

Delaware Archives

MILITARY
VOLUME 1

Published by the Public Archives
Commission of Delaware
by authority



WILMINGTON, DELAWARE
Press of MERCANTILE PRINTING CO.
1911

PREFACE

THE Public Archives Commission of Delaware takes pleasure in submitting the first volumes of a Series of State Archives. Because of the demand for the information, the first division will contain Military and Naval records from the earliest Colonial times to the close of the War of the Rebellion.

The Second division will include all the obtainable records of the general history of the Colony.

These volumes will be published as rapidly as the State legislature recommends.

FOREWORD TO VOLUMES I AND II.

The plan followed throughout these volumes is to publish the rolls exactly as they are found in the originals, with the addition of a general index of names.

This plan has been strictly adhered to, and its wisdom is proven by the facility with which the record of any soldier may be followed throughout his entire military career. It may be well to note that the term "Deserter" is often found applied to a soldier whose name appears again in the rolls later on, and who continued to serve his country valiantly. This is explained by the lax discipline of the army, which allowed a man to resort to his home for several months at a time if necessary.

The text of the rolls has been followed exactly in all instances, regardless of irregularities of spelling or punctuation. In most cases the name intended is quite evident, despite the fact that it is badly misspelled; but in others the true name cannot be guessed even after a phonic pronunciation has been tried.

A chronological arrangement has been followed as far as was practicable. Rolls of the Continental troops have been given precedence over the militia lists. It is a matter for regret that there are so few lists of colonial companies; and that more rolls of the militia organizations of the two lower counties, several of which were in active service at Trenton, Brandywine and elsewhere, have not been brought to light. A list, too, of the sailors on one or both of the State schooners, would have greatly increased the interest of the work.

The greater portion of this volume is comprised of copies of the original rolls in the office of the Secretary of State, at Dover, where there are on file about 450 muster and pay rolls, and some 725 accounts, receipts, &c. Footnotes indicate the source of all other lists.

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MILITARY AND NAVAL RECORDS VOLUME II.

Published by the Public Archives
Commission of Delaware
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WILMINGTON, DELAWARE
Press of MERCANTILE PRINTING CO
1912

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Delaware Archives

REVOLUTIONARY WAR
IN THREE VOLUMES

VOLUME III AND INDEX

Published by the Public Archives
Commission of Delaware
by authority

WILMINGTON, DELAWARE
CHAS. L. STORY COMPANY PRESS
1919

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Delaware Archives

MILITARY RECORDS VOLUME IV

Published by the Public Archives
Commission of Delaware
by authority



WILMINGTON, DELAWARE
Press of STAR PUBLISHING CO
1916.

FOREWORD TO VOLS. IV AND V.

The Public Archives Commission of Delaware herewith submits volumes four and five of the Military Series of Delaware Archives.

These volumes contain lists, substantially full and complete, of the officers and men who represented this State in the second war with England, commonly called the War of 1812, which memorable contest sealed a peace between the United States and the Mother Country which has lasted for over one hundred years.

In addition to the Muster and Pay rolls, many letters, documents and state papers pertinent and interesting have been included in the publication. When the work of collecting and compiling these records was begun the State Archives contained no Muster or Pay rolls. A number of these papers were found in the War Department at Washington, but the greater number in private possession. The Commission believes that in the arduous work of collecting and publishing these records it has rendered important service to the State. Through the generosity of Mr. Septimus E. Nivin, of Landenberg, Pa., the E. I. duPont de Nemours Co. and others, who had these records in their possession, the State now owns the original papers that attest Delaware's great service in this war.

Foot notes indicate the source of the papers not in the Archives of the State. All papers marked "duPont Hall of Records" are now in the possession of the State.

EXPLANATORY.

It was found advisable to publish Volumes IV and V, Delaware Archives Military Series, in advance of Volume III. The latter is now in course of preparation, and will contain supplementary Revolutionary matter.

HON. HENRY C. CONRAD, Prest.

MABEL LLOYD RIDGELY.

JOSEPHINE TATNALL SMITH.

VIRGINIA T. ATKINS,

JOHN P. HYATT.

JOHN W. HERRING.

The Public Archives Commission of Delaware.

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Delaware Archives

MILITARY RECORDS VOLUME V

Published by the Public Archives
Commission of Delaware
by authority



WILMINGTON, DELAWARE
Press of STAR PUBLISHING CO
1916

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The Instruction for Johan Printz

Governor of New Sweden

*"The First Constitution or Supreme Law of
the States of Pennsylvania and Delaware"*

Translated from the Swedish with Introduction, Notes and
Appendices, Including Letters from Governor
John Winthrop, of Massachusetts, and Minutes
of Courts, Sitting in New Sweden

BY

AMANDUS JOHNSON

With a special Introduction by John Frederick Lewis
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PREFACE

The *Instruction* for Governor Printz was first published by Israel Acrelius, as stated below, and it has been translated twice since then. There has been a feeling, however, among those interested in the early history of the Delaware, that a new translation of this document would be desirable, so as to make it available to a larger public in a more or less final English form.

As the Governorship of Printz covers the most interesting period of the history of New Sweden, it was thought that other documents and letters might properly be included in appendices to the *Instruction*, forming a background for the document; and thus the booklet, as originally planned, has grown into a small volume.

It seemed unnecessary to include a bibliography in the book, and those further interested in the subject of New Sweden are referred to my *Swedish Settlements on the Delaware*, II, 767ff, for lists of books and sources concerning the Swedish colony.

The present translation of the *Instruction* was suggested by Colonel Henry D. Paxson, President of The Swedish Colonial Society, who requested me to have photostat copies of the originals made for him on my journey to Sweden in January, 1929, and these photostats have been used in making the translation. Colonel Paxson has also furnished some of the cuts for the volume. For these courtesies and for his great interest in the progress of the translation and the preparation of the book, I wish to express my thanks. I am also under obligation to the careful and accurate scholarship of Professor Adolph Burnett Benson of Yale University, who has

read the proofs, corrected several misprints and offered valuable suggestions. Thanks are likewise due to Dr. Edward J. Galbally, Managing Editor of *The Ecclesiastical Review*, for aiding me in some difficult passages of the Printz-Winthrop Latin correspondence, and to Mr. Albert Cook Myers for his criticisms and suggestions. I also wish to thank Dr. William van Royen for suggesting readings and interpretations in doubtful or obliterated passages of the Dutch Court Records and the Rev. Birger Johansson for his kindness in allowing me to photograph the portraits of Governor Printz and his wife and daughters, found in the parsonage of Bottnaryd, Sweden.

In this connection I also desire to thank the officials of the Royal Archives at Stockholm, as well as the officials of The Historical Society of Pennsylvania—with a fond tribute to the memory of the late Librarian of the Society, the lamented Dr. Thomas Lynch Montgomery (a member of the Council and Vice President of The Swedish Colonial Society), who took a keen interest in the translation. My warm thanks are also due to all the other members of the Council of The Swedish Colonial Society, especially Dr. Albert Duncan Yocum, Mr. Ormond Rambo, Jr., and Mr. Ernest Spofford (Librarian of the Historical Society of Pennsylvania), whose interest and encouragement have been most helpful, and, last but not least, I wish to express my gratitude to Dr. John Frederick Lewis (of the Philadelphia Bar), who has written a special introduction.

AMANDUS JOHNSON

Philadelphia, February 13, 1930.

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INTRODUCTION

Doctor Amandus Johnson is the greatest living authority upon the historical relations between Sweden and America. He is the author of "The Swedish Settlements on the Delaware", 1911; "The Swedes in America", 1914; "Contributions of Swedes to American Progress", 1921; and he has, in addition, written numerous historical and philological articles.

The present volume, "The Instruction for Johan Printz, Governor of New Sweden", which Doctor Johnson has placed within reach of English readers by translating it from the original Swedish, follows in natural sequence his former works. He is a master of both Swedish and English, and his translation, while entirely readable, is nevertheless literal and savors of the original text. The work will prove of the greatest interest to every student of Pennsylvania history and that of Delaware as well.

The "Instruction" issued to Governor Printz was the first legal document directing how the first permanent settlers in what is now the present limits of Pennsylvania, were to be governed. It contains the duties of the Governor and the rights of the governed, and its study reveals its importance, in the interpretation of many of the political rights and privileges, which our people enjoy today.

The "Instruction" was written a generation or more before William Penn received his Charter. It resulted in the establishment by Printz, on Tinicum Island in the Delaware River, of the first seat of government for a part of the country which is now Pennsylvania, and Governor Printz was the first Judge among settlers on the Delaware, and the hall he built was the first seat of justice.

Though the document was probably intended more

for his personal guidance than for publication among the settlers, it is drawn with consummate skill, in order that Printz might work out the real intention of the Swedish Crown. It is remarkable for the liberality with which he is to treat the Dutch and English already located on the Delaware. He was instructed that as there were several English families, about sixty persons all told, who would come under his jurisdiction, he was "with all his power to keep intact and inviolate" the portion of the ground they had occupied, and "thus bring these families under the jurisdiction, devotion and government of her Royal Majesty and the Swedish Crown".

Similar directions were given with reference to the Dutch, who had been brought to the Delaware by the Holland-West India Company. They and their servants were "to be met with mildness and with propriety and he should make known to them the rights of the Swedish Crown".

The Swedes never stole lands from the Indians, nor secured from them by trickery a larger tract than they had intended to sell. They always purchased the land they occupied, and the "Instruction" expressly recognizes the "wild inhabitants as the rightful owners". Printz was directed to instruct them "in the true Christian religion and worship and in other ways . . . [bring them] to civility and good public manner as though led by the hand".

In the Preface to his book, Doctor Johnson discusses the Swedish title to the settlements upon the Delaware, and as bearing upon that subject, it is to be noted, that in the "Instruction" given to Printz, he was advised that the Swedes "have already had

the fortune to establish themselves there and purchased a considerable tract of land . . . for the purpose of extending the jurisdiction . . . of Her Royal Majesty”.

While the Dutch had come to trade primarily, the Swedes had come to settle. Trade was merely incidental to their livelihood, and not the purpose of their emigration from Sweden.

And that there might be no mistake as to the extent of Printz's jurisdiction, he was advised “to bear in mind that the boundaries of the country which our subjects have taken into possession extend (by virtue of the deeds entered into with the wild inhabitants of the country) as its rightful owners, from the sea coast to Cape Henlopen upwards along the west side of Godins Bay, and thus further up the great South River unto Minquas Kil, where Fort Christina is located, and thence still further [along] the South River and up to a place which the wild inhabitants called Sankihans, where the further-most boundaries of New Sweden are to be found”.

Printz seems to have kept in mind the main intent of the “Instruction”, to form a permanent settlement on the Delaware, because in his reports to the old country, and in his letters to the Lord High Chancellor of Sweden, he makes frequent reference to the matter.

In his report of 1644 Governor Printz lists “the places we now possess and occupy”.

Again in the same report he says:

“In the short time since I came here and with this small and weak people, [I have] begun to lay the foundation, which I hope to continue during the time that remains for me here, and to bring it so far, that Her Royal Majesty shall get so strong a foot-

hold here in New Sweden that (in case the means will not be lacking) it will increase more and more, as time goes on, through God's gracious help, and will be incorporated as an ever-lasting property under her Royal Majesty and the Crown of Sweden".

And in his report of 1647 Governor Printz says: "Her Royal Majesty has obtained a strong footing here and . . . the work does not require anything but sufficient means, to be continued with greater success; and (with God's help) this country will forever be subject to Her Royal Majesty".

All through the letters from Printz and to him, the idea of making a settlement which will be permanent is apparent.

In his letter to Sir Peter Brahe, Lord High Chancellor of Sweden, July 19, 1644, Printz reiterates that in the short time he had been in the country, [he had] begun "to lay the foundation, which I, with the help of God, the time which is still left for me to remain here, hope to bring so far that Her Royal Majesty and the Swedish Crown may here obtain a secure footing so that . . . it may be established for an eternal possession of Her Royal Majesty and the Swedish Crown".

This evident intention of Governor Printz and Her Majesty of Sweden, to make permanent settlements on the Delaware, has an important bearing upon the legal title to the settlements, a subject which has been often discussed. The conclusion which Doctor Johnson has arrived at is undoubtedly supported by International Law, as it was then recognized.

The Dutch claim that they were entitled to all the undiscovered land along whose coasts their navigators had sailed, was, by the law of nations Dutch territory, would necessarily fall before the English

title upon that same fiction, because John and Sebastian Cabot, in 1498, had sailed along the American coast from thirty-eight degrees north to sixty-seven north, and while the Dutch were undoubtedly the first to enter the Delaware Bay, their purpose was to open up avenues of trade rather than to extend the jurisdiction of the States General.

The Swedes, who arrived next, are sometimes said to have traced their title to a supposed grant from Charles I to John Oxenstierna, the Swedish Ambassador at London, for all the territory in the neighborhood of the Delaware, but as no record of such a grant has ever been found, the Swedish claim upon this basis has never been seriously pressed. The Swedes had a far better title, because of the undoubted fact that their's was the first *permanent* settlement upon the Delaware, not as a mere trading post, but as a permanent occupation of the land and as an extension of the jurisdiction of the Swedish Crown. But the Swedes never effectually routed the Dutch from the Delaware, who constantly asserted their territorial rights and had erected Fort Casimair, near New Castle, and garrisoned it. The Swedish Governor made himself master of the fort, but the Dutch retaliated and took possession of the entire river in behalf of the States General. The Swedes remained under their new master, and any grants of land which had been made by the Swedish Crown, were probably regarded as of no effect.

Until the year 1664, the Government of the South or Delaware River was in the hands of the Dutch, but the claims of neither Holland nor Sweden were ever definitely recognized by the English. England assumed that the Crown of England had title to all of that part of North America along the coast

of which the Cabots had navigated, and hence it was, that in 1664, Charles II granted a vast and indeterminate territory to the Duke of York. Charles thereby put himself on record, and in 1674, Sir Edmund Andross obtained from the Dutch a surrender of all their possessions in America "wherever situate", and under this surrender the English took possession of the forts on the Delaware, and assumed jurisdiction of all the settlements upon either shore.

The Dutch title was, therefore, based upon the forcible eviction of the Swedes, and the English title being derived from the Dutch is necessarily based upon the same act of force. However, this may be, the English held their sway and when Penn arrived he wisely recognized the validity of individual Swedish conveyances.

Dr. Amandus Johnson has included in his book, in addition to the "Instruction" to Governor Printz, the "Reports of Governor Printz in 1644 and 1647"; an exceedingly interesting series of letters from Printz, Papegoja, who married Printz's daughter, and from Axel Oxenstierna; and some letters from Printz to Governor Winthrop of Massachusetts, and the latter's replies; and the Court records in New Sweden of 1643-1644, and finally a report of the Dutch Commissary concerning the Swedes on the Delaware. Taken together, these documents give a remarkably interesting picture of the times, and, making them accessible to students, is an invaluable contribution to the sources of American history.

JOHN FREDERICK LEWIS

Philadelphia, February 15, 1930.

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N. B.—Due to the character of the book, it has been considered unnecessary to prepare a complete and analytical index (only the most important names and subjects being included). The Swedish letters *ä*, *ö*, *ö*, are treated like *a* and *o* and do not follow the Swedish order. Abbreviations used in footnotes are spelled out in full in the Index.

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south from Philadelphia. Here May landed and built Fort Nassau. This adventure was not profitable. De Vries, it is conjectured, came over from Holland in the spring of 1631, with a ship and a yacht, laden with cattle, grain, seeds and agricultural implements. His people settled near Cape Henlopen, on Lewes Creek, which he named Hoorn-kill, probably after Hoorn, a port in north Holland. He built a trading-house, or fort, and leaving one of the emigrants in command returned home. This colony was destined to be of short duration. Soon after the departure of De Vries, a quarrel arose between the Dutch and the Indians, which speedily terminated in the slaughter of all the former, thirty-two in number.

De Vries came over again in 1633, to see the charred remains of his fort on Lewes Creek and the bones of his murdered countrymen, and sailed up to Fort Nassau, only to find it in the possession of the natives, its former occupants having mostly removed over to Fort Amsterdam. Thus, it will be seen that from the date of Hudson's discovery, 1609, up to the time of De Vries' second visit, every attempt of the Dutch to plant a colony on the Delaware had ended in failure and disappointment. Their settlements on Manhattan Island, and on the North River, in the meantime, had been more prosperous, and continued to grow in population and wealth until all their possessions in America, called New Netherlands, were finally surrendered to the English, under the treaty between the States-General and England, of the 9th of February, 1674.

Gustavus Adolphus, the soldier-king of Sweden, and the champion of the Protestant cause in Europe, in the early part of the seventeenth century, had projected a plan of sending out a colony to America, which he did not live to carry into execution, having fallen in the battle of Lutzen, in 1632, in the zenith of his fame; but his distinguished Chancellor, Oxenstiern, faithful to the memory of his king, and having confidence in the success of the enterprise, prevailed on Queen Christina, the daughter of Gustavus, to give it her patronage. Peter Minuit, who had been Governor of New Amsterdam, and had lately quarrelled with the Dutch Company and been dismissed from his office, was selected to take charge of the expedition, and under his direction two vessels, the "Key of Calmar" and the "Griffin," were equipped for the service. They were stored with provisions, with arms and ammunition, and with merchandise for

trade. They arrived in the early spring of 1638, and sailed up the Delaware. The colonists disembarked at "The Rocks," on Minquas Creek, where they at once erected a fort, naming it, in honor of their youthful Queen, Fort Christina.

By the public records at Stockholm, it appears that in 1640, several companies of emigrants left Sweden for the new colony. One ship, called the *Fredenburg*, laden with men, cattle, and implements of husbandry, was licensed by the Swedish authorities to proceed to New Sweden, as they called the country on the west side of the Delaware. Peter Minuit, the first Governor, died in 1641, and was succeeded by Hollendare, a native Swede and a soldier by profession, who was soon followed by John Printz, a lieutenant-colonel in the service of the Queen. Governor Printz came out with a little squadron of two ships of war and a transport, having on board soldiers and a large number of emigrants, and arrived at Christina on the 15th of February, 1643. In seeking a location for his colony he found a spot, a short distance above where Chester now stands, called by the Indians, *Tenacong*, since known as *Tinicum*, and, still later, as *The Lazaretto*. In his commission he was styled Governor of New Sweden. His instructions, dated at Stockholm, August 15, 1642, point out, in detail, his official duties. Among other things, he is directed:

"1st. To promote, by the most zealous endeavors, a sincere piety towards Almighty God, in all respects. To maintain the public worship according to the doctrines and rites of the National Church. To support a proper ecclesiastical discipline. To urge instruction and virtuous education of youth and children. To administer justice according to Swedish laws in decision of controversies, and penalties on offenders—even capital, on atrocious malefactors—but not without a scrupulous examination, and the approbation of his counsellors, whom he was to choose amongst the wisest and best men in the colony. To preserve, so far as practicable, the manners and customs of Sweden, accommodating them, in some cases, to existing circumstances. To promote diligently all profitable branches of industry." Particular attention is to be given to agriculture, and to the raising of cattle and sheep. He is also to create a traffic for peltry, with the Indians, and to explore the country for valuable kinds of woods and metals.

"2d. Relating to the Dutch and English. With the first mentioned he was to cultivate a friendly intercourse, but positively to deny their *pretended* right to any

part of the land on the west side of the river, purchased by the Swedes from the Indians; * * * * * and he was authorized, if all friendly negotiation proved fruitless, to repel force by force." * * * * * "Some English families, about sixty persons, having settled in the preceding year, (1641) on Ferken's Creek," (now Salem) * * * * * "he may receive them under allegiance to the Swedish Crown, but rather by gentle means endeavor to effect their departure, as more expedient for the interest of her Majesty, and of the Company."

Soon after the arrival of Printz, the struggle began between the Dutch and the Swedes for the control of the territory on the west shore of the Delaware, from the Schuylkill to Cape Henlopen, the former claiming by right of discovery and settlement, the latter by settlement and purchase from the Indians. The Dutch also bought land from the natives and erected Fort Cassimir, at the place where New Castle now stands. Printz, apprehensive of trouble from this fort, and perhaps to solicit aid from the home government, returned to Sweden in 1652, or 1653, leaving his son-in-law in temporary command of the colony. Before his departure, Printz had built Fort Elfsborg, at the mouth of Salem Creek, on the east side of the Delaware, but this was abandoned, after the erection of Fort Cassimir, on the pretence that it was untenable on account of the mosquitoes, and was called, in ridicule, Fort Mosquito. He had also built Fort New Gottenburg at Tinicum.

Printz was succeeded by Governor Rising, who came over in a man-of-war, with a military engineer, officers, and soldiers. Rising captured Fort Cassimir, the garrison being unprepared for defense, and capitulating on favorable terms.

About the middle of August, 1655, Governor Peter Stuyvesant, with a squadron of seven ships and transports, containing six or seven hundred men, sailed from New Amsterdam and arrived in the Delaware, on the 30th. On the 1st of September he recaptured Fort Cassimir, and on the 14th took possession of Fort Christina, without opposition, the Swedes being practically defenseless against the superior forces of the Dutch. All the other possessions of the Swedes, on the Delaware, fell into the hands of the Dutch at this time, and thenceforth the Swedish colony existed only in history.

John Paul Jaquet was the first Dutch Governor on the Delaware. The country

was divided into two colonies; one of these, including Christina, and extending from Christina to Bambo-Hook, was called the "Colony of the Company," and the other, extending north, up the Delaware, to the extent of the settlement, was called "The Colony of the City." Lands in the "Colony of the City," were conveyed in Amsterdam, by the Burgomasters and Council; deeds for land in the Company's Colony were executed by directors and commissioners. Jacob Alrich, December 19, 1656, was appointed Governor of the City Colony, by the Burgomasters and Council, and fixed his residence at New Amstel.* October 28th, 1658, William Beekman was appointed Governor over the Company's Colony, to reside at Altona, now Wilmington. He administered the affairs of the Company, regulated the trade, levied the customs payable on all vessels arriving at New Amstel, and superintended the Swedes.

The number of Swedish families in the colony at this time was 130, as ascertained by an official return, and they made a majority of the whole population. Allowing six persons to a family, there were probably not more than 1200 Europeans on the Delaware in 1659, including women and minors.

At first there was an attempt made to drive out the Swedes. Governor Stuyvesant ordered them to remove, notwithstanding that some of them had been in the country for more than twenty years, had cleared lands, built houses and planted orchards. They were a quiet, peaceable and inoffensive people. The parent government had declined in military power and national influence, and was no longer able to aid them in regaining the control of the country. They refused to go, and Governor Beekman not having any inclination to enforce Stuyvesant's order, nothing more was heard of it. In a few years the Dutch and Swedes, by family alliances, formed one people. The language of the Dutch had such affinity to the Swedish, that their children soon understood the religious services in the Swedes' Church and finally joined in their worship. The Dutch had no regular ministry among them. The Swedes, on the contrary, were careful to maintain public worship as regularly as their isolated situation would admit; and constituting so much the larger portion of the population, especially about Christina, the rising generation of the Dutch lost their national language and character so entirely, that, in 1697, Rudman, who had just arrived from Sweden, as a mission-

*Now New Castle.

ary, says: "We live scattered among the English, yet our language is preserved as pure as anywhere in Sweden." (*Ferris' Original Settlements on the Delaware, 110.*)

On August 27, 1664, New Amsterdam was surrendered to the English, and the remainder of the New Netherlands was soon subjected to the same authority. Colonel Nicholls assumed the administration of the territory on the west side of the Delaware, as Governor, under the Duke of York, to whom it had been granted by Charles II. on March 12, 1664. The Dutch, in August, 1673, recaptured all the New Netherlands, and once more in possession of their old domain in America, reestablished the government under their own officers. But, in the following year, on the conclusion of the war between England and the States-General, by the treaty of Westminster, made February 19, 1674, the country was restored to the English.

On the 4th of March, 1680, Charles II. granted to William Penn the province of Pennsylvania, and on the 24th of August, in the same year, the Duke of York conveyed to Penn the "territories of Pennsylvania," or "the three lower counties on Delaware." Sir Edmund Andross was the last Governor, under the Duke of York, who exercised authority over Delaware, his administration ending on the establishment of the Proprietary Government. Courts had been established in each of the Counties, and the Governor, as the deputy of the Duke, issued patents for locating lands, and executed deeds.

Penn first landed at New Castle, on the 24th of October, 1682, and after formally taking possession of the country, proceeded to Upland, now Chester, and on the 4th of November summoned an Assembly, to consist of an equal number of members for the province and the three lower counties, according to the 16th article of the frame of government which had been made before his departure from England, with the approval of the authorities there. At this Assembly an act of union was passed, annexing the three lower counties, at their own request, to the province, in all matters of legislation. Also an act of settlement, confirming certain laws agreed on in England, with some alterations, was passed in form. The Dutch, Swedes, and other foreigners were then naturalized, and the Assembly adjourned, after a session of three days. The Legislature was composed of a Provincial Council and Assembly, called the General Assembly,

the members of which were elected by the freemen of the Province and Territories, three for each county for the Council, and nine for the Assembly. The counties were named Philadelphia, Bucks, and Chester; New Castle, Kent, and Sussex. The Governor and Provincial Council were to prepare and propose to the General Assembly all bills which they should jointly assent to, "not inconsistent with the powers granted by the King's letters patent to the Proprietary and Governor aforesaid."

Thus was instituted, under favorable auspices, the government of Penn.

In 1684, Governor Penn was compelled to return to England to look after his own and the interests of his infant colony, and delegated his powers for two years to a commission, of which Thomas Lloyd was President. This commission was afterwards renewed from time to time, as Penn did not revisit the Province until the autumn of 1699. In the meanwhile, dissensions took place between the Province and the Territories, growing out of the jealousies and differences of sentiment between them, which finally culminated in a separation.

The principal grievance of the Representatives of Delaware, as appears by their protest, dated at Philadelphia, the first of the second month, 1691, seems to have been "the encroachments made upon their rights and privileges by the Province, in imposing officers upon them, without their consent or approbation." Later still, they complained of the burthens imposed upon them by the union with the Province, in that their part of the expenses of the government was greatly increased, without any corresponding benefit, and finally, after the rising of the General Assembly, on the 28th of October, 1701, the Province and Territories never again joined in acts of legislation. Penn endeavored to reconcile the opposing bodies, but without success, and at last consented to their separation, giving to each its own government, in case they could not agree. Penn sailed for England again at the close of the year 1701, having constituted Andrew Hamilton his deputy, and James Logan, secretary.

Hamilton died in December, 1702, and the greater part of his administration had been employed in endeavoring to effect a union between the Province and the Territories, under the new charter of privileges granted by Penn just before he left the country, and under which a way was opened for the return of the

Territories; but the latter still complained that they were outnumbered and outvoted in the Assembly. They expressed their willingness to reunite in legislation with the Province, under the new charter, dated at Philadelphia, the 28th of October, 1701, as they understood it: "That is to say: If the Province will join with us in representing the same by four members out of each county, so that our representatives may be equal in number, conform to the second article of the said charter, and the ancient use and practice of this government." The new charter had left the choice of union or separation open for three years, and this proposition of the Territories was made the 13th of April, 1704. The offer was refused by the Province.

As exhibiting the comparative wealth of the Territories with the Province, the sums raised by a tax of one penny in the pound, in the fifth year of the reign of William and Mary, for the support of the government, show no great disparity between the two. The amounts paid by the different counties were as follows:

Philadelphia,	£ 314 11 11
New Castle,	143 15 0
Sussex,	101 1 9
Kent,	88 2 10
Chester,	65 0 7
Bucks,	48 4 1

John Evans, on the death of Hamilton, was appointed Deputy Governor by the Proprietor, with the Queen's royal approbation, and arrived in the Province, in December, 1703. Failing, like his predecessor, to effect a reunion, he, in the latter part of 1704, met the Assembly of the lower counties, at New Castle, which was the first to act independently of the Province, and thenceforward the separation was complete. The first law recorded under his administration was "An act about seven years possession," and was "enacted by the honorable John Evans, Esq., with Her Majesty's Royal approbation, Lieutenant-Governor of the Counties of New Castle, Kent, and Sussex, on Delaware, and Province of Pennsylvania, by and with the advice and consent of the freemen of the said Counties, in General Assembly met, and by the authority of the same." This was in 1704. And in this style the legislation of the Counties was conducted under successive Lieutenant-Governors, until John Penn was appointed "Gov-

ernor and Commander-in-Chief of the Counties," &c., in 1773. The last act to which he gave his official approval, passed October 28, 1775, was a supplement to "An act for the more effectual ascertaining and fixing the limits of the several counties within this government, and for remedying some inconveniences that may arise by the late establishment of the boundaries and divisional lines between the same and Maryland.

The Colonial government ended with the Declaration of Independence by the Congress of the United States, on the fourth of July, 1776, and with remarkable promptitude a Convention was called and a State government organized under a Constitution entitled "The Constitution or System of Government, agreed to and resolved upon by the Representatives in full Convention of the Delaware State, formerly styled the Government of the Counties of New Castle, Kent, and Sussex, upon Delaware, the said Representatives being chosen by the Freemen of the said State for that express purpose." This instrument bears date the 20th of September, 1776, and the first election for members of the General Assembly was held on the 21st of October following, in the court-houses in the several counties. The first session of the new legislature met at "New Castle-on-Delaware," October 28, 1776.

The Council of Delaware, the minutes of whose proceedings, from 1776 to 1792, are contained in the following pages, was a part of the legislative body of the State, corresponding to what is now called the Senate. It was organized under the Constitution of 1776, and continued in existence until the Constitution of 1792 went into operation. It was composed of nine members, three from each county, who were required to be frecholders and twenty-five years of age, and were elected by the people in such manner that one-third of the Council was elected every year. The other branch was called the House of Assembly, containing seven members from each county, elected annually. The Legislature was known as the General Assembly of Delaware. A President, or Chief Magistrate, was chosen on joint ballot by both houses, and in case of his death, inability, or absence from the State, the Speaker of the Council exercised the powers of President until a new appointment by the General Assembly.

A Privy Council, of four members, was chosen by ballot, two by each House, whose duties appear to have been to advise with the President in relation to

embodying the militia, calling special meetings of the General Assembly, in making appointments to certain offices, and in filling vacancies in others until a new election.

Some few omissions will be observed in the printed pages, which could not be supplied with accuracy, owing to the accidental mutilation of the original manuscript journal, but enough has been preserved intact to form a record of historical value.

John McKinly was the first President chosen for the prescribed term of three years, from February, 1777, but his administration was cut short by his capture by the British, at Wilmington, at the close of the battle of Brandywine, on the 11th of September, in the same year. On March 30, 1778, it is recorded, that, "Whereas his Excellency John McKinly, our worthy President, taken by the enemy in September last, still remains a prisoner, with little prospect of exchange shortly, and the Speaker of Council, who acts as Vice-President, requesting to be relieved from the duties of that office," etc., thereupon the two houses, on the next day, by joint ballot, elected Cæsar Rodney for the full term of three years. He was succeeded by John Dickinson, on November 13, 1781, who continued in office until his election as President of the Supreme Executive Council of Pennsylvania. Governor Dickinson, as we learn from his valedictory to the legislature, had designed before this to remove his family to Wilmington and make that place his permanent residence. This purpose was afterwards carried out. He resided in Wilmington during the latter years of his life, and on his death was interred in the burial ground attached to the Friends' Meeting House, at the corner of 4th and Washington streets. The Vice-President filled the office until February 1st, 1783, when Nicholas Vandyke was elected, who served a full term, and was succeeded by Thomas Collins, on whose death, Joshua Clayton was elected, and he was the last President or Governor under the Constitution of 1776.

Among the many interesting subjects and measures brought before the Council, not the least important were the joint resolutions in relation to the calling of a Convention to ratify the Constitution of the United States, which were adopted, November 10, 1787. An election for Delegates to the Convention was ordered for Monday, the 26th of the same month, and the Convention was to assemble at

Dover, on the Monday following. As a fact of history, the Convention was held, and ratified the Constitution, without a dissenting voice, on the 7th of December, but the journals of the Convention have been lost, and we have no further record of its proceedings than that the ratification was duly certified to Congress. One of the joint resolutions, just mentioned, requests the particular attention of the Convention to "the proposition submitted to the General Assembly, by petition from divers of the freemen resident in the upper part of this State, of ceding to the United States a district within the State for the seat of the Government of the United States, and for the exclusive legislation of Congress."

On October 25, 1788, George Read and Richard Bassett were elected to represent the State in the Senate of the United States. They were the first Senators from Delaware.

If the limits of this note permitted a more detailed reference to the many matters of historical interest contained in the "Minutes," it would be a pleasing task to make mention of some incidents connected with the progress of the Revolutionary War, the recruiting of troops, furnishing supplies, etc.; of the wise and judicious legislation of those early days, and of the reputation and ability of the men who served in our state and national governments. It will be observed by the most casual reader that, in the orderly conduct of business, in the careful deliberation given to every measure, in provident care for a most uncertain future, in the dignified tone and scholarly style of their public papers, and in the prompt and efficient discharge of official duty, the legislators of 1776-92, will bear a favorable comparison with any of later times, either in or out of the State.

VOTES
AND
PROCEEDINGS
OF THE
HOUSE OF
REPRESENTATIVES
OF THE

Government of the Counties of New Castle,
Kent and Sussex, upon Delaware,

At a Session of Assembly Held at New-Castle the Twenty-
First Day of October (the Twentieth being Sunday) 1765.

PUBLISHED BY
GEORGE READ AND THOMAS M'KELAN, ESQUIRES.
BY ORDER OF THE ASSEMBLY

WILMINGTON,

Printed and Sold by James Adams, in Market street, 1770.

CR9

INTRODUCTORY NOTE

This volume is a reprint of a volume printed by James Adams of Wilmington in 1770, and contains the Minutes of the House of Representatives of the Government of the Counties of New Castle, Kent and Sussex for the following sessions:

October 21 to October 26, 1765.....	pp. 7-32
May 26 to June 9, 1766.....	pp. 33-74
October 20 to November 1, 1766.....	pp. 75-110
October 20 to October 31, 1767.....	pp. 111-152
October 20 to October 27, 1768.....	pp. 153-183
June 1 to June 17, 1769.....	pp. 183-226
October 20 to October 28, 1769.....	pp. 227-245
March 6 to March 24, 1770.....	pp. 245-279

The volume from which this reprint is made is in the possession of the Historical Society of Delaware. Another copy of the original printing is owned by the Historical Society of Pennsylvania.

The work of reprinting these Minutes was planned and begun by my predecessor, the late HONORABLE HENRY C. CONRAD, who died on October 24, 1930. The manuscript was prepared under the direction of MR. HENRY CLAY REED, instructor in history at the University of Delaware, assisted by the MISSES MILDRED B. JONES and MARY S. RICHARDSON of the Archives Commission's office staff. My assistant, MR. LEON DEVALINGER, has aided me in the reading of the proof sheets.

GEORGE H. RYDEN,

State Archivist

OFFICE OF THE PUBLIC ARCHIVES COMMISSION,
DOVER, DELAWARE, JUNE 24, 1931.

Printed for
The Public Archives Commission of Delaware

W. A. Newman Dorland

RECORDS

OF THE

COURT OF NEW CASTLE

ON DELAWARE

1676-1681

PUBLISHED BY THE COLONIAL SOCIETY OF PENNSYLVANIA



PRINTED BY
THE WICKERSHAM PRINTING COMPANY
LANCASTER, PA.

1904

NOTE.

THE following records are printed from volumes 68, and 69 of the Collections of the Genealogical Society of Pennsylvania in the Library of the Historical Society of Pennsylvania at Philadelphia, which were copied from the original manuscript in the Office of the Prothonotary of the Superior Court for New Castle County at Wilmington, Delaware. They begin October 10, 1676, and end December 12, 1681, the original manuscript consisting of two books, called Liber A and Liber B respectively, and cover the period embraced in the Record of the sister Court at Upland published by the Historical Society of Pennsylvania in 1860.

By the kind permission of the Prince Society there is reproduced as a frontispiece a portrait of Governor Edmund Andros, which appears in the first volume of "The Andros Tracts," published by that Society in 1868, taken from the original picture in the possession of Annas Charles Andros, Esq., of London, England.

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RECORDS

OF THE

COURT OF NEW CASTLE

ON DELAWARE

VOL. II

1681-1699

LAND AND PROBATE ABSTRACT ONLY

PUBLISHED BY THE COLONIAL SOCIETY OF PENNSYLVANIA



PRINTED BY
THE TRIBUNE PUBLISHING COMPANY
MEADVILLE, PA.
1935

500 Copies Printed
 For Members of the Society Only
 Number

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 by the
 Colonial Society of Penna.

INTRODUCTORY NOTE

The first volume of *Records of the Court of New Castle on Delaware, 1676-1681*, was published, with some few unindicated omissions, by The Colonial Society, in 1904; it is an octavo book, of 547 pages, limited to an edition of 200 numbered copies. The printing was from a modern transcript in the collection of The Genealogical Society of Pennsylvania, in the Library of The Historical Society of Pennsylvania, in Philadelphia, made, in 1902, by the late Jacob Martin, of Marshallton, Chester County, Pennsylvania, from the original manuscript preserved in the Office of the Prothonotary of the Superior Court for New Castle County, in the Court House, City of Wilmington, Delaware.

The original manuscript, in the handwriting of the contemporary court clerk and surveyor, Ephraim Herman, of New Castle, may still be seen in the Office of the Prothonotary; it consists of two folio books,—Liber A, October 19, 1676-December 3, 1678, and Liber B, January 7, 1679-December 12, 1681.

The present printed volume of the *Records*, covering the years 1681-1699,—and the second to be published by The Colonial Society,—is, of necessity, limited to such extracts from the original court minutes as were ordered made by the Government of The Three Lower Counties on Delaware, in the year 1670, of all items respecting land titles and probate proceedings. These extracts are the only survivals of the original records for the period named.

The hiatus in the original court minutes is as follows:

- (1) After page 382, in Liber B, about 56 pages, for the period December 12, 1681–November, 1682.
- (2) All of Liber C, of at least 537 pages, for the period November 2, 1682–March 23, 1688.
- (3) All of Liber D, of 68 pages, for the period May 5, 1688–March 16, 1689.
- (4) A volume or volumes, the lettering unknown, for the period June 17, 1690–November 21, 1699.

The whole of the original court minutes for the period 1676-

¹ A photostatic copy of the original has since been placed in the Manuscript Division of The Historical Society of Pennsylvania.

1699, under resolutions of the years 1768 and 1769, and an enactment of the year 1770 of the Assembly of Delaware,² was extracted for the land and probate references, which, after being "carefully compared with the original records", were certified as "true copies" by a Committee of two Delaware Assemblymen from New Castle County, Evan Rice and Thomas McKean (Lawyer, Inter Signer of the Declaration of Independence for Delaware and Governor of Pennsylvania).

These extracts of land and probate references, certified at the end by the signatures of Evan Rice and Thomas McKean, fill a large folio (10 x 15½ x 2¾ inches), manuscript, broken-backed, calf-bound volume of 530 pages, lettered on the front cover of the book.³

Old Records
Transcrib'd

This book of "Old Records", cited by Dr. George Smith, in his *History of Delaware County, Pennsylvania* (Philadelphia, 1862), page 287, and by J. Thomas Scharf, in his *History of Delaware* (2 volumes, Philadelphia, 1888), Volume II, pages 612-613, was among the public archives of New Castle County, as late as the year 1902, according to a letter of the late Jacob Martin, of 1909. In the disorganization of the County records, as a consequence of removal and building operations, the old volume disappeared. It was finally discovered by the Editor to be in the possession of the late Walter G. Tatnall (1856-1929), of Smyrna, Delaware. By the courtesy of the latter the volume was made available for the personal historical use of the Editor and also for The Colonial Society in its present publication of that portion of it beginning with February, 1681-2, not previously printed. The proof of the printed work has been critically compared with the original manuscript book "Old Records Transcrib'd".

ALBERT COOK MYERS,
Editor.

² *Votes of the Assembly of Delaware*, Wilmington, Delaware, 1770, pages 154, 202, 216, 219-228, 231; *Laws of Delaware, I*, New Castle, Delaware, 1782, pages 457-458.
³ A photostatic copy of the book has been placed in the Manuscript Division of The Historical Society of Pennsylvania.

RECORDS
OF THE
COURT OF NEW CASTLE

bread and Cheese Iseland which the Def^t hath taken possession of The Def^t for plea sayeth that y^e a^d tract of Land is his proper right whereupon a Jury is called Impannelled and attested who find for y^e Pl^t the land in Contraversy and [torn] pounds damage with Cost of Suit. The Def^t: Craves an apeall to the provinciall Court in Equity which the Court grant from the Verdict of the Jury

Cornelius Empson recognizeth himself in the Summ of one hundred pound Currant money to be leyed of his land goods and Chattells for the use of Wm Guest Conditioned that he Shall prosecute this apeall before the Judges of the next provinciall Court in Equity to be held at New Castle and to pay all Costs and damages that Shall be there decreed ag^t him.

Lower Counties on Delaware Es.

In pursuance of a Resolve of the Honorable House of Assembly of the Lower Counties on Delaware appointing us a Committee for causing the several Records of Transactions in the several Courts within the County of Newcastle, relating to the Titles of Lands, before the Year One thousand seven hundred, and of Warrants, Surveys, Patents, Deeds and Wills, signed, executed and Recorded before the same Year, in the several public Offices within the County aforesaid, to be Transcribed by the Officers respectively in whose custody they remain, and to compare them with the Originals, and make Report to the House of our Proceedings in the Premises. We Do now humbly report to the Honorable House that we have carefully caused such parts of the same Records to be transcribed as related in any wise to the Titles of the Lands within the said County, and have diligently compared the same with the Originals, and do certify that the foregoing Book marked (A) beginning with Folio one, on the tenth day of October in the year one thousand six hundred and seventy six, and ending with Folio five hundred and thirty, and on the twenty first day of November in the Year one thousand six hundred and ninety nine, contains nothing but true and genuine Proceedings faithfully and literally copied from Original Records.

Evan Rice
Tho M:Kean

INDEX OF PERSONS

Owing to the various nationalities of the Swedish, Dutch, English and Welsh settlers in Pennsylvania, together with the general illiteracy of the time, much diversity in the spelling of names will be found in the early court records. Some attempt has been made to represent the later accepted forms in this index.

Aside from the fact that with some the father's first name became the surname of the children we find that some names were changed so that they give no trace of identity, and others greatly changed from the original spelling.

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