

Territory and Jurisdiction.

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I. Limits and jurisdiction of New Jersey and New York.(1)

An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York.

Harr. 414.

Passed February 6, 1833. R. S. 36.

Preamble.

WHEREAS, the legislature of the state of New York have recently passed a law authorizing the governor of that state to appoint commissioners, to meet commissioners on the part of this state, to negotiate and agree respecting the territorial limits and jurisdiction of the state of New Jersey and the state of New York; *and whereas*, it is expedient and desirable that the difference heretofore existing on this subject should be amicably and speedily adjusted; therefore,

1. That the governor of this state, or the person administering the government of the same, be and he is hereby authorized to appoint three commissioners, with full power on the part of New Jersey to meet commissioners appointed or to be appointed under or by virtue of a law of New York, passed January the eighteenth, eighteen hundred and thirty-three, and with them to negotiate and agree respecting the territorial limits and jurisdiction between the said states, as to them may seem just; and if, by death, resignation, or otherwise, a vacancy do happen among those appointed by the state of New Jersey, the governor, or person administering the government of this state, is hereby authorized to supply the same.

Governor to appoint commissioners.

2. That the said commissioners on the part of the state of New Jersey, or a major part of them, shall have full power and authority to agree upon, settle and determine the limits of territory and jurisdiction between the said states, as to them may seem just; and their agreement in the premises, in writing, signed and sealed by the said commissioners of both states, or a majority of them, respectively, if made on or before the first Tuesday of January next, shall become binding on this state, when confirmed by the respective legislatures of New Jersey and New York, and approved by congress.

Their powers and duties.

[Sec. 3 and 4 executed].

(1) For act of partition between the colonies of New York and Nova Cesarea or New Jersey, which has been executed, see R. S. 29.

An act to ratify and confirm an agreement made between the commissioners appointed by the governor of the state of New York, and the commissioners appointed by the governor of the state of New Jersey, respecting the territorial limits and jurisdiction between the said states.

P. L. 1834, p. 118.

R. S. 37.

Passed February 26, 1834.

Preamble.

WHEREAS, commissioners duly appointed on the part of the state of New York, and commissioners duly appointed on the part of New Jersey, for the purpose of agreeing upon, and settling the jurisdiction and territorial limits of the two states, have executed certain articles, two copies for each state, which are contained in the following words:

Agreement made and entered into, by and between Benjamin F. Butler, Peter Augustus Jay and Henry Seymour, commissioners duly appointed on the part and behalf of the state of New York, in pursuance of an act of the legislature of the said state, entitled "An act concerning the territorial limits and jurisdiction of the state of New York, and the state of New Jersey," passed January eighteenth, eighteen hundred and thirty-three, of the one part, and Theodore Frelinghuysen, James Parker and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the state of New Jersey, in pursuance of an act of the legislature of the said state, entitled "An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York," passed February sixth, eighteen hundred and thirty-three, of the other part.

Boundary line.

3. ART. J. The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river, opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the bay of New York, of the water between Staten Island and New Jersey, and of Raritan bay, to the main sea, except as hereinafter otherwise particularly mentioned.

Islands subject to New York.

4. ART. II. The state of New York shall retain its present jurisdiction of and over Bedlow's and Ellis' islands, and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned, and now under the jurisdiction of that state.

Hudson and the bay.

5. ART. III. The state of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York, and of and over all the waters of Hudson river, lying west of Manhattan island, and to the south of the mouth of Spuytenduyvel creek, and of and over the lands covered by the said waters to the low water mark on the westerly or New Jersey side thereof, subject to the following rights of property and jurisdiction of the state of New Jersey, that is to say:

(1). The state of New Jersey shall have the exclusive right of property in and to the land under water, lying west of the middle of the bay of New York and west of the middle of that part of the Hudson river which lies between Manhattan island and New Jersey.

(2). The state of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made on the shore of the said state, and of and over all vessels aground on said shore, or fastened to any such wharf or dock, except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers of the state of New York, which now exist or which may hereafter be passed.

(3). The state of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters; *provided*, that the navigation be not obstructed or hindered.

Kill Von Kull.

6. ART. IV. The state of New York shall have exclusive jurisdiction of and over the waters of the Kill Von Kull, between Staten island and New Jersey, to the westernmost end of Shooter's island, in respect to such quarantine laws and laws relating to passengers as now exist, or may hereafter be passed under the authority of that state, and for executing the same; and the said state shall also have exclusive jurisdiction, for the like purposes, of and over the waters of the sound from the westernmost end of Shooter's island to Woodbridge creek, as to all vessels bound to any port in the said state of New York.

7. ART. V. The state of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the sound between Staten island and New Jersey, lying south of Woodbridge creek, and of and over all the waters of Raritan bay, lying westward of a line drawn from the lighthouse at Prince's bay to the mouth of Matavan creek, subject to the following rights of property and jurisdiction of the state of New York, that is to say:

(1). The state of New York shall have the exclusive right of property in and to the land under water lying between the middle of the said waters and Staten island.

(2). The state of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made on the shore of Staten island, and of and over all vessels aground on said shore, or fastened to any such wharf or dock, except that the said vessels shall be subject to the quarantine or health laws and laws in relation to passengers of the state of New Jersey, which now exist or which may hereafter be passed.

(3). The state of New York shall have the exclusive right of regulating the fisheries between the shore of Staten island and the middle of the said waters; *provided*, that the navigation of the said waters be not obstructed or hindered.

8. ART. VI. Criminal process issued under the authority of the state of New Jersey against any person accused of an offence committed within that state, or on board of any vessel being under the exclusive jurisdiction of that state, as aforesaid, or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in the third article; and also civil process issued under the authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof, may be served upon any of the said waters within the exclusive jurisdiction of the state of New York, unless such person or property shall be on board a vessel aground upon or fastened to the shore of the state of New York, or fastened to a wharf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New York.

9. ART. VII. Criminal process issued under the authority of the state of New York against any person accused of an offence committed within that state, or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid, or committed against the regulations made or to be made by that state in relation to the fisheries mentioned in the fifth article; and also civil process issued under the authority of the state of New York against any person domiciled in that state, or against property taken out of that state to evade the laws thereof, may be served upon any of the said waters within the exclusive jurisdiction of the state of New Jersey, unless such person or property shall be on board a vessel aground upon or fastened to the shore of the state of New Jersey, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure by virtue of process or authority of the state of New Jersey.

10. ART. VIII. This agreement shall become binding on the two states when confirmed by the legislatures thereof, respectively, and when approved by the Congress of the United States.

Done in four parts (two of which are retained by the commissioners of New York, to be delivered to the governor of that state, and the other two of which are retained by the commissioners of New Jersey, to be delivered to the governor of that state) at the city of New York, this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three, and of the Independence of the United States the fifty-eighth.

THEODORE FRELINGHUYSEN,
JAMES PARKER,
LUCIUS Q. C. ELMER,

B. F. BUTLER,
PETER AUGUSTUS JAY,
HENRY SEYMOUR.

Therefore—

Ratification by
New Jersey.

That the aforesaid agreement, and every article, clause, matter, and thing therein contained, shall be and the same is hereby fully and amply ratified and confirmed on the part of the state of New Jersey.(a)

Confirmed by New York, February 5, 1834.
Approved by the Congress of the United States, June 28, 1834.

An act appointing commissioners to locate the northern boundary line between the states of New York and New Jersey, and to replace or erect monuments therein.

P. L. 1876, p. 139.

Approved April 13, 1876.

Preamble.

WHEREAS, the state of New York passed an act May twenty-sixth, eighteen hundred and seventy-five, authorizing the regents of the university of the state of New York, in connection with the authorities of Pennsylvania and New Jersey, respectively, to replace any monuments which have become dilapidated or been removed, on the boundary lines of those states, and it being suggested that there is uncertainty about the true location of the boundary line between the states of New York and New Jersey as defined in the act entitled "An act establishing the boundary or partition line between the colonies of New York and Nova Cæsarea, or New Jersey, and for confirming the titles and possessions," passed the twenty-sixth day of September, seventeen hundred and seventy-two, and confirmed by the king in council the first day of September, seventeen hundred and seventy-three;(1) now therefore,

Appointment of
commissioners to
locate northern
boundary be-
tween New York
and New Jersey.

11. SEC. 1. That the governor of this state be and he is hereby authorized to appoint three commissioners, with power on the part of this state to meet any authorities of the state of New York who may be duly authorized, and with them to negotiate and agree upon the true location of said boundary line between the states of New York and New Jersey as defined in said act of September twenty-sixth, seventeen hundred and seventy-two, and also to replace any monuments which may have become dilapidated or been removed on said boundary line, or to erect new ones; which agreement shall be in writing, and signed and sealed by the authorities of the state of New York and the commissioners of this state, but shall not take effect unless confirmed by the respective legislatures of the states of New York and New Jersey.

Vacancies, how
filled.

12. SEC. 2. That the governor is hereby authorized to fill any vacancies in said commission occasioned by death, resignation or otherwise.

Expenses, how
paid.

13. SEC. 3. That the expenses of said commissioners shall be paid by the treasurer on the warrant of the comptroller, after being first approved by the governor.

An act to preserve and support the jurisdiction of this state.

P. L. 1807, p. 18.

Passed December 3, 1807.

Preamble.

WHEREAS, the meetings of the commissioners lately appointed on the part of this state, and of the state of New York, respectively, have failed to produce an amicable adjustment of the eastern boundary line of this state; and whereas, it has become highly expedient to bring the existing controversy respecting the said boundary line, to a legal conclusion and determination, and in the meantime necessary to preserve the lawful jurisdiction of this state, free from all interruption and usurpation; therefore,

Boundary line,
Bergen county.

14. SEC. 1. That the boundary lines of the county of Bergen, are hereby declared to be the middle or midway of the waters adjoining the said county.

[The remaining sections are obsolete].

(a) The boundary of the state extends to the middle of the Hudson river, *State v. Babcock*, 1 Vr. 29. But the exclusive jurisdiction over the waters of the Hudson is in the state of New York, *Ibid.* History of the treaty of 1833, *Ibid.* p. 32. Under the compact between New Jersey and New York, made in 1833, each state has absolute control over its own soil, and everything attached to the piers or wharves, except in regard to quarantine or health laws, *People v. C. E. R. of N. J.*, 42 N. Y. 283, reversing 48 Barb. 478. See *People v. Central R. R. Co.*, 12 Wall. 455. This juris-

diction includes the power to prescribe when, where and how wharves, docks, &c., shall be erected on the shore, and the courts of New York have no jurisdiction to order their removal, even if they are a public nuisance, and injuriously affect the common use of the waters of the bay, *Ibid.* New Jersey's exclusive jurisdiction includes "the wharves, docks, * * * * all vessels aground on said shore, or fastened to any such wharf or dock," *Jarrard v. The Argo. U. S. D. C. for N. J.*, Aug. 1875, *Nixon, J.*

(1) See R. S. 29.

II. Jurisdiction of the Delaware and its islands.

An act to ratify and confirm an agreement, made between commissioners appointed by the legislature of the state of Pennsylvania, and commissioners appointed by the legislature of the state of New Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same. Rev. 57.

Passed May 27, 1783. R. S. 41.

WHEREAS, commissioners, duly appointed on the part of the state of Pennsylvania, and commissioners, duly appointed on the part of the state of New Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same, have executed two instruments of an agreement for the purposes aforesaid, one for each state, which agreement is contained in the following words: Preamble.

An agreement made and concluded between George Bryan, George Gray, and William Bingham, commissioners appointed by the legislature of the state of Pennsylvania for settling the jurisdiction of the river Delaware, and islands within the same, and Abraham Clark, Joseph Cooper, and Thomas Henderson, commissioners appointed by the legislature of the state of New Jersey for the like purpose. Recital of an agreement between Pennsylvania and New Jersey, respecting jurisdiction over islands in the Delaware.

WHEREAS, inconveniences and mischiefs have arisen, and may hereafter arise, from the uncertainty of jurisdiction within and on the river Delaware—therefore, to prevent the same, and in order that law and justice may hereafter in all cases be executed, and take effect within and upon the said river from shore to shore, in all parts and places thereof where the same river is the boundary between the said states, the said commissioners do agree and establish, for and in behalf of their respective states, in manner following, that is to say: Preamble.

15. *First.* It is declared, that the river Delaware, from the station point or northwest corner of New Jersey, northerly, to the place upon the said river where the circular boundary of the state of Delaware toucheth upon the same, in the whole length and breadth thereof, is and shall continue to be and remain a common highway, equally free and open for the use, benefit, and advantage of the said contracting parties; *provided nevertheless*, that each of the legislatures of said states shall hold and exercise the right of regulating and guarding the fisheries on the said river Delaware annexed to their respective shores, in such manner that the said fisheries may not be unnecessarily interrupted, during the season for catching shad, by vessels riding at anchor on the fishing ground, or by persons fishing under claim of a common right on said river. Delaware a common highway.

16. *Secondly.* That each state shall enjoy and exercise a concurrent jurisdiction within and upon the water, and not upon the dry land, between the shores of said river, but in such sort, nevertheless, that every ship and other vessel, while riding at anchor before any city or town in either state, where she hath last laded or unladed, or where it is intended she shall first thereafter either lade or unlade, shall be considered exclusively within the jurisdiction of such state; and every vessel fastened to or aground on the shore of either state, shall in like manner be considered exclusively within the jurisdiction of such state; but that all capital and other offences, trespasses, or damages, committed on said river, the juridical investigation and determination thereof shall be exclusively vested in the state wherein the offender or person charged with such offence shall be first apprehended, arrested, or prosecuted. Jurisdiction over it.

17. *Thirdly.* That all islands, islets, and dry land within the bed and between the shores of the said river, and between the said station point, northerly, and the falls of Trenton, southerly, shall, as to jurisdiction, be hereafter deemed and considered as parts and parcels of the state to which such insulated dry land doth lie nearest at the time of making and executing this agreement; and that from said falls of Trenton to the state of Delaware, southerly, Biles' island, near Trenton, Windmill island, opposite to Philadelphia, League island, Mud or Fort island, Hog island, and Little Tinnicum islands, shall be annexed to the state of Pennsylvania, and considered as parts and parcels thereof; and that Biddle's or Newbold's island, Burlington island, Petty's islands, Redbank island, Harmanus Helm's island, Chester island, and Shiverse's island, shall be annexed to the state Annexation of islands.

of New Jersey, and considered as parts and parcels thereof; and that all other islands within said river, between the falls of Trenton and the state of Delaware, which are not hereinbefore particularly enumerated, shall be hereafter deemed and considered as parts and parcels of the state to which such island doth lie nearest, at the date hereof; and that all islands which may hereafter be formed within the said river shall be classed and annexed to the jurisdiction of either state, according to the same principle.

Agreement binding.

18. *Fourthly.* That this present agreement, and every article and clause therein contained, shall be suspended and take no effect until each of the legislatures of the state of Pennsylvania and New Jersey, respectively, shall have passed laws approving of and ratifying the same; which being done, the said agreement shall then be considered as a joint compact between the said states, and the citizens thereof, respectively, and be for ever thereafter irrevocable by either of the said contracting states, without the concurrence of the other. In witness whereof, we, the commissioners of the aforesaid states, have set our hands and seals to two instruments of the agreement, one for each state, dated this twenty-sixth day of April, Anno Domini one thousand seven hundred and eighty-three.

ABRAHAM CLARK, [L. S.]
JOSEPH COOPER, [L. S.]
THOMAS HENDERSON, [L. S.]

GEORGE BRYAN, [L. S.]
GEORGE GRAY, [L. S.]
WM. BINGHAM, [L. S.]

Therefore—

The agreement confirmed.

That the aforesaid agreement, and every article, clause, matter, and thing therein contained, shall be and the same is hereby fully and amply ratified and confirmed, and shall be and ever hereafter remain in force, agreeably to the true tenor and extent thereof.

Ratified by Pennsylvania September 20, 1783.

An act to ratify and confirm an agreement made between the commissioners appointed by the legislature of the state of Pennsylvania, and the commissioners appointed by the legislature of the state of New Jersey, for the purpose of agreeing upon, and accurately describing which of the islands, islets, and insulated dry land, mentioned in the agreement between the two states, bearing date on the twenty-sixth day of April, seventeen hundred and eighty-three, belong to each of the said states, according to the purport of that agreement.

Rev. 77.

R. S. 43.

Passed March 16, 1786.

Preamble.

WHEREAS, commissioners duly appointed on the part of the state of Pennsylvania, and a commissioner duly appointed on the part of the state of New Jersey, for the purpose of dividing the islands in the river Delaware, between the falls of Trenton, and the station point, or northwest corner of the state of New Jersey, have executed two articles of agreement, one for each state, which is contained in the following words:

Recital of an agreement between Pennsylvania and New Jersey, respecting the division of the islands in the Delaware, from the falls at Trenton, northerly, to the station point.

An agreement made and concluded upon, between George Wall, John Okely, and Jonas Hartzell, commissioners appointed by the supreme executive council of the state of Pennsylvania, for dividing the islands and insulated dry land in the river Delaware, with the state of New Jersey, from the falls at Trenton to the station point, or northwest corner of the said state, and Moore Furman, commissioner appointed by the said state of New Jersey, for the like purpose.

Islands of Pennsylvania.

19. *First.* The parties aforesaid, in pursuance of the authority to them severally given, and in behalf of the respective states aforesaid, do agree, that from the said falls of Trenton, to the station point, or northwest corner of the state of New Jersey, aforesaid, the following islands, opposite to the county of Bucks, and the townships hereafter named, that is to say, opposite to the Falls township, Bird's Island; opposite to Lower Makefield township, Slack's three islands, Duer's island, and Harvey's lower island; opposite to Upper Makefield township, Harvey's upper island and Lowne's island; opposite to Solebury township, Smith's island and bar, and Paxton's island and bar; opposite to Tinnicum township, Pratt's two islands, Wall's island, Resolution island, Marshall's island, Wall's two islands, Fishing island, and Pennington's island; opposite to Nockamixon township, Loughley's island; and opposite the county of Northampton, and the townships hereafter named, that is to say, Wil-

liams township, Pohateung island, Shoemaker's island, and Loor's island; opposite to the Forks township, Easton island; opposite to Mount Bethel, Mason's island and bar, Mason's island, Foulrift island, McElhany's island, and Attin's two islands; opposite to Lower Smithfield, Handy's island and bar, Goodwin's two islands, Shawanagh, or I. and B. Van Campen's island, N. Depew's island and two bars, Chambers' island and Van Oken's island; opposite to Delaware township, Swartwood's island and Isaac Van Campen's island; opposite Upper Smithfield township, Punkey's island and five bars, shall be annexed to the state of Pennsylvania, and considered as parts and parcels thereof.

And that the following islands, opposite to the county of Hunterdon, in the state of New Jersey, and the townships hereafter named, that is to say, opposite to the township of Trenton, Yard's island, Mott's two islands, and Gould's two islands; opposite to the township of Hopewell, Stout's island; opposite to the township of Amwell, Smith's Mill island, Coryell's island, Holecombe's two islands, Eagle island, and Bull's island; opposite to the township of Kingwood, Rush island, Ridge's island, Shyhawk's three islands, Pinkerton's island, and Man-of-war island; opposite to the township of Alexandria, Stull's island, Lowrey's island, and Loughley's island and bar; and opposite to the county of Sussex, and the townships hereafter named, that is to say, opposite to the township of Greenwich, Rope's island, Champman's island, Stout's island and bar, and Bar island; opposite to the township of Oxford, Capush island, Foulrift island, and Mack's island; opposite to the township of Knowlton, Mack's island and three bars, and Gap island; opposite to the township of Walpack, Hoops' two islands, Chambers' island, A. Van Campen's fishing island, Opaughnaugh island, and Necesses island; opposite to the township of Sandyston, Nominack island, and Westfall's island; opposite to the township of Montague, Minisink island, Quick's two islands and bar, Shabbacung great island and bar, and Westfall's two islands, shall be annexed to the state of New Jersey, and hereafter be considered as parts and parcels thereof, agreeably to a map or chart of the said river, and description of the several islands and insulated dry land therein, made under our direction, by Mr. Reading Howell, surveyor, and herewith exhibited to each state.

20. *Secondly.* That all other islands which may hereafter be formed within said river, between the falls of Trenton and the station point, or northwest corner of the state of New Jersey aforesaid, shall hereafter be deemed and considered as parts and parcels of the state to which such islands may be nearest. *In witness whereof*, we, the commissioners of the states aforesaid, have set our hands and seals to two instruments of writing, one for each state, dated this second day of December, Anno Domini one thousand seven hundred and eighty-five.

GEORGE WALL, [L. S.]
JOHN OKELY, [L. S.]

JONAS HARTZELL, [L. S.]
MOORE FURMAN, [L. S.]

Therefore—

That the aforesaid agreement, and every article, clause, matter, and thing therein contained, shall be and the same is hereby fully and amply ratified and confirmed, and shall be and ever hereafter remain in force, agreeably to the true tenor and extent thereof.(a)

See act of Pennsylvania, September 25, 1786.

(a) The objects and purposes of the compact of 1783, between New Jersey and Pennsylvania, were merely to secure the administration of justice, and to secure to the contracting parties the use of the river as a public highway. The provision for concurrent jurisdiction had reference to the former only, and was merely a police regulation, *Atty-Gen. v. D and B. R. E. Co.*, 12 C. E. Gr. 1, 681. The provision of the compact of 1783, on the subject of fisheries, relates to fisheries below the head of tide water, which were the subject of private ownership and individual occupancy. The right in the riparian owners of several fishery in front of their lands, is distinctly recognized in this state, *Ibid.* Pennsylvania gave authority to build a bridge by the act of 1852, incorporating the North Pennsylvania Railroad Company. New Jersey has acquiesced by her silence in the construction which Pennsylvania thus put upon the compact of 1783, *Ibid.* Authority to bridge the river has been given by both states. A long interval between the times of giving their consent does not affect it, *Ibid.* When Pennsylvania has authorized one of its railroad corpora-

tions to bridge the Delaware so as to connect with any New Jersey road, and New Jersey has authorized one of its railroad companies to bridge the Delaware so as to connect with any Pennsylvania road, the states have exercised concurrent jurisdiction under the treaty of 1783, in such manner as to give mutual consent to the erection of a bridge by the New Jersey and Pennsylvania companies jointly, each from its own bank to the centre of the stream, *S. C.*, 12 C. E. Gr. 681. That compact recognizes the right of fishery in riparian owners on the Delaware, *Bennett v. Boggs, Bald. C. C.* 60. The right of separate fisheries existing in the Delaware, is expressly recognized in the compact, and the right reserved to both states to regulate fishing by persons claiming a common right in said river. *Hart v. Hill*, 1 *Whart.* 124, 136. *Tinicum Fishing Co. v. Carter*, 61 *Pa. St.* 21. *Opinion of Hon. Joel Jones*, 4 *Am. Law Reg.* 582. See *Fisher v. Carter*, 1 *Wall. Jr.* 69; 4 *Grif. Law Reg.* 1290, note. The proviso inserted in the charter of the Delaware Division Canal Co., that the existing natural navigation of the Delaware should not be obstructed or injured thereby, was inserted in consequence

An act for the settlement of the territorial limits and jurisdiction of the state of New Jersey and the state of Delaware.

P. L. 1873, p. 20.

Approved February 26, 1873.

Appointment of commissioners.

21. SEC. 1. That the governor shall, by and with the advice and consent of the senate, appoint three commissioners, who shall have full powers on the part of the state of New Jersey, to meet three commissioners appointed or to be appointed under or by virtue of a law of the state of Delaware, to negotiate and agree respecting the territorial limits and jurisdiction of the state of New Jersey and the state of Delaware, and if by death, resignation, or otherwise, a vacancy do happen among those appointed by the state of New Jersey, the governor or person administering the government of this state, is hereby authorized to supply the same.

Power and authority of commissioners.

22. SEC. 2. That the said commissioners on the part of the state of New Jersey, or a major part of them, shall have full power and authority to agree upon, settle and determine the limits of territory and jurisdiction between the said states, as to them may seem just; and their agreement in the premises in writing, signed and sealed by the said commissioners of both, or a majority of them, respectively, if made on or before the first day of January next, shall become binding on the state of New Jersey, when confirmed by the respective legislatures of the state of Delaware and of the state of New Jersey, and the congress of the United States shall consent thereto.

Expenses of commissioners to be paid on the warrant of the governor.

23. SEC. 3. That the said commissioners shall meet at such time and place as they may agree upon; and that the expenses and disbursements of the said commissioners for surveys, if any shall be necessary, for maps and copies of maps, of documents of any kind that may be deemed useful, and for any other purpose which shall aid them in the discharge of their duties, and a reasonable compensation for their services, shall be ascertained and allowed by the governor, and paid by the treasurer, on the governor's warrant, out of any moneys in the treasury not otherwise appropriated.

24. SEC. 4. That the governor shall transmit to the governor of the state of Delaware a copy of this act.

Supplement.

Approved March 11, 1873.

P. L. 1873, p. 40.

Preamble.

WHEREAS, it appears that the state of Delaware has in some measure modified the original joint resolution passed by the legislature of that state, with respect to the subject of difference between the state of New Jersey and that state, and thereby declined to submit to commissioners any question as to the title claimed by said state to a part of the Delaware river, but has authorized the submission of the question whether the citizens of New Jersey have the right to fish in that part of the Delaware river claimed by the state of Delaware and the nature and extent of that

of the compact with New Jersey, *McKeen v. Del. Div. Canal Co.*, 49 Pa. St. 424, 435. The compact between New Jersey and Pennsylvania being made in 1783, before the adoption and ratification of the federal constitution in 1789, was not affected by its adoption, except so far as the states reserved in the compact the right of regulating navigation, *Opinion of Hon. Joel Jones*, 4 Am. Law Reg. 582. How far the right of fishing in the Delaware may be considered subordinate to the right of navigation, *Cobb v. Bennett*, 75 Pa. St. 326. After a defendant has been arrested and held to bail in New Jersey, for an offence committed on the Delaware river, within the concurrent jurisdiction of Pennsylvania, he cannot, under the agreement of 1783, be held in Pennsylvania, for the same offence, *Commonwealth v. Prazee*, 2 Phila. Rep. 191. By the agreement entered into between the states of New Jersey and Pennsylvania, the river Delaware, in its whole length and breadth, is to be and remain a common highway equally free and open for the use of both states, and each state is to enjoy and exercise concurrent jurisdiction within and upon the water between the shores of said river. Both states concurred in granting to complainants the right to erect and maintain their bridge, and take tolls thereon. The legislature of New Jersey afterwards passed an act declaring "that it should not be lawful for any person or persons whatsoever to erect, or cause to be erected, any other bridge or bridges across the said river Delaware at any place or places within three miles of the bridge to be erected." *Held*, that even if it was the intention that this act should take effect without

the assent of Pennsylvania, that it is void on the ground that it is a contravention of the agreement above mentioned between the two states. As neither state, by the exercise of her sole jurisdiction, has the right by the terms of the agreement to grant the franchises, so neither can lawfully contract to refuse to grant it, *President, &c. v. Trenton City Bridge Co.*, 2 Beas. 46. Under the circumstances as exhibited in the case, it was further *Held*, that the act of 1801, which conferred the exclusive privilege on the complainants, was not designed by the legislature of New Jersey to go into effect until the same had received the assent of the legislature of Pennsylvania, *Ibid.* The boundary line between New Jersey and Pennsylvania above the falls of the Delaware, extends to the middle of the river, *State v. Metz*, 5 Dutch. 122. *State, Easton Bridge Co. v. Metz*, 2 Vr. 378. S. C., 3 Vr. 109. *Rundle v. Del. and Rar. Canal Co.*, 1 Wall. Jr. 276, 294, 302, note; 14 How. 80. *Pennsylvania v. Trenton Bridge Co.*, 9 Am. Law Reg. 298. The township of Camden and that part of the county included in said township, extend to the middle of the Delaware river; other parts of the county extend only to the eastern side of the river, *State v. Davis*, 1 Dutch. 386. See *Montgomery v. Henry*, 1 Dall. 49. *Infra*, § 26. That part of the Lambertville bridge which is not within the limits of the town, (defined in the charter as running to low water mark of the river), is not within any county or township of the state, *State v. Hull*, 1 Dutch. 561. *Semie*, that the cove opposite the mouth of Maurice river is within the jurisdiction of New Jersey, and forms part of Cumberland county, *Kean v. Rice*, 12 Serg. & Rawle 203.

right; *and whereas*, it is expedient to settle at this time so much of the difference between the said states as may be settled amicably; therefore,

25. SEC. 1. That the commissioners already appointed under the act to which this is a supplement, and their successors, shall have power to settle so much of the difference between this state and said state of Delaware as the said state of Delaware has submitted, or may from time to time hereafter submit; *provided, however*, that nothing in this act contained shall be construed to, or to authorize said commissioners by any act or agreement to affect any other claim or jurisdiction of New Jersey in or over the whole or any part of the Delaware river or the soil thereof, notwithstanding the settlement of the said fishery question.

Powers of the commissioners.

Proviso.

26. SEC. 2. That if the said state of Delaware shall hereafter give more enlarged powers to its commissioners; the said commissioners of this state and their successors may act upon and exercise every of the powers given in this act, or the act to which this is a supplement, to the extent of the submission under such enlarged powers so to be given by said state of Delaware.

Enlarged powers of commissioners.

27. SEC. 3. That the said commissioners and their successors shall remain charged with the matters mentioned in the said act to which this is a supplement, until the same shall be finally settled under the powers by said act given, and such as shall be given by said state of Delaware or otherwise, notwithstanding the agreement contemplated by said act to which this is a supplement, may not be made on or before the first day of January next, and that any agreement made under this act or the act to which this is a supplement, shall be submitted to the legislature of this state, and be ratified and confirmed by this state in the manner prescribed by the act to which this is a supplement, and be consented to by congress before the same shall be finally binding on this state.

Agreement to be submitted to the legislature for ratification.

28. SEC. 4. That a copy of this act shall be transmitted to the governor of Delaware, and that the same shall take effect immediately.

Joint resolution relative to the rights of the state of New Jersey in that part of the Delaware river which runs between the states of Delaware and New Jersey.

Approved March 30, 1876. P. L. 1876, p. 419.

WHEREAS, the state of Delaware now claims to own the bed and to have exclusive jurisdiction, from shore to shore, of a portion of the Delaware river, extending from the boundary line between the states of Pennsylvania and Delaware, for some distance below the town of New Castle; and has lately endeavored to exercise jurisdiction co-extensive with said claim; *and whereas*, this state always claimed and now doth claim to own the bed of said river to the middle thereof, so far as said river lies between this state and the state of Delaware, and to be entitled to exclusive jurisdiction (subject to the constitution of the United States and the acts of congress made in pursuance thereof) over its half of said river, and hath always heretofore exercised jurisdiction accordingly; *and whereas*, it is desirable and necessary that the rights of this state, as between it and the state of Delaware, in and to said river shall be definitely, finally and conclusively settled; *and whereas*, the efforts heretofore made to settle said matters of difference by consultation and agreement between the said differing states have proved ineffectual; therefore,

Preamble.

29. SEC. 1. That the governor of this state be and he is hereby authorized to cause to be instituted and prosecuted, in the supreme court of the United States, a suit in equity, or an action at law, by the state of New Jersey against the state of Delaware, to ascertain, determine and settle the true territorial boundary line between said states and the extent of the jurisdiction of each of said states in and on said river, and for that purpose the governor shall have power to employ, on behalf of this state, counsel to assist the attorney general in the commencement and prosecution of said suit, or action, and the expenses necessarily and reasonably attending the commencement and prosecution of said suit, or action, on bills certified by the governor, shall be paid out of any moneys in the treasury not otherwise appropriated.(a)

Governor authorized to cause to be instituted and prosecuted a suit against the state of Delaware.

May employ counsel to assist the attorney-general.

Expenses, how paid.

(a) The territory of the state of Delaware within "the low water-mark on the New Jersey shore, *Pea Patch Case*, 1 twelve mile circle," extends across the Delaware river to *Wall, Jr., Ap. IX. Emory v. Collings, 1 Harr. (Del.) 328, note(a).*

An act providing for the punishment of offences committed on the river Delaware.

P. L. 1856, p. 242.

Approved March 14, 1856.

Jurisdiction of offences committed on the river Delaware.

30. SEC. 1. That the juridical investigation and determination of any capital or other offence, trespass or damage hereafter committed within and upon the water of the river Delaware, which this state is entitled to enjoy and exercise, by virtue of the agreement set forth in the act entitled "An act to ratify and confirm an agreement made between commissioners appointed by the legislature of the state of Pennsylvania and commissioners appointed by the legislature of the state of New Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same," passed the twenty-seventh day of March, one thousand seven hundred and eighty-three, shall belong to and be exercised by the courts and officers of the county lying and being nearest to the place where such offence, trespass or act was committed, as fully and in all respects as if the said place was within the body of such county, and it shall be lawful to describe the said offence, trespass or act as having been committed in or upon the water of the river Delaware in the said county.(1)

III. Seat of government.

An act for fixing a permanent seat of government in this state, and for altering the place of the first meeting of the legislature after the annual elections.

R. S. 789.

Passed November 25, 1790.

Trenton to be the seat of government.

31. SEC. 1. That Trenton, in the county of Hunterdon, shall henceforth be considered as the seat of the government of this state, and that the first meeting of the legislature, after the next, and every future annual election for the members thereof, shall be at Trenton, in the county of Hunterdon.

(1) The following acts have been passed ceding to the United States jurisdiction over lands for purposes therein designated, viz: For lands to be occupied as sites of lighthouses, P. L. 1853, p. 38. Supplement to same, P. L. 1854, p. 102. For land in Newark for custom house, P. L. 1855, p. 246. For erection of defenses at Finn's Point, P. L. 1871, p. 110. Supplement to same, P. L. 1872, p. 8. To provide sites for life saving stations, P. L. 1872, p. 19. Supplement to same, P. L. 1873, p. 70. For National Cemetery at Beverly, P. L. 1872, p. 37. For government building at Trenton, P. L. 1871, p. 36, 1872, p. 68, and 1872, p. 87. For erection of lighthouses, etc., P. L. 1873, p. 30. For fort at Red Bank, P. L. 1873, p. 47. For post office, Jersey City, P. L. 1873, p. 156. For lands under tidal waters for lighthouses, etc., P. L. 1875, p. 28.

Thread.

1. Spools and packages to be marked with number of yards they contain.
2. Penalty for neglect to affix such marks.
3. Penalty for selling or offering for sale without label.
4. Act only to apply to cotton thread.

An act to prevent frauds in the sale of thread.

P. L. 1869, p. 1150.

Approved April 1, 1869.

Spools or packages to be marked with number of yards they contain.

1. That every manufacturer of sewing thread, or person engaged in putting up sewing thread on spools or in packages intended for sale, shall, before the same is offered for sale, affix to each spool or package a label or ticket designating the actual number of yards which each spool or package contains.

Penalty for neglect to affix such marks.

2. That if any manufacturer, or person so engaged as aforesaid, shall purposely neglect to affix such label to each spool or several packages of thread manufactured or put up as aforesaid, or shall, with intent to deceive, affix or cause to be affixed, a label or ticket to any spool or package of thread intended for sale, specifying that such spool or package contains a greater number of yards of thread than such spool or package actually contains, such manufacturer or person shall forfeit the sum of five dollars for each spool or package so without a label or falsely labeled, that shall be sold or offered for sale by such manufacturer or person engaged as aforesaid, to be recovered in an action of debt by any person who shall sue for the same; one-half of said penalty to go to the poor of the township where said suit is brought, and one-half to the person suing for the same.