal of the law prohibiting the racing of horses within this State, reported a bill entitled "An act to encourage the improvement of the breed of horses within this State," which

On motion of Mr. Rogers,

Was read. —

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the signature of the Speaker an enrolled bill, which had received the signature of the Speaker of the Senate.

And he withdrew.

Mr. Hopkins of N. W. F., laid on the table a petition on the subject of the present license law, which

On his motion,

Was referred to the committee already raised on the same subject.

On motion of Mr. Cooper,

The bill entitled "An act to create an additional school district in the county of Kent," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Rogers,

The bill entitled "A supplement to the act entitled 'A further supplement to the act entitled 'An act concerning the probate of wills and the administration of the personal estate of deceased persons,''" was read a second time.

Mr. Dilworth, from the committee to whom was committed the bill entitled "An act to incorporate the Delaware Iron Company," reported back said bill with sundry amendments, which were

On his motion,

Read and

*Adopted.*

Mr. Spruance, from the committee on the petitions from various parts of the State, praying for the repeal or modification of the present license law, reported a bill entitled "An act to change the character of licenses to tavern-keepers and retailers, and for other purposes therein mentioned," which

On his motion,

Was read,

Mr. Dilworth moved,  
That one hundred copies of said bill be printed for the use of the Legislature.

On motion of Mr. Hopkins, of B. C.,  
The House adjourned until 3 o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Rogers moved,  
That the 8th rule of the House be suspended, in order that he might introduce a bill entitled "An act respecting Lotteries,"

Which motion *Prevailed.*

And he introduced said bill.

On motion of Mr. Dilworth,  
The bill entitled "An act to incorporate the Delaware Iron Company,"  
was read a third time by paragraphs, and *Passed the House.*

*Ordered,* To be returned to the Senate.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the signature of the Speaker an enrolled bill, which had received the signature of the Speaker of the Senate; and also returned to the House the bill entitled "A supplement to the act entitled 'An act concerning the office of Sheriff,'" and informed the House that the Senate had concurred therein. And he withdrew.

On motion of Mr. Cooper,  
The bill entitled "An act to revive the act to incorporate the Gravelly Run Marsh Company, and to extend the time for recording the same" was taken up for a third reading, in order to pass the House.

On the question of the passage of the second section of said bill the House divided, and Mr. Cooper demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Dilworth, Fiddeman, Frame, Frazer, Hopkins, of N. W. F., Houston, Jefferson, Kerr, Marshall, Neal, Pratt, Spruance and Williamson—14 yeas.

*Nays*—Messrs. Biddle, Boulden, Hopkins, of B. C., Rees, Rogers, and Mr. Speaker—6 nays.

So the second section of said bill *Passed the House.*

And said bill also *Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Frame, from the committee on the petition of John L. Clayton and Joshua Clayton, praying the passage of a law to effect partition of the real estate of James Lawson Clayton, dec'd., reported a bill entitled "An act for making partition of the lands and real estate of which James Lawson Clayton died seized," which

On his motion,  
Was read.

On motion of Mr. Houston,  
The bill entitled "An act allowing for a limited time an additional Justice of the Peace to the county of Sussex," was taken up for a third reading, in order to pass the House.

On the question of the final passage of said bill the House divided, and Mr. Houston demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Houston, Jefferson, Neal, Rees, and Mr. Speaker—7 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Frame, Frazer, Hopkins of B. C., Hopkins, of N. W. F., Kerr, Marshall, Pratt, Rogers, Spruance and Williamson—13 nays.

So said bill

*Was lost.*

Mr. Frame laid on the table the petition of a large number of petitioners in Kent county, for the passage of a law to prohibit foreigners from fishing on our shores, and in our creeks, &c., which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Marshall and Boulden, were appointed said committee.

On motion of Mr. Hopkins, of B. C.

The bill entitled "An additional supplement to the act entitled 'An act for the establishment of free schools and to the supplements thereto,'" was read a second time.

At the close of the reading of said bill,

Mr. Rogers moved,  
That the further consideration thereof be postponed until the fourth day of July next.

The House being divided, Mr. Hopkins demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Boulden, Dilworth, Frame, Frazer, Kerr, Marshall, Neal, Rees, Rogers, Spruance and Williamson—11 yeas.

*Nays*—Messrs. Biddle, Cooper, Fiddeman, Hopkins, of B. C., Hopkins, of N. W. F., Houston, Jefferson, Pratt, and Mr. Speaker—9 nays.

So the further consideration of said bill was postponed until the fourth day of July next.

On motion of Mr. Pratt,  
The bill entitled, "A further supplement to an act entitled, 'An act to authorize the owners and possessors of the marsh and low grounds com-

monly called and known by the name of Meredith's Branch, in the forest of Murderkill and Mispillion hundreds, to cut a ditch or drain through the same," was read a second time by its title.

On motion of Mr. Spruance,

The eighth rule of the House was suspended, in order that Mr. Fiddeman might introduce a bill entitled "A supplement to the act entitled 'An act to encourage the destruction of Crows.'"

Mr. Fiddeman then had leave to introduce said bill, which was done, and

On his motion,  
Read.

Mr. Frame moved,

That fifty copies of the bill entitled "An act to encourage the improvement of the breed of horses within this State," be printed for the use of the members of the Legislature,

Which motion

*Prevailed.*

On motion of Mr. Pratt,

The bill entitled "An act for the relief of David Marvel," was read a second time.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House sundry enrolled bills, which had received the signature of the Speaker of the Senate.

And he withdrew.

On motion of Mr. Frame,  
The House adjourned until to-morrow morning at 10 o'clock.



SATURDAY 10 o'clock, A. M. February 2, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Hopkins of B. C. laid on the table the petition of Jonathan R. Torbert, praying for the passage of a law to enable him to secure a title to certain vacant land therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Hopkins of B. C., Cooper and Biddle, were appointed said committee.

On motion of Mr. Frame,

The bill entitled "An act for making partition of the lands and real estate of which James Lawson Clayton died seized," was read a second time by its title.

He then laid on the table the petition of Henry M. Ridgely, praying for a law to extend the charter of the Commercial Bank of Delaware, and the several acts relating thereto, until the first day of March, one thousand eight hundred and forty-five, for the reasons therein set forth, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Frame, Jefferson and Williamson, were appointed said committee.

Mr. Spruance, from the committee on the petition of William Inskeip of New Castle county, praying for the passage of a law supplementary to one heretofore passed for his benefit, but which has not been fully carried into effect, for want of some further Legislative aid, reported a bill entitled "A further supplement to the act entitled 'An act to enable William Inskeip to raise his mill-dam, and for other purposes therein mentioned,'" which

On his motion,

Was read.

A message from the Senate by a member.

Mr. Deakyne, a member of the Senate being admitted, presented for the signature of the Speaker an enrolled bill, which had received the signature of the Speaker of the Senate.

And he withdrew.

Mr. Houston gave notice, that on Monday next, he should ask leave to introduce a bill entitled "An act to provide for the preservation of the records in the office of the register of wills and granting letters of administration, and in the office of the recorder of deeds in Sussex county."

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, presented for the signature of the Speaker an enrolled bill, which had received the signature of the Speaker of the Senate. He also returned to the House the bill entitled "A supplement to an act entitled 'An act for regulating fees'"—also, the bill entitled "A further additional supplement to an act entitled 'An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware, or the waters thereof.'" "

Also, the bill entitled "An act to enable Isaac Cannon (of E.) to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same."

Also, the bill entitled "An act to enable Ebenezer Gray to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same,"—and informed the House, that said bills had received the sanction of the Senate.

He also asked the concurrence of the House in a bill entitled "An act providing for the publication of the lists, or catalogues of appointments to office, by the executive authority of this State."

And he withdrew.

On motion of Mr. Dilworth,  
The communication from the Senate was read.

On motion of Mr. Spruance,  
The House adjourned until Monday next, at 3 o'clock P. M.



MONDAY 3 o'clock, P. M. Februdry 4, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

Mr. Hopkins of B. C., laid on the table the petition of Jehu Reed, praying for an act of Assembly authorizing him to survey and locate certain vacant land therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Hopkins, Cooper and Williamson, were appointed said committee.

On motion of Mr. Neal,

The bill entitled "An act to improve the navigation of Cedar Creek," was read a second time.

On motion of Mr. Frame,

The bill entitled "An act for making partition of the lands and real estate of which James Lawson Clayton died seized," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Hopkins of B. C., from the committee on the petition of Jonathan R. Torbert of Sussex county, praying for a law to authorize him to survey, and secure a title to certain vacant land therein mentioned, reported a bill entitled "An act to enable Jonathan R. Torbert to locate certain vacant land, situate in Nanticoke hundred in Sussex county, and to complete his title to the same," which

On his motion,

Was read.

On motion of Mr. Frame,

The bill entitled "An act requiring Clerks of the Peace to pay to the State Treasurer, instead of the Secretary of State, certain sums received for fees to the State," was read a second time.

He then, as chairman of the committee on the petition of Henry M. Ridgely, Esq., praying for the passage of a law to continue, and extend the charter, and supplements thereto, of the Commercial Bank of Delaware, until the first day of March, in the year of our Lord one thousand eight hundred and forty-five, reported a bill entitled "A further supplement to the act entitled 'An additional supplement to the act entitled An act to enable the President, Directors and Company of the Commercial Bank of Delaware to close the concerns of that bank,'" which

On his motion,  
Was read.

On motion of Mr. Boulden,  
The House adjourned until 10 o'clock to-morrow morning.



TUESDAY 10 o'clock, A. M. February 5, 1839.

The House met pursuant to adjournment.

Roll called, journal read, &c.

Mr. Frame, from the committee *elected by ballot*, on the report and resolutions adopted by the Senate, on the subject of the joint resolution for the choice of a Senator from this State in the Senate of the United States, for the constitutional term to commence on the fourth day of March next, adopted by this House, and sent to the Senate for concurrence, with the name of Joseph Maull therein inserted as such Senator, chosen on the part of this House, and which said report and resolutions have been communicated by the Senate to this House, made the following report, to wit:—

#### HOUSE OF REPRESENTATIVES,

*February 5, 1839.*

The committee to whom was referred the communication from the Senate, on the subject of the joint resolution for the choice of a Senator from this State, in the Senate of the United States, sent from this House to that Body for concurrence, respectfully

#### REPORT:—

That it is with regret, but without surprise, that they find the Senate has rejected the said resolution adopted by this House, on the 11th ultimo, appointing a Senator in Congress. This co-ordinate branch of the Legislature having done its duty, in obedience to the constitution, by choosing a Senator on its part, now witnesses a direct attempt, on the part of the Senate, to dictate the course to be pursued, for the purpose of compelling this House to consent to a violation of the will of the people. The Senate has refused to elect a Senator on its part, although the House had offered it the name of one of its own body, to supply the place. They refuse

even to notice the nomination made by the House, unless their entire refusal to propose any man whatever, to represent the State, in the Senate of the United States, accompanied by a report which declares, that they will not concur in any measure to elect a Senator in any other manner than that which *they* propose, can be considered as a notice of the nomination made by the House. They have adopted two resolutions, in one of which, they profess their desire to "use all just and proper means to effect an election," and in the other, they resolve that it is "inconsistent with obvious duty to concur" in the measures proposed by the House; thus denouncing the course solemnly determined upon by this honorable body, as unjust and improper. They have accompanied this extraordinary course, with a report (whose reasoning we will presently examine,) in which they expressly say they could not give their votes for concurrence in the resolution of this House, without infringing upon the integrity of their oaths of office, and they tauntingly add, that "oaths of office are in *their* opinion like other oaths, too solemn to be trifled with." They have sent this report and these resolutions to this House, not for concurrence—not for our approbation or rejection—but for the pretended purpose of shewing us the grounds of their own conduct. They have plainly told us that they would consider themselves perjured by the course we have taken, and then have added "that oaths of office are, in *their* opinion, (meaning by the italics, in their printed report which is sent to us, that they are *therein* different from us) "like other oaths, too solemn to be trifled with." They might without our rebuke, have printed and scattered abroad, as they have done, five hundred copies of this report, had they not officially communicated it to this body, to gratify a spleen which seeks to disguise itself in all other passages but this, under the semblance of decency. But such language, used by one branch of a Legislature to another, deserves a chastisement, which should teach its authors a lesson in good manners, which this committee would consider as not easily learned by those who employed it. This committee will content itself, by referring for a justification of its remarks, on this disgraceful insult and assault upon the character of this House, to the parliamentary precedents, in which such communications have been sent back to the body in which they originated, with every mark of contempt towards those who sent them.

Without further exposure of the temper of this report, let us now see how far its reasoning can be sustained, and how far these insults and denunciations against this House are justifiable.

The position taken by the House, and distinctly announced to the Senate, by our resolution appointing a Senator on our part, by our separate action was, that there was no existing law providing for a *joint meeting* of the two Houses, nor any law providing a place for a joint election: that either House was at perfect liberty to select the mode of separate ballot, or that of joint ballot—both of which modes were well known to have been adopted in different States of this Union; that therefore, it was the constitutional right of each House to select for itself such manner of election as it should deem proper; and that this House, for reasons well known to the public, and hereinafter noticed, considered it a duty to the people of Delaware, to vote separately, and throw itself upon its reserved constitutional privilege of acting for itself to defend the rights of the people.

The ground taken by this House is to be found in a single law of this State, passed on the 9th day of January 1837, in these words: "An act



to amend the act entitled 'An act directing the time, place and manner of holding elections for Senators from this State in the Senate of the United States.

Section 1. Be it enacted by, &c., That so much of the act aforesaid as provides for a joint meeting of both Houses of the Legislature, in the Senate chamber be, and the same is hereby repealed, made null and void."

For a proper understanding of what is repealed by this act, let any candid man refer to the Act of 1825, a part of which is repealed, to be found in 6 Del. Laws, 423, and all of which, except the repealing section, is also to be found in the Digest, 195. The said Act of 1825, enacts that the Legislature shall, ["in the Senate chamber in joint meeting of the Senate and House of Representatives] hold an election by ballot, for the purpose of choosing a Senator from this State in the Senate of the United States."

Expunge the words in brackets, which the Act of 1837 has "repealed, made null and void," and who is there, that can ask for a lawyer's confidence, or pretend to a lawyer's reputation, that will hesitate to say that so much of the law of 1825 as provides for a joint meeting, is repealed? Nay more—who can doubt that all the incidents to the joint meeting, and the place of holding it, fall with their principal?

But before we press the argument further, let us see what the Senate have thought proper to adopt, as their language, in their report on this very subject, and sent to this House. "They agree that in the construction of the Act of 1837, there are difficulties and *fair grounds for difference of opinion*. Looking into the Act itself, it would seem about as likely to mean one thing as another, if indeed any meaning can be found in it!!!"—See the Report of the Senate, page 5, lines 15, 16, 17, 18 and 19.

Yet in the very next page of that report, this House—the Representatives of the people of the State, co-ordinate and equal with the Senate in every power delegated by the constitution, and superior in many, (because this House alone can originate many measures of the most vital interests of the people,) is taunted with trifling with the solemn oaths of office, because it does not agree with this Senate, in the construction of this law of 1837. The report expressly admits that, in the construction of this Act there are "fair grounds for difference of opinion;" yet, immediately after, it tells us, the Senate could not concur with us, "without infringing upon the integrity of the oaths of office they have taken, and oaths of office are, in *their* opinion, like other oaths, too solemn to be trifled with."

They confess that they think the Act of 1837 about as likely to mean one thing as another—and yet they libel us in the grossest terms, because we do not think it means the very thing they contend for. They express a doubt whether the Act has *any* meaning in it; and yet, they publish five hundred copies of a Report, and spread it among the people, which every man of common intelligence will understand as charging us with perjury, because we do not agree to the exact meaning, which they choose to ascribe to it. The force of the law itself, compelled them to say in one breath, that it was "about as likely" to mean what we contend for, as what they insist upon; and the force of party spirit makes them insult us, in the next breath, in language which, if used towards the lowest citizen of the State, would be punished as a libel in her Courts!

But we deny that, in our opinion, there is any difficulty in the construc-

tion of the Act of 1837, we deny that there are "fair grounds for difference of opinion;" and we will proceed to expose the pretence set up by this report of the Senate, that this Act "is about as likely to mean one thing as another," and the doubt expressed by it, whether the Act has *any* meaning.

The words of this act of 1837 are plain and positive. "*So much of the act of 1825, as provides for a joint meeting of both Houses of the Legislature in the Senate chamber*" is repealed, made null and void. Now the Act of 1825 had provided for but one kind of joint meeting, and that was the joint meeting in the Senate chamber. The repeal of *that* joint meeting, repeals the only one the law had prescribed. Had the law of 1825, in another part of it provided that, in case the joint meeting was not held in the Senate chamber, it should be held in another place, then the repeal of the joint meeting in the Senate chamber, would have left that other provision in force, and the two Houses would have been called upon to go into joint meeting, in that other place.

But the pretence set up by the Senate, that the *place* of meeting is the only thing in the Act of 1825, which is repealed by the Act of 1837, is as absurd as the discovery of that Solomon of the law, who construed an act of Parliament, repealing so much of a former act, as provided that a man "should be hung by the neck," as repealing only the place about his body to which the rope should be fastened, and so leaving the sheriff to hang him by the legs!

At the last session, a law was passed providing that "a court-house should be built upon the public square in Georgetown, in Sussex county." A law now passed repealing "so much of that Act as provides for building a court-house upon the public square in Georgetown, in Sussex county," would repeal the order to build in *any* place; simply because there was no other place for the building provided for by the law. And in such a case would any man contend that the law only repealed the *place* of building, and left *the order* to build in force? Another act of Assembly has authorized a rail road to be made from Wilmington to the Susquehanna river. Had the Act been repealed so far as it provided for a rail road between these two points, would any man contend that it only repealed the *place* where the rail road should go, but left the power to make a rail road still in force?

"The good expositor of a statute" says Lord Coke, (5 Rep. 5—11 Rep. 34,) "gives effect to every word in the statute, and does not construe it so that any word shall be vain and superfluous; nor ever makes exposition against express words. The best expositors of all acts are the acts themselves, and their construction is to be collected out of the words of the acts themselves." There is not a treatise on this branch of the law to be found, which does not repeat and enforce this rule of construction, that "a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence or word should be superfluous, void, or insignificant." See Dwarrris on Statutes, 658.—1 Shower, 108.—Hard. 344.

If the Act of 1837 had simply enacted that so much of the Act of 1825 as provides *the place* of joint meeting should be repealed, or had only repealed the words "Senate Chamber" in the act, or, had ordered a joint meeting in another place, then indeed, by every rule of fair construction, it might have been contended, as it now is, that the Legislature had not

repealed the joint meeting. For then, effect would have been given to every word in the act, by the construction put upon it. But now, the Senatorial expositors are driven to make out their construction, by throwing out of the Act of 1837, the words "*joint meeting of the two Houses*," or by giving those words no effect, and making them utterly insignificant and void of meaning.

This Senatorial report, however, openly professes to abandon the rule of construction given in the law books. It says that "looking into the act itself, it would seem about as likely to mean one thing as another, if indeed *any* meaning can be found in it; but availing themselves of *other lights*, to which they feel justified in resorting, where a statute is inexplicable or ambiguous in its terms, they feel assured that a *design* to repeal the Act of 1825, or in any respect to alter it, except as to the *place* of meeting, was never entertained by the Legislature."

Here then this report admits, that it has not sought to construe the Act by "*looking into the act itself*." But before we go further, let us pause for a moment, to admire the consummate skill of that expositor, who could say that, *from the words* of this Act, it was "as likely to mean one thing as another" and then, immediately after, to express a doubt whether "indeed *any* meaning could be found in it," and yet again *feel assured* as to the *design* of the Act! Comment can add nothing to the wonder any man must feel at reading such a sentence in a grave public document. We will add nothing to it, but leave the House in silent admiration, to muse its praise!!!

But where do the authors of the Report find the *law* to justify them, in resorting to *other lights*, where a statute is inexplicable on its face? The rule of law is that, if a statute is inexplicable, and has no meaning on its face, it is void. Then what are these *other lights* which are to show us the law, better than the law itself? This Report enumerates three; and we will consider them in the order in which it presents them.

1st. The first of these lights is thus shewn—"The very title of the Act under which the repeal is now claimed, conveys a flat negation of any such intent." This is all that is given us of this light. Not another word is added about it. The title of this Act has been already herein before set forth at length. Now where is the "flat negation of an intent to repeal" in this title? What was meant by the remark, and where is the *light*, which it was intended to give us? Did the Senate suppose that this House ever contended, that *the whole* of the Act of 1825, *including the fourth, or repealing section thereof*, which annuls the act of 1799, was repealed? If so, what authority had they for such a supposition? All that this House ever contended for, was, in the very words of the Act of 1837, that *so much* of the act of 1825, as provides for the "*joint meeting of both Houses of the Legislature in the Senate chamber*," is repealed. This House did and ever will insist that *the fourth, or repealing* section of the Act of 1835, to be found in 6 Del. Laws, 425, is not repealed. Hence the act of 1837, which did repeal, not *the whole*, but only *a part* of the act of 1825, was properly enough entitled an Act to *amend* the act of 1825; and that is the very mode of entitling many of the Acts in our statute book, which partially repeal other acts. Where then is the flat negation in the title, of an intent to repeal part of the Act of 1825? Where, we repeat, is the light, by which we were to find out the legal meaning of the Act of 1837, better than the Act can show for itself?

Besides, who ever heard before of resort being had to the *title* of an Act, to ascertain the meaning of the act itself? The veriest tyro in the law must know the rule upon this subject to be, that "the *title* of a statute is not to be regarded in construing it, because this is no part of the statute." —4 Bac. Arb. 645.—Hard. 324.—L'd Ray, 77.

2nd. The second light is "the history of its construction, in the manner of electing a Senator immediately afterwards, by the same Legislature which passed it, conclusively shewing that no such (meaning the repeal of the joint meeting) was, at *that* time so much as suspected."

This is all the light given us on this subject. Not another word is added. We are not told what that manner of electing a Senator was, which so conclusively is to settle the question, of what was repealed by the act of 1837. We will now supply the defect, and, in doing it, we shall have to extinguish this light.

The Senator referred to, is, the Hon. Thomas Clayton, and the manner of his election was as follows, as appears by the printed Journal of the House of Representatives for 1837. A joint resolution was passed for the special occasion by both Houses,—providing the *time*, *place* and *manner* of holding the election. The *time* fixed upon was Monday the 9th January, at 4 o'clock, P. M.; the *place* was the chamber of the House of Representatives; and the *manner* provided by said resolution was, *by ballot in joint meeting*. Thus the Legislature passed a law for the special occasion, (the joint resolution adopted by both Houses having all the effect of a law) providing for time, place, and manner of election, to comply with the provision, in the 4th Sec. of 1st. Art. of the Constitution of the United States, which ordains that "the time, place, and manner of holding elections for Senators shall be prescribed in each State, by the Legislature thereof." This provision in the Constitution prescribes no form for legislative action on this subject. Accordingly, in every election which took place anterior to the Act of 1799. (3 Del. Laws, 78) there being no standing law on the subject, the time, place, and manner of the election was prescribed for the special occasion of each election. This was done by a resolution, which was always held to be sufficient for the purpose. If then such elections thus effected, prior to the existence of any standing law on the subject, were held good and sufficient, surely the validity of the election of the Hon. Thomas Clayton, which took place under the joint resolution aforesaid, and since the manner of the election prescribed by the standing law was abolished, cannot be questioned.

It will be perceived now that the *second* light in the Senatorial report does not blaze with much lustre. But there is another small fact which totally extinguishes this light; and that is, it appears by the original draft of the Act of 1837, and by the Journal of the two Houses of that session, that the said Act, as originally drawn, and passed by the House, and sent to the Senate for concurrence, went on, in the latter part of it, to provide for a *continuance of the mode of election by joint meeting in the chamber of the House of Representatives*; and afterwards, all this latter part of the bill was *stricken out* in the Senate, by way of amendment. The amendment was concurred in by the House; and thus the idea of a continuance of the joint meeting system stands negatived by the solemn vote of both Houses of the Legislature. This committee however, wants no such extrinsic adjuncts as these lights, other than the words of the law itself, to assist them in their construction of it.

3rd. The third of these *other lights*, that the law itself, to which our attention is next called by the Senatorial report, is the most brilliant by far. It is the exposition of a law by an *index* made by the Secretary of State!!! It assumes not only, that the *index* is to construe the law, but that the index to a part of a law, made merely to enable a reader to find the page on which it was printed, was intended as an *explanation*, having the force of judicial exposition of the *whole* law. But let the Senatorial report here speak for itself:

"It is also worthy of particular remark" says the Report, "that Mr. Marim, the present Secretary of State, being a member of the House of Representatives during *part* of the session of 1837, drew this Act, and introduced it in the form of a bill, on leave; and that in the index to the laws of that session, afterwards prepared by him, as Secretary of State, he refers to it as an act *merely* changing the place of holding the election for Senators in Congress. Your committee attach importance to this circumstance, as it furnishes the testimony of a lawyer, (now a high executive officer of the State,) explaining the meaning and legal operation of his *own* words:—and this too, at a time when the whole subject was fresh upon his memory, and in the absence of those *biasing* excitements, for which allowance must be made at *this* time."

Now here, it is first to be observed, that wretched as this argument must appear to all men, even if every fact assumed were truly stated, yet the facts upon which the argument is based are not correctly stated. It is not true that Mr. Marim did introduce the bill in its *present* shape, or any bill to repeal a joint meeting. The bill which he did introduce was a bill to continue the system of voting in joint meeting,—but merely to change the place of voting from the Senate chamber to the hall of this House. This bill was amended in the Senate, as we have before stated, so as to assume its *present* shape, to which the House assented; and so it became a law. This committee does not doubt that were Mr. Marim called upon to construe this Act, as it actually passed into a law, he would not hesitate a moment to declare that the bill, as it passed, did repeal the joint meeting, and went far beyond his intent in the original draft of it.—Nor is it true that "in the index prepared by him as Secretary of State, he refers to the law of 1837, as an Act *merely* changing the place of election." The index does refer to the page, where the place of holding the election is changed; but it does not refer to it, as *merely* changing the place. Lexicographers tell us that "*merely*" means, "*purely, only, solely, for this and no other purpose.*" The author of the report will understand this definition, when we tell him, that in drafting the report he designed to state facts, but not *merely* to state facts.

But what a mode is this of construing a law by the *index*, whose only object is to show the book and page, where the law is to be found! Adopt this as a light to read a law by, and to control its meaning too, and the effect will be, that some of the most important provisions in the laws, will stand repealed by the index-maker; for many of them are sometimes absolutely not referred to at all, in any part of the index, owing to some casual oversight. Rarely indeed, or never, are *all* the provisions of any law, indicated or referred to, in the index. In fact too, we know that the indexes have sometimes not been made, by any Secretary of State, but by some one hired to do this laborious drudgery.

We have now seen all these lights, which were to show us the meaning

of the law, better that the law itself. But before we dismiss this branch of the subject, we feel bound again to exhibit the utter dereliction of all the legal principles of construction evinced in the Senatorial report. Deserting the *words* of the Act, they have gone into an inquiry, of not what is the law, but what did *the draftsman* of the law mean, while at the same time, they admit, that his intent is not expressed in the Act! They have signally failed to maintain any one of their positions, even in reference to the design of the draftsman. But suppose they had succeeded;—suppose the draftsman of the law were actually called into a court, for the purpose of giving evidence of what he meant, when he drew the law. Every body knows, that no court would suffer him to open his mouth on the subject. To permit him to do so, would be to make *him* and not the *Legislature*, the law maker; and to give him the power to make and un-make law, at his pleasure; or to make it one thing to-day, and another thing to-morrow. The only safe rule of construing a law is, to let the words of the law govern its meaning; and by this means all men alike understand it.

The following passage from the latest and most approved writer on the subject of expounding statutes, contains the true and universally acknowledged rules of construction, among all those whose duty it is to expound them. But though the judges in interpreting the law, are to explore the intentions of the Legislature, yet the construction to be put upon an act of Parliament must be such as is warranted by, or at least not repugnant to the words of the Act. Where the object of the Legislature is plain and unequivocal, courts ought to adopt such a construction 'as will best effectuate the intentions of the law-giver. But they must not, in order to give effect to what they may *suppose* to be the intention of the Legislature, put upon the provisions of a statute a construction, *not supported by the words*, though the consequence should be to defeat the object of the Act. Where the legislature has used words of a plain and definite import, it would be very dangerous to put upon them, a construction, which would amount to holding that the Legislature did not mean what it has expressed. The fittest course in all cases where the intention of the Legislature is brought in question, is to *adhere to the words of the statute*, construing them according to their nature and import, in the order in which they stand in the Act of Parliament. The most enlightened and experienced judges have, for some time, lamented the too frequent departure from the plain and obvious meaning of the words of the Act of Parliament, by which a case is governed, and themselves hold it much the safer course to adhere to the words of the statute, construed in their ordinary import, than to enter into any inquiry as to the supposed intention of the parties who framed the Act."—See Dwaris on Statutes, page 703.

We come next to the review of another ground taken by the report of the Senate. It is in these words:—"But admitting for the argument, that the Act of '25 was repealed by that of '37, does it not following as a necessary consequence, that the Act on the same subject, passed in 1799, and the supplement passed in 1817, which recognise no manner of electing a Senator, except in *joint* ballot of the two Houses, are revived and in force?"

We have already had occasion to refute the pretence here set up, by showing that the 4th Sec. of the Act of 1825 was not repeal by the Act of 1837; but here we will, for the purpose of exposing this more fully,

quote the very words of the repealing, or 4th Section of the act of 1825.—(See 6 Del. Laws, 425.)

Sec. 4. And be it further enacted, That the Act entitled “An act to establish the manner of choosing a Senator, or Senators to represent this State in the Senate of the United States,” and the supplement to that Act, passed January 31, 1817, be and the same are hereby repealed.”

Thus the act of 1799 is quoted by its title, and the 4th section of the Act of 1825, and thereby totally repealed in express words. That Act will be found in 3 Del. Laws, 78.

The rule of law is, that by the *total* repeal of a repealing statute, the original law is revived; provided the new law contains nothing in it that manifests the intention of the Legislature to be, that the former Act shall continue repealed; but where the repealing statute does not repeal the *repealing section, or clause* in another statute, or where it does not contain any thing in it that manifests the intention of the Legislature to be that the original Act shall be revived, then the old or original statute is not revived.—See Dwarris on Statutes, 676.—12 Rep. 7.—4 Bing. 496.

Now in the case before us, the original law of 1799, which provided for a joint meeting to choose a Senator, was not revived by the repeal in 1837, of the joint meeting provided by the Act of 1825:—

*First*—Because the *repealing section* of the Act of 1825, which annulled the Act of 1799, was not repealed by the act of 1837.

*Secondly*—Because it was the manifest intention of the Legislature, by the Act of '37, *not to revive* the Act of '99. To construe the act of '37 as reviving that of '99, is to make a dead letter of the Act of '37. An act *expressly repealing a joint meeting*, cannot by implication, revive the same joint meeting which it repeals.

The author of the Senatorial Report did not misunderstand this subject; for he did not even dare to *assert* that the Act of '99 *was* revived and in force. But he first professes to admit that which was never contended for—viz: that the act of '25 was repealed; meaning *entirely, totally* repealed; and thus having made out a case for himself, by a pretended admission of what he must have known, had never been contended for, or admitted, he ventures *only to ask the question*, whether the revival of the Act of '99 does not follow as a necessary consequence of *his own admission!*

“From such premises” (and these are all,) the Senatorial Report “concludes that *some* law for a joint meeting is still in force;” but still declines to tell us what that law is—whether it is the Act of 1825, or the Act of 1799, or what other act.

We come lastly to consider that part of this report, which declares a joint ballot “to be decidedly the safest, and the best manner of election;—less liable to abuse, and more in accordance with the spirit of our institutions, than any other, in the power of the legislature to adopt.” Let us reverse the order of the allegations in this sentence, which are supported by no attempt at argument in the report, and let us first examine, whether it be true, that the election by *joint* ballot be more in accordance with the spirit of our institutions, than the general mode adopted by other States, of “*concurrent*,” that is “*separate votes*” of the two Houses.

The Constitution of the United States (Art. 1, Sec. 3,) ordains that “the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years.” Referring to this provision of the Constitution, Chancellor Kent, in his Commentaries on

American law, says, "that if this question, (as the true constitutional mode of election) was a new one, *he* should think that when the Constitution directed that the Senators should be chosen *by the Legislature* it meant not the *members* of the Legislature, *per capita*, (that is, by joint vote in joint meeting;) but the Legislature, in the true technical sense, being the two Houses, acting in their separate, organized capacities with the ordinary constitutional right of negative on each other's proceedings. This (he adds) was the contemporary exposition of the clause in question, and was particularly maintained in the well known letters of the Federal Farmer, who surveyed the Constitution with a jealous and scrutinizing eye."—See 1 Kent's Commentaries, 226, Edition of 1832.—The Federal Farmer, Letter 12.

Judge Story, of the Supreme Court of the United States, in his Commentaries on the Constitution of the United States, says: "the Constitution has not provided for the manner in which the choice shall be made by the Legislatures—whether by a joint, or by a concurrent vote; the former is where both branches form one Assembly, and give a united vote numerically, the latter is where each branch gives a separate and independent vote. As each of the State Legislatures now consists of two branches, this is a very important practical question. Generally, but not universally, the choice of Senators is made by a concurrent vote."—See 2 Story's Commentaries, 184.—1 Rawle on the Constitution, 37.

It will be thus seen, that the two ablest commentators on American law, distinguished alike for their integrity and learning, do not concur with our Senatorial expositors, that the mode of joint ballot, is more in accordance with the spirit of our institutions, than the mode by concurrent, (that is) separate ballot.

Judge Story says that the concurrent vote is the mode generally adopted among the States; and he quotes the passage cited from Chancellor Kent, to show that he has high authority for the opinion that "the true construction of the Constitution upon principle is, that it should be by a concurrent vote." This mode of election by concurrent vote, is the identical mode adopted by this House. It is the very mode adopted in the election of a Senator in Massachusetts about two weeks ago, as will appear by the certificate of the election, a duly certified copy of which, (obtained from the Secretary of the United States' Senate) we herewith lay before the House. Seeing then that there is nothing in the manner of election by concurrent or separate vote, which is not in entire accordance with the spirit of our national institution, there remain but our State institutions to be considered, before we dismiss the sweeping assertion of the Senatorial report. The Constitution of Delaware ordains that "the Legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives," (Art. 2, Sec. 1,) also that "each House shall have all powers necessary for a branch of the Legislature of a free and independent State," (Art. 1, Sec. 7.) The Senate, representing the property and landed interest of the State, must consist of members, each of whom must own two hundred acres of land, or property worth at least one thousand pounds. The House of Representatives representing the people at large, no member of it is required, as a qualification for his place, to own any property whatever. Each branch was designed as a check upon the precipitate action of the other; and the Senators being elected for four years, while the Representatives are elec-



ted for two years, it was supposed that while the former would form a bulwark against the sudden bursts of popular excitement incident to a republic, the latter would protect the people, in all proper cases, against the frauds and party intrigues which might creep in among those who, being removed four years from the reach of the people, might be the more willing to thwart the popular will and disregard the interests of the people. Hence no law, no act, and in general, nothing whatever, can be effected by either House, acting singly, or by both in convention, or joint meeting.

If both Houses should now pass a bill, in joint meeting, by joint vote, it could not become a law; although every member of both Houses should vote for it. The reason is plain. The *two* Houses, by voting as *one* House cease to be distinct branches of the Legislature, the checks and balances against precipitate action, provided for in the Constitution, are lost; the Senate no longer protects the property interest—nor the House, the separate interest of the common people. But the *two* Houses being merged, by joint vote in joint meeting, into *one*, the Senator becomes a Representative—the Representative becomes a Senator; and there is but *one* where the Constitution has declared there shall be *two* branches of the legislative body.

Then why is the system of joint ballot for the election of a Senator, more in accordance with the spirit of this institution, than that of separate or concurrent votes? In both cases it is *the* Legislature that acts. The Constitution declares, that it is *the Legislature* which shall choose the Senator—aye, that *self-same Legislature* which shall pass a law, or do any other legislative act.

Cases of election of a Senator to Congress may readily be supposed to exist, in which an adherence to the separate action of the two branches of the Legislature, by a separate ballot in each branch, would be necessary to protect the rights, and effectuate the will of the citizens of the State; and in which it would become the solemn duty of one branch, to decline a joint meeting with the other, for effecting such election. We need not, however, resort to supposed cases; for, in our deliberate judgment, such a case has actually arisen, and now exists, in the very one before us. We do most solemnly believe that a *joint* meeting of the two Houses, on the present occasion, for the election of a Senator, would result in an entire frustration of the known will of the people, and in a sacrifice of their dearest political rights. The very extraordinary circumstances, (unparalleled we may add, in the annals of this State) connected with, and growing out of, the late election in the county of Sussex, render it the imperious duty of this House, as the immediate Representatives of the people, faithfully to adhere, on the present occasion, to the mode of separate ballot for the choice of a Senator. It is our constitutional right, and we feel it to be our bounden duty, sanctioned by the oath of fidelity we have taken, to insist on a separate vote or ballot of the two Houses. Let us not, however, be misunderstood on this subject. There is no doubt on our minds that, although the system of election by separate ballot, is quite as much in accordance with the spirit of our institutions as that by joint ballot; yet the recognition of Senators, elected by the latter, as well as by the former mode, has placed the constitutionality of both modes, beyond a question.

The unsupported assertion in the Senatorial report, that the election by joint ballot is the safest, and best manner of election, and less liable to abuse, is fully answered by the very case which is now before us. If

other authority be wanted however, to demonstrate the utter fallacy of the pretence that *joint* action in one House, is preferable to the *separate* action of the two Houses, we have it in the opinion of Chancellor Kent, in the 1st vol. of his Commentaries, pages 222, 223, 224, from which we beg leave to make the following extract, with which we will close this report:—"The division of the Legislature into two separate and independent branches, is founded on such obvious principles of good policy, and is so strongly recommended by the univocal language of experience, that it has obtained the general approbation of the people of this country. One great object of this separation of the Legislature into two Houses, acting separately and with co-ordinate powers, is to destroy the evil effects of sudden and strong excitement, and of precipitate measures, springing from passion, caprice, prejudice, personal influence, and *party intrigue*, and which have been found, by sad experience, to exercise a potent and dangerous sway in single assemblies."

Your committee therefore, in conclusion, recommend the adoption of the following resolutions on the part of this House:—

*Resolved*, That this House sincerely desires, and will use all just and proper means to effect the election of a Senator from this State, in the Senate of the United States, for the constitutional term commencing on the 4th of March next, by separate ballot of the Senate and House of Representatives.

*Resolved*, That on the present occasion, and under existing circumstances, this House cannot consistently with its obvious duty, concur in any measure which proposes the election of a Senator in any other manner than by separate ballot, until such other manner shall be provided and prescribed by the Legislature, both Houses concurring.

#### THE COMMONWEALTH OF MASSACHUSETTS,

*To all persons to whom these presents shall come, Greeting:*



EDW. EVERETT

KNOW YE, That the Honorable Daniel Webster, of Boston, was by concurrent votes of the two branches of the Legislature of this commonwealth, viz: by the Senate on the seventeenth, and by the House of Representatives in concurrence on the eighteenth day of January present, duly elected in conformity to the provisions of the Constitution and Laws of the United States, a Senator to represent the Commonwealth of Massachusetts, in the Senate of the United States for the term of six years, commencing on the fourth day of March, one thousand eight hundred and thirty-nine.

Given under our Great Seal. Witness his Excellency Edward Everett our Governor, at Boston, this nineteenth day of January, in the year of our Lord one thousand eight hundred and thirty-nine, and of the Independence of the United States the sixty-third.

*By his Excellency the Governor,*

JOHN P. BIGELOW,

*Secretary of the Commonwealth.*

OFFICE OF THE SECRETARY }  
OF THE SENATE U. S. }

The foregoing is a true copy of the original, on file.

Attest, ASBURY DICKENS, *Sec'ry.*

Mr. Spruance moved,

That said report be adopted, but before the question was taken on its adoption,

Mr. Jones moved,

That said report be indefinitely postponed.

The House being divided, Mr. Jones demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Biddle, Boulden, Dilworth, Hopkins of B. C., Hopkins of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 yeas.

*Nays*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 nays.

So the motion to postpone indefinitely

*Was lost.*

Mr. Rogers then moved,

That the further consideration of said report be postponed until Monday next, at 10 o'clock.

The House being divided, he demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Biddle, Boulden, Hopkins of B. C., Jones, Kerr, Rogers, Williamson and Mr. Speaker—8 yeas.

*Nays*—Messrs. Cooper, Dilworth, Fiddeman, Frame, Frazer, Hopkins of N. W. F., Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—13 nays.

So the motion to postpone until Monday next at 10 o'clock,

*Was lost.*

The question then recurring on Mr. Spruance's motion, to adopt the said report, the House being divided, he demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins of B. C., Hopkins of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So said report was

*Adopted.*

Mr. Spruance then moved,

That *one thousand* copies of said report be printed, under the superintendence of the committee that had made it, for distribution.

The House being divided, he demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins of B. C., Hopkins of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So the motion to print one thousand copies of said report, under the superintendence of the committee which had made it, for distribution,

*Prevailed.*

Mr. Frame laid on the table the petition of John Whaley, praying for the passage of a law to restore him to the right of voting and bearing testimony, &c. which

On his motion,  
Was read.

Mr. Dilworth laid on the table the petition of sundry persons in New Castle county, praying for the passage of a law to increase the fees of Constables in this State, in certain cases therein mentioned, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Dilworth, Hopkins of N. W. F. and Pratt, were appointed said committee.

Mr. Jones laid on the table the petition of the stockholders and managers of the Wilmington and New Jersey Steamboat Company, praying for a law authorizing a valuation to be made of the stock of said company, and for other relief in the premises in said petition mentioned, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Jones, Jefferson and Spruance, were appointed said committee.

Mr. Rogers moved,  
That the eighth rule of the House be suspended, in order that he might introduce a bill entitled "An act to provide for certain police arrangements within the town of New Castle,"

Which motion *Prevailed.*

He then asked, and

On motion of Mr. Dilworth,  
Obtained leave to introduce said bill, which was done, and

On his motion,  
Read.

Mr. Dilworth laid on the table the petition of a number of citizens residing in school district No. 54, in New Castle county, praying for a law authorizing a division of said school district into two districts, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Dilworth, Boulden and Kerr, were appointed said committee.

Mr. Hopkins, of B. C., from the committee on the petition of Jehu Reed, praying for a law to authorize him to secure a title to certain vacant land in said petition mentioned, reported a bill entitled "An act to enable Jehu Reed to locate certain vacant land, situate in Murderkill hundred in Kent county, and to complete his title to the same," which

On his motion,  
Was read.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House the joint resolution appointing Directors on the part of the State, of the Farmers' Bank of the State of Delaware; and informed the House, that the Senate had concurred therein with amendments.

And he withdrew.

On motion of Mr. Jones,  
The communication from the Senate was read as follows, to wit:—

IN SENATE, *February 5, 1839.*

Amend the said resolution as follows, viz:—

For the principal bank at Dover, strike out the name of George M. Manlove, and in lieu thereof insert the name of Manlove Hayes.

For the bank at New Castle, strike out the name of George B. Rodney, and insert in lieu thereof, the name of Abraham P. Shannon.

For the branch at Wilmington, strike out the name of John Evans Young, and insert in lieu thereof, the name of James G. Brinley.

And for the branch at Georgetown, strike out the name of William D. Waples, and insert in lieu thereof, the name of Gardner H. Wright.

This amendment adopted in Senate, Feb. 5, 1839.

S. G. LAWS, *Clerk.*

*"For concurrence."*

Mr. Frame moved,

That the further consideration of said resolution and amendments, be postponed until to-morrow morning at 10 o'clock.

Which motion

*Prevailed.*

On motion of Mr. Hopkins of B. C.,

The bill entitled "An act to enable Jonathan R. Torbert to locate certain vacant land, situate in Nanticoke hundred in Sussex county, and to complete his title to the same," was read a second time.

On motion of Mr. Rogers,

The bill entitled "An act respecting Lotteries," was read a second time.

On motion of Mr. Pratt,

The bill entitled "An act for the relief of David Marvel," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Kerr,

The House adjourned until 3 o'clock this afternoon.

*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Jones, from the committee on the petition of the members and officers of the Wilmington Atheneum, for an act of incorporation, reported a bill entitled "An act to incorporate the Wilmington Atheneum" which

On his motion  
Was read.

Mr. Dilworth, from the committee on so much of the Governor's message as relates to imprisonment for debt, reported a bill entitled "An act to prevent unnecessary imprisonment for the execution of judgments in civil actions," which

On his motion,  
Was read.

Mr. Rogers moved,  
That fifty copies of said bill be printed for the use of the members of the Legislature,

Which motion

*Prevailed.*

Mr. Jones from the committee on the petition of the Female Benevolent Society of the city of Wilmington, reported a bill entitled "An act to incorporate the Female Benevolent Society of Trinity Church Wilmington, for the relief of indigent women of said church," which

On his motion,  
Was read.

On motion of Mr. Rogers,  
The bill entitled "An act to provide for the reformation of the system of Free Schools," was read a second time.

He then moved,  
The following amendments thereto, to wit:—Amend the bill by inserting in the blank of the first section, the names of Willard Hall and Henry M. Ridgely.

Also by striking out from the 4th section in the third and fourth lines thereof, the words "General Assembly of this State at their next biennial session," and inserting in lieu thereof the words "Governor of the State on or before the first day of August, in the year eighteen hundred and forty," and by adding at the end of the said fourth section the following words:—

"And the said commissioners are hereby authorized to cause their said report to be printed, as soon as the same shall have been completed, and to distribute as many copies as to them shall seem expedient, among the people of the State, in order that the General Assembly may be prepared, at their next biennial session, to act in relation to the recommendations contained in said report.

The expense of such printing and distribution to be defrayed out of the sum hereinafter appropriated."

Also, by filling up the blank in the fifth section with the words "one thousand dollars." Also, by filling up the blank in the 6th section, with the words "three thousand dollars."

On motion of Mr. Spruance,  
The bill entitled "An act to appropriate the monies in the Treasury of this State," was read a second time.

Mr. Dilworth laid on the table the following resolution, which

On his motion,  
Was read, as follows, to wit:—

*Resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That both Houses of the Legislature will adjourn on the day of February.

On motion of Mr. Jones,

The bill entitled "A further supplement to the act entitled "An act to enable William Inskeip to raise his mill dam, and for other purposes therein mentioned," was read a second time.

He then proposed the following amendments thereto, to wit:—"Amend the 4th section by striking out in the second line the word "ten," and inserting in its stead the word "ninety."

Also, by striking out in the thirteenth line the words "within thirty days from the said confirmation," and inserting in lieu thereof the words "as soon as the said lands shall be overflowed or drowned by reason of the raising of the breast-work or dam of the mill-pond of the said William Inskeip."

Also by inserting in the sixth line, after the words "full amount," the words "assessed as aforesaid," which were laid on the table and read.

On motion of Mr. Houston,

The bill entitled "An act to alter and amend the mode of supporting public roads and bridges in Sussex county," was read a second time.

On motion of Mr. Frame,

The bill entitled "An act requiring Clerks of the Peace to pay to the State Treasurer, instead of the Secretary of State, certain sums received for fees to the State," was read a third time by paragraphs and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

He then laid on the table the remonstrance of Henry Williams, against the petition of Jehu Reed, for a law to authorize him to survey and locate certain vacant land in Murderkill hundred, and to complete his title to the same," which

On his motion,  
Was read.

He then moved,

That the bill entitled "An act to enable Jehu Reed to locate certain vacant land situate in Murderkill hundred in Kent county, and to complete his title to the same," be taken up for consideration,

Which motion

*Prevailed.*

He then moved,

That said bill, together with the remonstrance of Henry Williams, be

re-committed to the committee on the petition of Jehu Reed, and which had reported the said bill,

Which motion also

*Prevailed.*

Mr. Jones laid on the table the report of the expenditures of the State House commissioners, which

On his motion,

Was read and referred, together with the papers and vouchers accompanying the same, to a committee of three members.

Messrs. Jones, Spruance and Neal, were appointed said committee.

The Speaker communicated to the House a petition signed by a large number of citizens of Sussex county, on the subject of the repeal or modification of the present license law of this State, which

On motion of Mr. Rees,

Was referred to the committee now raised on the same subject.

Mr. Boulden also laid on the table two petitions from New Castle county, on the same subject, which

On his motion,

Was also referred to the same committee.

On motion of Mr. Spruance,

The House adjourned until to-morrow morning at 10 o'clock.



WEDNESDAY 10 o'clock, A. M. February 6, 1839.

The House met pursuant to adjournment.

Roll called, journal read, &c.

Mr. Jones, from the committee on the petition of the officers of the Grand Lodge of the State of Delaware, for an act to carry into effect an act therein mentioned, reported a bill entitled "An additional Supplement to the act entitled 'An act to enable certain persons therein mentioned to raise by lottery the sum of fifteen thousand dollars, for building a Grand Masonic hall in the borough of Wilmington and State of Delaware,'" which

On his motion,

Was read.

He also laid on the table the petition of sundry citizens of the city of Wilmington, praying for the passage of a law to increase the fees of Constables in certain cases, which

On his motion,

Was read and referred to the committee already raised on that subject.



On motion of Mr. Neal,  
The bill entitled "An act to improve the navigation of Cedar creek,"  
was read a third time by paragraphs, and *Passed the House.*

*Ordered,* To be returned to the Senate.

On motion of Mr. Rogers,  
The bill entitled "An act empowering the Orphans' Court, to direct the sale of the real estate of minors," was taken up for a third reading in order to pass the House.

But at the close of the reading of the first section thereof,

On motion of Mr. Spruance,  
Said bill was re-committed to the committee which had reported it, for the purpose of making amendments thereto.

Mr. Jones laid on the table a petition signed by citizens of New Castle county, praying for the recommendation and address of the Legislature, to his Excellency the Governor, for the removal from office, of Joseph Roberts, Esq., a justice of the peace in said county, which

On his motion,  
Was read.

Mr. Rees laid on the table the petition of sundry persons in Kent county, praying for the passage of a law to increase the fees of Constables and Justices of the Peace in certain cases therein mentioned, which

On his motion,  
Was read and referred to the committee already raised on the same subject.

On motion of Mr. Spruance,  
The bill entitled "An act to appropriate the monies in the Treasury of this State," was read a third time by paragraphs, and  
*Passed the House..*

*Ordered,* To the Senate for concurrence.

Mr. Jones asked, and

On motion of Mr. Dilworth,  
Obtained leave to introduce a bill entitled "An act to amend the act entitled 'An act to establish an uniform militia throughout this State,' which was then done, and

On his motion,  
Read.

Mr. Rees, from the committee of enrolment presented for the signature of the Speaker, the following enrolled bills, to wit:—"An act to enable Clement Layton and Warren Kinder to locate certain vacant land situate in North West Fork Hundred in Sussex county, and to complete his title to the same."

Also, "An act to incorporate the Smyrna, Leipsic and Philadelphia Steamboat Company."

Also, "A further additional supplement to an act entitled 'An act to incorporate a company, for the purpose of cutting and making a canal be-

tween the Chesapeak bay and bay or river Delaware, or the waters thereof."

Also, "A supplement to the act entitled 'An act concerning the office of Sheriff.'"

Also, "An act to divorce Ann Cubbage from her husband George Cubbage."

Also, "An act to enable Ebenezer Gray to locate certain vacant land situate in Broad Creek hundred in Sussex county, and to complete his title to the same."

Also, "An additional supplement to the act entitled 'An act to extend the time for recording of deeds.'"

Also, "An act for the relief of the owners and possessors of the marsh and low grounds, on and near the main branch of Nanticoke river and its branches."

Also, "A supplement to an act entitled 'An act for regulating fees.'"

Also, "A supplement to the act entitled 'An act to authorize the building of a court-house and fire-proof offices at Georgetown in Sussex county.'"

Also, "An act for the relief of John Hutchins, Thomas M. Hutchins, and Lydia his wife, Fanny H. Hutchins, Lydia Ann Hutchins and Louisa O. Hutchins of Kent county."

Also, "An act to enable Isaac Cannon (of E.,) to locate certain vacant land, situate in Broad Creek hundred in Sussex county, and to complete his title to the same," and informed the Speaker that said bills had all been duly enrolled.

And he withdrew.

On motion of Mr. Jones,

The bill entitled "An act to incorporate the Wilmington Atheneum" was read a second time by its title.

Mr. Cooper laid on the table the remonstrance of sundry owners of marsh, within the limits of what is called the White Marsh Company, against the repeal of the act of incorporation of said company, which

On his motion,

Was read and referred to the same committee raised on the petition for the repeal of said act of incorporation.

Mr. Rogers, from the committee on the bill entitled "An act empowering the Orphans' Court, to direct the sale of the real estate of minors," reported back said bill with an amendment, which

On his motion,

Was read and

*Adopted.*

On motion of Mr. Rogers,

The bill entitled "An act empowering the State Treasurer to collect all balances due to the State from sheriffs, constables and justices of the peace, was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Jones,

The bill entitled "An act to incorporate the Female Benevolent Society of Trinity Church, Wilmington, for the relief of indigent women of said church," was read a second time.

Mr. Cooper laid on the table the petition of sundry persons in Kent county, praying for the passage of a militia law, which

On his motion,  
Was read.

On motion of Mr. Rogers,

The bill entitled "An act to provide for certain police arrangements within the town of New Castle," was read a second time.

On his motion also,

The bill entitled "An act to authorize the purchase of a library for Newark College," was read a second time.

On motion of Mr. Williamson,

The House adjourned until 3 o'clock this afternoon.



*Eodem Die 3 o'clock, P. M.*

The House met pursuant to adjournment.

On motion of Mr. Jones,

The bill entitled "A supplement to the act entitled 'An act to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes,'" was taken up for a third reading in order to pass the House. On the question of the passage of the first section of said bill the House divided, and the Speaker ordered the yeas and nays, which were as follows:—

*Yeas*—Messrs. Biddle, Cooper, Fiddeman, Hopkins of B. C., Houston, Jones, Marshall, Pratt and Mr. Speaker—9 yeas.

*Nays*—Messrs. Dilworth, Frame, Frazer, Hopkins of N. W. F., Jefferson, Kerr, Neal, Rees, Rogers, Spruance and Williamson—11 nays.

So said first section, and also said bill

*Was lost.*

A message from the Governor by the Secretary of State.

Mr. Marim, Secretary of State being admitted, laid on the table a written communication from his Excellency the Governor.

On motion of Mr. Dilworth,

The communication from the Governor was read as follows, to wit:—

EXECUTIVE DEPARTMENT,

*Dover, February 5, 1839.*

*To the General Assembly  
of the State of Delaware,*

Since the commencement of the present session of the Legislature, I

have received a communication from the council of the "American Antiquarian Society," which I now lay before you, agreeably to a request contained therein.

I also submit to you a copy of the entry made on the 23rd instant, in the Register of my official acts, in regard to the remission of a fine of fifty dollars, imposed by the Court of General Sessions, on a certain Henry J. Clarke, of Kent county.

C. P. COMEGYS.

*Extract from the Register of Executive acts, Jan. 23, 1839.*

"At the late term of the Court of General Sessions of the Peace and Gaol Delivery, in and for Kent county, Henry J. Clarke was convicted of an assault and battery, on Isaac Hazel, and sentenced to pay a fine of fifty dollars and suffer three months imprisonment.

The Governor this day remitted to said Clarke the fine of fifty dollars, for which he assigns the following reasons:

It was represented, that Clarke had suffered the whole of his term of imprisonment, and was entirely unable to pay the fine.

It was also represented by the Chief Justice of the Court of General Sessions, that no order had been made for his sale, in the event of his inability to pay the fine and costs, and that he would consequently be compelled to lie in prison, at the expense of the county of Kent, until the next term of the court; unless the Governor interposed in his behalf."

Mr. Rogers moved,

That so much of the communication from his Excellency the Governor, as relates to the remission of the fine of fifty dollars, imposed on Henry J. Clarke by the Court of General Sessions of the Peace and Gaol Delivery in and for Kent county, for an assault and battery, by him committed on Isaac Hazel, be referred to the committee heretofore raised on the register of pardons and remissions, communicated to this House by his Excellency the Governor,

Which motion

*Prevailed.*

On motion of Mr. Hopkins of B. C.,

The bill entitled "An act to enable Jonathan R. Torbert to locate certain vacant land, situate in Nanticoke hundred in Sussex county, and to complete his title to the same," was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Rogers moved,

That the amendments to the act entitled "An act to provide for the reformation of free schools, be taken up for consideration,

Which motion

*Prevailed.*

He then moved,

That said amendments be read,

Which motion, also

*Prevailed.*

And said amendments were read.

He then moved,

That said amendments be adopted—on which question the House divi-

ded, and Mr. Rogers demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Dilworth, Frame, Hopkins of N. W. F., Jones, Kerr, Neal, Rees and Rogers—8 yeas.

*Nays*—Messrs. Biddle, Boulden, Cooper, Fiddeman, Frazer, Hopkins, of B. C., Houston, Jefferson, Marshall, Pratt, Spruance, Williamson and Mr. Speaker—13 nays.

So said amendments

*Were lost.*

Mr. Neal moved,

That the vote on the final passage of the bill entitled “An act to improve the navigation of Cedar Creek” be reconsidered,

Which motion

*Prevailed.*

He then moved,

That said bill be committed to a committee of three members, with leave to report back said bill, with or without amendments,

Which motion, also

*Prevailed.*

Messrs. Neal, Frazer and Biddle, were appointed said committee.

On motion of Mr. Jones,

The bill entitled “An act to amend the act entitled ‘A supplement to the act entitled A supplement to the act entitled ‘An act to incorporate a number of the physicians of the Delaware State, and for other purposes therein mentioned’” was taken up for a third reading, in order to pass the House.

On the question of the passage of the first section of said bill, the House divided, and the Speaker ordered the yeas and nays, which were as follows:—

*Yeas*—Messrs. Boulden, Cooper, Fiddeman, Frame, Frazer, Hopkins, of N. W. F., Houston, Jefferson, Jones, Neal, Pratt, Williamson and Mr. Speaker—13 yeas.

*Nays*—Messrs. Biddle, Dilworth, Kerr, Marshall, Rees, Rogers and Spruance—7 nays.

So the first section of said bill

*Passed the House.*

On the question of the final passage of said bill, the House again divided, and the Speaker ordered the yeas and nays, which were as follows:

*Yeas*—Messrs. Boulden, Cooper, Fiddeman, Frame, Frazer, Hopkins, of N. W. F., Houston, Jefferson, Jones, Neal, Pratt, Williamson and Mr. Speaker—13 yeas.

*Nays*—Messrs. Biddle, Dilworth, Hopkins of B. C., Kerr, Marshall, Rees, Rogers and Spruance—8 nays.

So said bill

*Passed the House.*

*Ordered,* To the Senate for concurrence.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House. the bill entitled “An act to incorporate the Dover Silk Company.”

Also, the bill entitled "An act for making partition of the lands and real estate of which James Lawson Clayton died seized," and informed the House, that the Senate had concurred in the same. He also asked the concurrence of the House in a bill entitled "A supplement to an act entitled 'An act providing for the punishment of certain crimes and misdemeanors.'"

And he withdrew.

On motion of Mr. Rogers,

The bill entitled "An act empowering the Orphans' Court, to direct the sale of the real estate of minors," was taken up for a third reading in order to pass the House.

On the question of the passage of the first section of said bill, the House divided, and Mr. Rogers demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Dilworth, Jones, Kerr, Neal, Rees, Rogers, Spruance, Williamson and Mr. Speaker—9 yeas.

*Nays*—Messrs. Biddle, Boulden, Cooper, Fiddeman, Frame, Frazer, Hopkins, of B. C., Hopkins, of N. W. F., Houston, Jefferson, Marshall and Pratt—12 nays.

So said first section, and also said bill

*Was lost.*

On motion of Mr. Rogers,

The bill entitled "A supplement to the act entitled 'An act to vest in the Court of Chancery, the care of idiots and lunatics'" was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Jones, from the committee on the petition of the Wilmington and New Jersey Steamboat Company, reported a bill entitled "An act supplementary to the act entitled 'An act to incorporate the Wilmington and New Jersey Steamboat Company,'" which

On his motion,

Was read.

Mr. Pratt laid on the table the petition of sundry persons in Kent county, praying for the passage of a law to prohibit foreigners from fishing on our shores and in our creeks, which

On his motion,

Was read.

Mr. Kerr gave notice that on to-morrow, he should ask leave to introduce a bill entitled "An act to confirm and give effect in the State of Delaware, to an act of the General Assembly of Maryland, entitled 'An act for the division of the real estate of Samuel and William Meteer, dec'd.'"

Mr. Frame moved,

That the amendments to the joint resolution appointing directors on the part of the State, of the Farmers' Bank of the State of Delaware, on the part of the House, be taken up for consideration,

Which motion

*Prevailed.*

He then moved,

That the House *disagree* to said amendments. On which question the House divided, and he demanded the yeas and nays, which were as follows:—

*Yeas*—Messrs. Cooper, Fiddeman, Frame, Frazer, Houston, Jefferson, Marshall, Neal, Pratt, Rees and Spruance—11 yeas.

*Nays*—Messrs. Biddle, Boulden, Dilworth, Hopkins of B. C., Hopkins of N. W. F., Jones, Kerr, Rogers, Williamson and Mr. Speaker—10 nays.

So the House disagreed to said amendments.

Mr. Fiddeman, from the committee on the petition and bill for, and the remonstrance against, the repeal of the act entitled “An act to incorporate the White Marsh Company, for the purpose of draining and reclaiming certain marshes, low grounds and cripple, in Murderkill and Mispillion hundreds in Kent county” made the following report, to wit:

That in the opinion of said committee, no sufficient reason has been shown why said act of incorporation should not be repealed, and therefore they do report back the bill for that purpose, without amendment.

On motion of Mr. Jones,

The use of the hall of the House of Representatives, was granted to the Delaware Silk Convention, during this evening, after the adjournment of the House.

On his motion also,

The House then adjourned until to-morrow morning at 10 o'clock.



THURSDAY 10 o'clock, A. M. February 7, 1839.

The House met pursuant to adjournment.

Roll called, journal read, &c.

Mr. Jones laid on the table the petition of a large number of citizens of New Castle county, praying for the repeal, or modification of the present license law, which

On his motion,

Was referred to the committee heretofore raised on the same subject.

Mr. Marshall also laid on the table a petition signed by sundry citizens of Sussex county on the same subject, which

On his motion,

Was referred to the same committee.

Mr. Jones, from the committee on the petition of sundry citizens of the city of Wilmington, praying for an act of incorporation for an additional bank in this State, to be located at said city of Wilmington, reported a bill

entitled "An act to incorporate a bank in the city of Wilmington, under the name of the Union Bank of Delaware," which

On his motion  
Was read.

He then moved,  
That fifty copies of said bill be printed for the use of the members of the Legislature,  
Which motion

*Prevailed.*

Mr. Dilworth laid on the table the petition of George T. Martin, praying for the passage of a law to authorize him to remove from this State, into the State of Maryland, certain slaves therein mentioned, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.  
Messrs. Dilworth, Houston and Fiddeman, were appointed said committee.

He also laid on the table the petition of sundry persons in New Castle county, praying for a law to increase the fees of Constables and Justices of the Peace in certain cases, which

On his motion,  
Was referred to the committee now raised on that subject.  
Mr. Kerr also laid on the table a petition of similar import, which

On his motion,  
Was referred to the same committee.

Mr. Houston laid on the table the petition of Joshua Johnson, Nancy Derrickson and James F. Miller, praying for the passage of a law to effect a division in certain lands therein mentioned, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.  
Messrs. Houston, Rees and Williamson, were appointed said committee.

On motion of Mr. Jones,  
The bill entitled "An act to authorize Catharine S. Baker (widow,) and Welcome Gray, administrators of William W. Baker, M. D., late of the city of Wilmington, deceased, to make sale of the real estate of the said William W. Baker, M. D., deceased, in manner and form as therein prescribed," was read a second time by its title.

Mr. Spruance laid on the table the memorial of Caleb S. Layton, A. Snow Naudain and Merritt Canby, in behalf of the Delaware Silk Society, praying for the passage of a law for the protection of the growers of the *Multicaulis*, and other varieties of the silk mulberry tree within this State, which

On his motion,  
Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Spruance, Hopkins, of B. C., and Jones, were appointed said committee.



Mr. Houston laid on the table the petition of sundry inhabitants of school district No. 25, in Sussex county, praying for the passage of a law authorizing a division of said district into two districts, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Houston, Jefferson and Pratt were appointed said committee.

On motion of Mr. Dilworth,

The bill entitled "A supplement to an act entitled 'An act providing for the punishment of certain crimes and misdemeanors,'" communicated to the House yesterday by the Senate, was read.

Mr. Rogers from the committee on the register of executive pardons and remissions, communicated to the House, by his Excellency the Governor, made the following report, which

On his motion,

Was read as follows, to wit:—

*Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the frequent exercise of the pardoning power is to be deprecated as a great public evil, which threatens seriously to interfere with the due and regular administration of justice.

*Resolved,* That in the opinion of this Legislature, it would be a safe and judicious rule for the Executive, before granting a pardon or reprieve, to require the recommendation of the (Judges before whom the convict shall have been tried, or of the Jury given in open court, at the time of rendering their verdict,) except in cases where some circumstances, tending to show the propriety of the interposition of Executive clemency, may arise subsequent to the trial.

Mr. Dilworth gave notice, that at some early future day, he should ask leave to introduce a bill entitled "A supplement to the act entitled 'An act to provide for the distribution of the interest of this State's proportion of the surplus fund.'"

On motion of Mr. Jones,

The bill entitled "An act to incorporate the Wilmington Atheneum," was read a second time by its title.

On his motion also,

The bill entitled "An act to amend the act entitled 'An act to establish a uniform militia throughout this State,'" was read a second time.

Mr. Spruance moved,

That the bill entitled "An act to change the character of licenses to tavern-keepers and retailers, and for other purposes therein mentioned, be referred to a committee of the whole House,

Which motion

*Prevailed.*

Mr. Fiddeman moved,

That the bill entitled "An act to repeal an act entitled 'An act to incorporate the White Marsh Company, for the purpose of draining and reclaiming certain marsh, low grounds and cripple in Murderkill and Mispillion

hundreds in Kent county," be read a third time by paragraphs, in order to pass the House,

Which motion

*Prevailed.*

Said bill was then read, but before the question was taken on its final passage,

On motion of Mr. Spruance,

The further consideration thereof was postponed until Monday next.

Mr. Cooper laid on the table the petition of Edward B. Carter, praying for the passage of a law to authorize him to sell certain real estate therein mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Cooper, Marshall and Boulden, were appointed said committee.

On motion of Mr. Rogers,

The bill entitled "An act to provide for certain police arrangements with in the town of New Castle," was read a third time by paragraphs, and

*Passed the House.*

On motion of Mr. Spruance,

The House resolved itself into committee of the whole on the bill entitled "An act to change the character of licenses to tavern-keepers and retailers, and for other purposes therein mentioned,"—Mr. Spruance in the Chair.

After some time spent in committee of the whole,

On motion of Mr. Rogers,

The committee rose, reported progress, and asked leave to sit again, which leave,

On motion of Mr. Frame,

Was granted by the House.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House two enrolled bills, and informed the House that said bills had received the signature of the Speaker of the Senate.

He also returned to the House the bill entitled "An act to create an additional school district in the county of Kent," and also, the bill entitled "An act to enable George H. Walston to locate certain vacant land in Broad Creek hundred in Sussex county, and to complete his title to the same," and informed the House that the Senate had concurred in both said bills.

And he withdrew.

On motion of Mr. Dilworth,

The House adjourned until 3 o'clock this afternoon.

*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

Mr. Cooper laid on the table the petition of sundry persons in Kent county, for the passage of a supplement to the law authorizing the setting of weirs in Spring creek, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Cooper, Frame and Kerr, were appointed said committee.

On motion of Mr. Jones,

The bill entitled "An additional supplement to the act entitled 'An act to enable certain persons therein mentioned to raise by lottery the sum of fifteen thousand dollars, for building a Grand Masonic hall in the borough of Wilmington and State of Delaware,'" was read a second time by its title.

Mr. Spruance from the committee on the petition of Robert Palmatory, praying for a law to authorize him to sell certain real estate therein mentioned, reported a bill entitled "An act to enable Amanda Green, Jane Green and Charles Green, minors, to sell and convey certain real estate therein mentioned," which

On his motion,

Was read.

Mr. Dilworth moved,

That the amendments of the Senate, to the bill entitled "An act to incorporate the Delaware Iron Company," be read.

Which motion

*Prevailed.*

And said amendments were read.

He then moved,

That said amendments be adopted by the House,

Which motion, also

*Prevailed.*

Mr. Jones asked the suspension of the eighth rule of the House in order that he might introduce a bill, which

On motion of Mr. Dilworth,

Was done.

Mr. Jones then asked leave to introduce a bill entitled "An act to invest this State's share of the surplus revenue of the United States, distributed to the several States under the act entitled 'An act to regulate the deposits of the public money,'" which leave,

On motion of Mr. Dilworth,

Was granted by the House, and said bill was introduced, and

On motion of Mr. Jones,

Read.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House

the bill entitled "An act to revive the act entitled 'An act to incorporate the Gravelly Run Marsh Company, and to extend the time for recording the same,'" and informed the House that the Senate had concurred therein.

He also asked the concurrence of the House in a bill entitled "An act for the relief of John Hutson."

And he withdrew.

On motion of Mr. Dilworth,

The communication from the Senate was read.

Mr. Jones from the committee on the petition of Mary Ann Humphreys, praying for a law to divorce her from her husband Peter A. Humphreys, reported a bill entitled "An act to divorce Mary Ann Humphreys from her husband Peter A. Humphreys," which

On his motion,

Was read.

Mr. Frame laid on the table the petition of William Scotton, praying for the passage of a law to release him from the payment of a certain sum of money therein mentioned, which

On his motion,

Was read and referred to a committee of three members with leave to report by bill or otherwise.

Messrs. Frame, Biddle and Neal, were appointed said committee.

Mr. Dilworth, from the committee on the petition of George T. Marten, praying for the passage of a law to authorize him to remove from this State into the State of Maryland, certain slaves therein mentioued, reported a bill entitled "An act to authorize George T. Martin to remove certain slaves therein mentioned, from this State into the State of Maryland," which

On his motion,

Was read.

Mr. Neal, from the committee on the bill entitled "An act to improve the navigation of Cedar creek, reported back said bill with an amendment, which said amendment,

On his motion,

Was read, as follows, to wit:—

Amend the said bill by striking out all after the enacting clause, and inserting in lieu thereof the following, viz:—

That Thomas Davis, William Hill and John R. Draper be, and they are hereby appointed commissioners under this act, whose duty it shall be, as soon as practicable, to go upon, view and examine the low grounds upon said creek, and estimate the benefits and advantages which will result to the owners of the said low grounds from the cutting and making a canal or canals through the same, or a portion thereof, with a view to the improvement of the navigation of said creek; and the said commissioners shall make a return under their hands, to the managers hereinafter appointed, of their doings herein, and said return shall state the names of the owners, and the sum which each owner shall be required to pay, by reason of the advantage which will flow to the navigation of said creek from the making of the contemplated improvement.

Sec. 2. *And be it enacted*, That William V. Coulter, James Ward, Benjamin Burton, Zachariah Deputy and Lemuel B. Shockley be, and they are hereby appointed the managers aforesaid, who are authorized and required, as soon as the return of the said commissioners shall be made as aforesaid, to lay out and locate the said canal or canals or other improvement, and to determine the course, width and depth of the same, and to appoint a superintendent of the said work, who shall conduct the same in such manner as the said managers may direct, and may employ workmen and agents, to assist him in and about the completion of the same and fix the price to be paid to each for his labor. And the said managers shall also appoint a collector and a treasurer, who shall severally give bond to the said managers in such sum, and according to such form as may be prescribed by them; and the said collector shall have full power to levy and collect the sum which the commissioners as aforesaid shall have determined by their return, that each owner is liable to pay, out of the owner or owners of the said lands, and in the collection thereof, he shall have the same powers as are vested by law in the collectors of county taxes, and it shall be his duty immediately upon the collection of the said sums or taxes to pay the same, as soon as each is collected into the hands of the treasurer aforesaid. The said collector shall receive for his services such compensation as the said managers may think just and reasonable, to be deducted out of the amount collected, and a copy of the return so to be made by the said commissioners to the said managers shall be a sufficient warrant to him for the collection of the said sums or taxes.

Sec. 3. *And be it further enacted*, That the treasurer so to be appointed as aforesaid, shall pay all orders drawn upon him by the superintendent of the said improvement, so far as he may have funds in hand for that purpose; provided such orders be for, and on account of work and labor rendered by the workmen and agents so to be employed by the said superintendent in and about the completion of said work.

Sec. 4. *And be it further enacted*, That the said commissioners and managers, before they enter upon any of the duties required of them by this act, shall be severally sworn or affirmed before some judge, justice of the peace or notary public of this State, to perform their said duties faithfully and impartially, according to the best of their skill and judgment, and they and the said superintendent shall severally receive one dollar per day for each and every day they may be employed in the performance of their said duties, which shall be paid them by the said treasurer, out of any monies he may have in his hands, collected for the object of said improvement.

Sec. 5. *And be it further enacted*, That the acts of a majority of said commissioners shall be as valid as if done by all of them. And the acts of a majority of the said managers shall be as valid as if done by all of them. If either, or any, or all, of the said commissioners and managers shall die, remove from the county of Sussex, or refuse to act, another or others may be appointed in his or their place by a judge of the county.

Sec. 6. *And be it further enacted*, That the said sums or taxes shall be paid by instalments, that is to say: one-fourth thereof shall be payable as soon as the copy of the said return shall have been so delivered to said collector, and the remainder shall be payable at such times as the said mana-

gats shall appoint, by giving five days' public notice thereof, to all persons interested, by advertisements to be made and signed by them, and posted in five of the most public places in the neighborhood of said creek.

Mr. Marshall laid on the table the memorial of the committee of the Delaware State Temperance Society, praying for the repeal or modification of the existing license law of this State,

And moved,  
That the same be read,  
Which motion

*Prevailed.*

When the reading of said memorial had proceeded for some time,

On motion of Mr. Jones,  
The further reading thereof, was postponed for the present.

Mr. Rees, from the committee of enrolment, presented for the signature of the Speaker, the following enrolled bills, to wit:—

“An act to incorporate the Union Silk Company of New Castle county.”

Also, “An act for the relief of Isaac Walker of Appoquinimink hundred in the county of New Castle,” and informed him that the same had been duly enrolled.

On motion of Mr. Frame,  
The House adjourned until to-morrow morning at 11 o'clock.



FRIDAY, 11 o'clock, A. M. February 8, 1839.

The House met pursuant to adjournment.

Roll called, Journal read, &c.

A message from the Senate by the Clerk.

Mr. Laws, Clerk of the Senate being admitted, returned to the House an enrolled bill, and informed the House that the same had received the signature of the Speaker of the Senate. He also asked the concurrence of the House in a bill entitled “An act to establish a company under the name of the Blackbird Navigation Company.”

And he withdrew.

On motion of Mr. Jones,

The bill entitled “An act to authorize Catharine S. Baker (widow,) and Welcome Gray, administrators of William W. Baker, M. D., late of the city of Wilmington, deceased, to make sale of the real estate of the said William W. Baker, M. D., deceased, in manner and form as therein prescribed,” was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Rogers laid on the table the petition of sundry persons in New Castle county, praying for the passage of a law to increase the fees of constables in certain cases, which

On his motion,

Was referred to the committee now appointed on the same subject.

Mr. Spruance, from the committee on the memorial of the committee of the silk society of the State of Delaware, praying for a law to protect the growers of silk mulberry trees within this State, reported a bill entitled "An additional supplement to the act entitled 'An act providing for the punishment of certain crimes and misdemeanors,' " which

On his motion,

Was read.

Mr. Dilworth laid on the table the petition of sundry persons in New Castle county, on the subject of the fees of constables, &c., which

On his motion,

Was referred to the committee raised on that subject.

On motion of Mr. Dilworth,  
The House adjourned until 3 o'clock this afternoon.



*Eodem Die, 3 o'clock, P. M.*

The House met pursuant to adjournment.

On motion of Mr. Jones,

The bill entitled "An act to divorce Mary Ann Humphreys from her husband Peter A. Humphreys," was read a second time.

On motion of Mr. Neal,

The amendments to the bill entitled "An act to improve the navigation of Cedar Creek," was taken up for consideration.

He then moved,

That said amendments be adopted,

Which motion

*Prevailed.*

He then moved,

That said bill, as amended, be read a third time by paragraphs in order to pass the House,

Which motion, also

*Prevailed.*

And said bill was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To be returned to the Senate.

On motion of Mr. Spruance,

The reading of the memorial of the committee in behalf of the Delaware State Temperance Society, was resumed and finished.

On motion of Mr. Marshall,

Said memorial was referred to the committee of the whole House, on the bill entitled "An act to change the character of licenses to tavern-keepers and retailers, and for other purposes therein mentioned."

Mr. Cooper laid on the table the petition of George Bonwill, praying for a law to authorize him to change from a draw, to a pivot-bridge, a certain bridge in said petition mentioned, which

On his motion,

Was read and referred to a committee of three members, with leave to report by bill or otherwise.

Messrs. Cooper, Jefferson and Kerr, were appointed said committee.

On motion of Mr. Jones,

The bill entitled "An act supplementary to the act entitled 'An act to incorporate the Wilmington and New Jersey Steamboat Company,'" was read a third time by paragraphs, and *Passed the House.*

*Ordered,* To the Senate for concurrence.

The Speaker communicated to the House, a petition from the Levy-court of Sussex county, praying for the repeal of so much of the act of Assembly of this State, as requires constables to pay annually to said State, the sum of five dollars.

On motion of Mr. Rogers,

Said communication was read.

On motion of Mr. Cooper,

The vote on the final passage of the bill entitled "An act empowering the Orphans' Court, to direct the sale of the real estate of minors," was reconsidered.

On motion of Mr. Jones,

The bill entitled "An act to authorize James Giffin, the executor of the last will and testament of Frederick Ford, late of Mill Creek hundred, deceased, to make sale of the real estate of the said Frederick Ford, in manner and form as therein prescribed," was read a second time.

On motion of Mr. Rogers,

The bill entitled "An act to confirm and give effect in the State of Delaware, to an act of the General Assembly of Maryland, entitled 'An act for the division of the real estate of Samuel and William Meteer, dec'd,'" was read a second time by its title.

On motion of Mr. Jones,

The bill entitled "A further supplement to the act entitled 'An act to enable William Inskeip to raise his mill-dam, and for other purposes therein mentioned,'" was taken up for consideration.

He then moved,

The following amendments thereto, to wit:—

"Amend the 4th section thereof, by striking out in the second line, the word 'ten' and inserting in its place the word 'sixty,' and also by striking out in the thirteenth line the word 'thirty' and inserting in lieu thereof, the word 'ninety.'"



He then moved,  
That said amendments be adopted,  
Which motion

*Prevailed.*

He then moved,  
That said bill be read as amended, a third time by paragraphs in order  
to pass the House,

Which motion, also

*Prevailed.*

And said bill was read as amended, a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

On motion of Mr. Rogers,  
The bill entitled "An act providing for the publication of lists or catalogues of appointments to office by the Executive authority of this State,"  
was read a second time.

On motion of Mr. Rogers,  
The bill entitled "A supplement to the act entitled 'An act to invest this State's share of the surplus revenue of the United States, distributed to the several States under the act entitled 'An act to regulate the depositories of the public money,' " was taken up for consideration.

He then moved,  
The following amendment thereto, to wit:—Amend said bill by inserting instead of section 3, the following:

Section 2. *And be it further enacted,* That before the said company shall be entitled to the benefit of the provisions of this act, they shall pay to the said James R. Black, Willard Hall and John M. Clayton, each the sum of fifty dollars, as an indemnity for the trouble and expense under this act and the act to which this is a supplement."

Which said amendment was laid on the table and read.

On motion of Mr. Pratt,  
The bill entitled "A further supplement to an act entitled an act to authorize the owners and possessors of the marsh and low grounds commonly called and known by the name of Meredith's Branch, in the forest of Murderkill and Mispillion hundreds, to cut a ditch or drain through the same" was taken up for consideration.

He then moved,  
The following amendment thereto, to wit:—Amend section 1, by inserting the following provision at the end of the thirty-ninth line, counting from the end of the section, viz:

"And if the said commissioners shall be of opinion that the owner or owners of any land lying upon, or adjacent to the said ditches, or any of them, will sustain damage by the enlargement or opening of such ditches, or any of them, more than equivalent to the benefit received by such owner or owners, they shall make a valuation of such excess of damage, and enter such valuation, with the name of the person or persons to whom they shall award damage, and the amount thereof, upon the said certificate, which damages (if any be awarded,) shall be paid by the company, before the enlargement or opening of said ditches."

He then moved,  
That said amendment be adopted,  
Which motion

*Prevailed.*

He then moved,  
That said bill as amended, be read a third time by paragraphs in order  
to pass the House,

Which motion, also

*Prevailed.*

And said bill was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To the Senate for concurrence.

Mr. Houston moved,

That the petition from the Levy-court of Sussex county, on the subject  
of the repeal of that part of the law of this State, that requires constables  
to pay an annual fee of five dollars to said State, be referred to a commit-  
tee of three members, with leave to report by bill or otherwise.

Messrs. Houston, Rogers and Marshall, were appointed said commit-  
tee.

On motion of Mr. Rogers,

The bill entitled "An act for the relief of John Hutson" was read a se-  
cond time.

Mr. Hopkins, of B. C., laid on the table the petition of Leonard Short,  
praying for the passage of a law to release him from imprisonment for  
debt, he being a non-resident of this State, which

On his motion,

Was read and referred to a committee of three members with leave to  
report by bill or otherwise.

Messrs. Hopkins, of B. C., Houston and Jones, were appointed said  
committee.

On motion of Mr. Rogers,

The bill entitled "An act to enable Amanda Green, Jane Green and  
Charles Green, minors, to sell and convey certain real estate therein men-  
tioned," was read a second time.

On motion of Mr. Neal,

The bill entitled "An act to improve the navigation of Cedar creek,"  
as amended, was read a third time by paragraphs, and

*Passed the House.*

*Ordered,* To be returned to the Senate.

On motion of Mr. Rogers,

The bill entitled "An act to authorize George T. Martin (guardian of  
Catharine A. Robinson, and John M. Robinson, minors,) to remove two  
certain slaves therein mentioned, from this State into the State of Mary-  
land," was read a second time.

On motion of Mr. Jones,

The bill entitled "A supplement to the act entitled 'An act to invest this