An Act for establishing the boundaries of the town of Dover, and for other purposes therein mentioned.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That on the first monday of March next after the passing of this act, there shall be an election held at the State House in Dover, in the manner hereinafter prescribed for the purpose of electing five persons, who shall be resident freeholders in the said town of Dover to be denominated, Commissioners of the town of Dover who shall have full power and authority, and they or any three of them, are hereby required and directed, as soon as conveniently may be after their election, taking with them a skilful surveyor to be qualified upon his solemn oath or affirmation, to make an accurate survey of the town of Dover aforesaid, and to ascertain and fix the boundaries and limits of the same; and to regulate the Streets, lanes and alleys now open within the said town; and the said Surveyor shall, under the superintendance and direction of the Commissioners aforesaid, make out a careful plot or map of the survey, so to be made as aforesaid; which plot or map shall contain an account of the boundaries of the said town, and the courses, width and names, of the several Streets, lanes and alleys, (the names of said Streets, lanes, and alleys, to be given by the commissioners aforesaid, or a majority of them;) and the said plot or map shall be signed by the said Surveyor and Commissioners or a majority of them, and the same shall be lodged in the Recorders office for the County of Kent, there to be recorded, which

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said plot or map, or the record thereof, shall be deemed taken and received in all Courts of law ~~and~~ or Equity, or elsewhere with in this State, to be conclusive evidence of the boundaries of the said town of Dover, and of the courses, width and names of the several streets, lanes and alleys, within the same: Provided always, That the said commissioners, in ascertaining and fixing the said boundaries of the town of Dover aforesaid, not extend the same in a northern and southern direction ~~more~~ more than eighty perches from the centre of the Green in said town; and in regulating the streets, lanes, and alleys in the said town, they shall confine themselves, as nearly as may be to the now reputed streets, lanes and alleys within the same; and that they be not permitted, and they are hereby forbidden to open any street, lane or alley, or to interfere with any building formerly erected on the side of any street, lane or alley; Provided nevertheless, that nothing herein contained shall be construed to hinder or prevent the laying out, opening or altering any such street, lane or alley as aforesaid, for the purpose of straitening the same or otherwise, where the person or persons through whose ground the same would run shall voluntarily agree that the same may be done.

Section 2. And be it enacted, That the said commissioners shall fix posts or stones in the earth in the centre or middle of the Streets respectively where they intersect one another which posts & stones so set & fixed in the earth of the streets aforesaid, as well as all such other posts and stones as shall from time to time hereafter be so set or fixed in the earth, by the commissioners hereafter to be elected, shall in all cases, and in all Courts of law ~~and~~ or equity within this State, be deemed ~~taken~~ taken and allowed as land marks; and if any person or persons shall,

at any time hereafter wilfully pluck up or remove any of the said posts or Stones, every person so offending shall be guilty of a misdemeanour, and upon conviction thereof in the Court of General Quarter Sessions of the Peace in and for Kent County shall severally forfeit and pay the sum of one hundred dollars, besides the costs of prosecution, to the use of the Commissioners and inhabitants of the said town of Dover to be employed in, and towards the defraying the expenses of any public improvement which may be undertaken or executed by virtue of this act by the said Commissioners of the town of Dover.

Section 3. And be it further enacted, That if any owner or owners of any House, lot or lots, or of part of a House lot or lots, within the said town of Dover shall conceive him, her or themselves aggrieved by any act or acts of the said Commissioners or a majority of them, relative to the boundaries of the said town, the location of the said Streets, Lanes and alleys, or any other matter or thing which the Commissioners aforesaid may do or perform by virtue of this act, that then it shall and may be lawful for such person or persons, at any time within thirty days next following the delivery of the said return into the Recorders office, or within thirty days next after the determination of the said Commissioners to do or perform any other matter or thing shall be made public, but not after to appeal therefrom to the next Court of Common Pleas, or to the next Supreme Court to be holden at Dover, in and for Kent County aforesaid, he, she, or they first entering into a recognizance before the Prothonotary, or Clerk of the said Court, with at least

one sufficient surety, in double the value of the property in contro-
versy, and sufficient to answer all costs to prosecute the said appeal
with effect, and to abide the order of the said Court.

Section 4. And be it enacted, That in case of an appeal or appeals in
manner aforesaid, the person or persons who may conceive, him,
her or themselves to be aggrieved shall be the appellant or appellants,
and the Commissioners for the time being or a majority of them, shall
be the appellee, and the Court of Common Pleas, or the Supreme Court,
are hereby authorized and empowered to direct such proceedings
to be had therein as will cause a trial to be had by the Court and
Jury of the matter in controversy between the parties by a feigned
issue, and to give Judgment accordingly; and if in any such
case, it shall be determined by a Jury, that the appellant or ap-
pellants is or are ~~is~~ ~~are~~ aggrieved, the quantity of land claimed,
& how and in what particular the appellant or appellants
are injured or aggrieved shall be particularly described by the
Verdict of the said Jury, and Judgment of the said Court; and in all such
cases, the Court and Jury shall have full and ample power
and authority to take into consideration all circumstances
relative to the parties, and to do justice according to the rules
of the matter and Law of the land.

Section 5. And be it enacted, That the Clerk of the Peace for
Kent County aforesaid, be empowered and required on the first
monday in the month of March next, and on the first mon-
day in the month of March in every succeeding year thereafter
to hold an election for five Commissioners of the town of Dover, af-
ter giving five days previous notice of the time and place of holding

said election; that he shall 5 take to his aid two freholders of the said town to assist him in holding such elections; that at such elections every inhabitant of the said town entitled to vote at any General or Special election in this State; provided they shall have resided in the said town for the space of twelve months next preceding the time of holding such election and be at taxable therein, and also every free white man and woman of the age of twenty one years and upwards, who shall have a freehold interest in any real estate within the boundaries of the said Town of Dover and which is the subject of taxation, although not an inhabitant of the said town, shall be entitled to vote at such election. And the five citizens as aforesaid who shall have the highest number of the votes given in at any such election, to be held on the first monday of March in every year after the passing of this act, shall be the Commissioners of the town of Dover, aforesaid, until the first monday of march in the year thereafter, and until succesors shall be elected, and duly qualified to enter upon the duties of their office.

Section 6. And be it further enacted, That the Clerk of the Peace, aforesaid, shall administer an oath or affirmation, to the freeholders, which he shall appoint to aid him in holding such election, which said oath or affirmation may be after the following form; You — — do solemnly swear on the Holy Evangels of Almighty God, (or, and truly declare and affirm, as the case may be) that you will discharge the duties of a Judge of this election with fidelity, and that you will not consent to the receiving or rejection of any vote,

through favour, fear, affection malice or the hope of reward. So help you God. [or, so you declare and affirm] The Clerk of the Peace shall first administer the oath or affirmation to the freeholders, after which one of the freeholders shall administer it to him; and the said oath or affirmation shall be administered to the Freeholders and the Clerk of the Peace respectively before the opening of such election or the receiving of any vote. The Clerk of the Peace and the freeholders, aforesaid, shall make out a return, under their hands and seals respectively, of the election of the said Commissioners, and shall cause the same to be filed in the office of the Prothonotary of the Court of Common Pleas of the State of Delaware in and for Kent County aforesaid; and an authenticated copy of the said return, under the hand and Seal of the Prothonotary of the said County, shall be evidence of the matter therein contained in any Court of Justice in this State.

Section 7. And be it further enacted, That the said Commissioners of the Town of Dover, shall have power and authority, & they are hereby required as soon, as conveniently may be after their election on the first monday of March next and the first monday in March in ~~the~~ every by ear thereafter, to appoint some suitable person an assessor to make an assessment on the lands and tenements and assessible personal estate included within the bounds of the town of Dover, to be ascertained by the Commissioners aforesaid, and on all those persons residing within the same, that are liable under the existing laws of this State, to be assessed to any County or State rate; which assessment shall be made and returned to the said Commissioners, within six weeks next after the appoint-

ment of the said apesor; who shall cause three or more Copies thereof to be set up in at least three of the most public places in the said town, giving notice of the time when, and the place where the said Commissioners will hear and decide upon all appeals from the said apesment; and they shall when the said appeals all shall be settled, put up at least three lists of the Rate, as finally settled and established by them, in some such like public places, with the sum each taxable is to pay against his name. The said Commissioners shall be, and they are hereby, empowered to determine the sum to be raised on the said Town, and shall on the said Rates of apesment respectively apportion the sum so by them directed to be raised on the said Town; and also to cause such additional Wells and pumps to be settled as they shall deem necessary for the security of the said Town of Dover against fire; to provide fire ladders and hooks and buckets; to impose a fine of five dollars upon every Householder, who shall permit his, her or their Chimney to catch on fire, in such a state of weather as would be likely to endanger the said Town; to cause gravel, sand, or earth, to be carted and thrown on such foot paths or ways of the said Town as require improvement; to lay out the proper pavements and gutters for carrying off the water, at the expense of the proprietors of the ground in front of which such pavements and gutters are made; to fix upon some eligable situation for and to erect a Market House, which shall not however cost exceeding the sum of Four hundred dollars; and upon application of either party made to them to enter upon the lands of any person or persons, in order to lay out the foundation

and regulate the walls to be built between party and party with-
in the said town, as to the breadth or thickness thereof, which foun-
dation shall be laid equally upon the lands of the persons between
whom such party walls shall be made; and the first builder
shall be reimbursed one moiety of the charge of such party walls,
or for so much thereof as the next builder may have occasion to make
use of, before such next builder shall in any wise use or break into
the said wall; and the charge or value thereof shall be set by the said
commissioners or any three of them: Provided nevertheless, that nothing
in this act shall be construed to abrogate, annul or alter any contract
that hath heretofore been, or that may hereafter be made, by the own-
ers of adjoining lands in the said town; or to authorize laying out
and putting down any pavement of brick, other than in front of the
buildings in the said town, or for the purpose of joining pavements
where the space between the buildings shall not exceed fifteen
yards. The said commissioners or any three of them, shall have
full power to regulate all partition fences within the said town;
and where the adjoining owners or possessors do improve or inclose
their lots, such fences shall be made in the manner generally
used, and kept in good order at the equal cost of the parties;
and the said commissioners shall be the judges of the costs
or charges to be borne by both, or either of the said parties; and
if either party between whom such partition fence is or shall be
made, on request of the other shall neglect or refuse to pay his her
or their share or proportion of the expence of such partition fence
to be ascertained and fixed by the commissioners as aforesaid, and for
keeping the same afterwards in repair, that then the party at whose

costs the same was so made and repaired may recover the same before any Justice of the Peace for the County of Kent aforesaid or in any Court of this State as debts of a like amount are recovered by the laws of this State, and the said Commissioners shall be paid by the party or parties between whom such partition fence or party-wall is or shall be made one dollar and no more.

Section 8. And be it further enacted, That the said Commissioners shall have power and authority, and they are hereby required, to appoint annually, a collector of the taxes imposed by them on the persons and property within the bounds of the said town; and the Collector by them to be appointed, shall have as full and ample power to collect or enforce payment of the said taxes or rates imposed by the Commissioners as aforesaid, as the Collector of County rates and levies have or may have, by the laws of this State; and that the said Collector shall be allowed by the Commissioners aforesaid, five per centum for the collection of the said rates or taxes and the said Collector shall on the first day of September next after his appointment pay over to the Town Treasurer, who shall be appointed by the said Commissioners at the same time and place that they appoint the said Collector, the whole amount of the rates or taxes, imposed as aforesaid on the persons and property within the bounds of the said town as aforesaid, deducting therefrom only the amount of delinquencies, which shall have been allowed by the said Commissioners, and his compensation or per centum for his trouble. The said Collector shall take an oath or affirmation before he enters upon the duties of his office to perform the same with fidelity, which oath or affirmation shall be administered to him by one of the said

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Commissioners; and he shall also enter into a Judgment Bond, with sufficient Surety in double the amount of the rate and levies, which it shall be his duty to collect, to the said Commissioners and their successors, with condition thereto annexed that the same shall be void, if the said Collector shall faithfully and diligently discharge the duties of his said office, and pay over to the town Treasurer aforesaid the amount of the rates, and taxes, as aforesaid, or otherwise to be and remain in full force and effect; and in case of delinquency by such Collector the said Commissioners may enter such bond and issue execution immediately for the amount of such delinquency.

Section 9. And be it further enacted, That the said Commissioners shall take from the person by them appointed as aforesaid Town Treasurer a Judgment Bond in the penal sum of two thousand dollars, with sufficient sureties for the faithful performance of his duties as prescribed by this act; which said Bond shall be taken in the name of the "Commissioners of the town of Dover". And the said Commissioners shall also appoint a Clerk of the said Town, who shall keep minutes of the proceedings of the said Commissioners in a Book to be by him provided for that purpose, which said book of minutes shall be evidence, in any Court of Justice in this State, of the proceedings of the said Commissioners; and the said Clerk shall keep all books of accounts, and perform all other matters and things which may appertain to his said office, for which he shall receive a Compensation to be fixed by the said Commissioners.

Section 10 And be it further enacted, That the town

Treasurer aforesaid, shall not pay out any money that shall come to his hands, except it be upon a written order signed by at least a majority of the said Commissioners and attested by the Clerk of the said Town; that he shall settle his accounts once a year before the said Commissioners, at such time as they shall appoint for that purpose, and pay over to his successor in office any balance that may appear to be in his hands after deducting therefrom two percentum on the amount by him received and paid out to the orders of the Commissioners as aforesaid for his trouble; and that the said Treasurer shall deposit all money by him received by virtue of this act, in the Farmers Bank of the State of Delaware, and may draw for the same from time to time to pay the orders of the said Commissioners, or the amount of his commissions.

Section 11. And be it further enacted, That the Commissioners aforesaid or a majority of them, are authorized, empowered and required to cause to be put down a pavement in front of the State House, and to repair the roof to prevent its leaking the walls of the said House by filling up the padlock holes and otherwise to repair the same as to them may seem necessary, and to draw on the State Treasurer for the amount of the said pavement and repairs, who is hereby authorized and required to pay the said orders out of any monies in his hands not otherwise appropriated: Provided that the sum expended in repairing said walls do not exceed Seventy five dollars.

Section 12. And be it further enacted, That if the proprietor of any House, or land before or in front of which

the said Commissioners shall have laid out pavements, and gutters for carrying off the water, shall neglect or refuse for the space of three months to put down such pavement, or to cut and make such gutters, it shall and may be lawful for the said Commissioners, to cause such pavements & gutters to be made, and to recover the Costs of the same by distress and sale of any goods, Chattels, Lands and ~~tenements~~ belonging to such proprietor within the bounds of the said Town. And if any pavement already down shall be deemed an insufficient pavement by the said Commissioners or a majority of them, they shall have power to direct the owner thereof to make a sufficient one, and upon his neglecting or refusing to do so, for the space of three months, the said Commissioners shall cause the same to be done, and recover the expense of the same in the same manner as is herein prescribed for the recovery of the Costs of constructing and making new pavements, and gutters for carrying off the water when the owner ~~when the owner~~ of the House or land in front of which the same is made, hath neglected or refused to do so for the space of three months. The said Commissioners shall also have power to abate nuisances within the boundaries of the said town; To ascertain fix and limit the rent to be paid for the use of the Stalls in the Market House by them to be constructed, to appoint a Clerk of the said Market and to make rules & regulations to govern the same, and to inflict penalties for the violation thereof.

Section 13. And be it further enacted, That the said commissioners shall not, themselves, receive any money to be raised by virtue of this act, and their drafts or orders upon the said Treasurer shall always be in favour of those to whom it may be due for services rendered, or for materials furnished, the said town; and that if any commissioner shall get into his possession, any money raised upon the said town, against the provisions of this law, or be guilty of any malpractices to the injury of the said town, he shall thereby forfeit his office, and a suit may be instituted and maintained against him in the name of the commissioners of the said town, to recover compensation in damages for the injury sustained; - and the said commissioners or any one of them, shall be liable to be indicted and fined, on conviction for any fraudulent or oppressive act done by them, or any of them, under colour of their said office.

Section 14. And be it further enacted, That the commissioners of the town of Dover, to be elected as hereein before prescribed, shall be and they are hereby created a body politic and corporate, in law, and the said commissioners of the Town of Dover and their Successors shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend, and be defended, in all Courts of judicature whatsoever in this State by the corporate name of, "The Commissioners of the Town of Dover;" and may have and use a common seal, with such device or devices as they shall think proper, with power to alter or change the same as may be deemed expedient; to purchase

take, hold, receive and enjoy any Messuages, lands, tenements or hereditaments in fee simple or otherwise, and also goods and chattels rights and credits, and to alien, grant, demise, sell and dispose of the same in such manner and form as they may deem expedient; provided nevertheless that there is hereby reserved to the Legislature the power and authority, to repeal this act or any part thereof or any other law which may be hereafter be enacted respecting the said Town of Dover.

Section 15. And be it further enacted, That all fines and forfietures which may accrue or be recovered by virtue of this act, shall be for the use of the said town of Dover

Section 16. And be it further enacted, That if the place of any of the said Commissioners shall become vacant by death, resignation or otherwise during the term for which such Commissioners was chosen it shall be supplied by the remaining Commissioners, who are hereby directed and required, to elect by ballot as soon as conveniently may be thereafter some suitable person to fill such vacancy.

Section 17. And be it further enacted, That the said Commissioners, shall have power and authority to direct the planting of ornamental trees, in such places, and at such distances from each other, as they or a majority of them may deem meet and proper; and also to direct what kind of defences shall be erected around the same. If the said Commissioners shall direct the planting of any tree or trees,

and the erection of defences for the same in front of any house or lands within the bounds of the said Town, the Costs thereof shall in all cases be borne and defrayed by the proprietor of such house or lot; and if such proprietor shall neglect or refuse to plant such tree or trees, or to erect such defence or defences for the space of three months, it shall and may be lawful for the said Commissioners to cause such trees to be planted and such defences to be erected, and to recover the costs thereof from such proprietor in the manner prescribed in the twelfth section of this act for the recovery of the costs of putting down pavements and cutting and constructing gutters to carry off water. In all cases where it shall become necessary under the provisions of this act for the said Commissioners to cause any work or labour to be done and performed, in consequence of the neglect or refusal, of any proprietor of any house or ground situate within the limits of the said town, to do the same, it shall and may be lawful for the said Commissioners to authorize, by writing under their hands or the hands of a majority of them, the Collector of the said town to levy the distress upon and to make sale of, the goods and chattels lands and tenements of such neglecting or refusing proprietor

Section 18. And be it further enacted, That nothing herein contained shall be construed or understood to affect the public roads running through in and about the said town, all of which shall remain to be kept up and protected as they heretofore have been by the existing laws of the State

Passed at Dover
Feby. 16. 1829

William D. Morris
Speaker of the House of Representatives

P. Spruance
Speaker of the Senate

No 132. HR.

An Act
for establishing the
boundaries of the town
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Feb. 10. 1829.