An Act in relation to the Town of Dover.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met as follows, to wit.

Section 1. The limits of the town of Dover shall be and are hereby declared to be the same as marked and designated on the Plot of said town made out by the commissioners under the act entitled "An act for establishing the boundaries of the town of Dover and for other purposes herein mentioned" passed at Dover February 10. 1829. and as extended by the act entitled "A further additional Supplement to the act entitled 'An act for establishing the boundaries of the town of Dover and for other purposes therein mentioned" passed at Dover March 2. 1853.

Section II. The Justices of the Peace resident in said town shall be Aldermen of said town ex officio a town commissioners and President of the town Committee. It shall be his duty to execute all laws enacted for the peace and good government of the town and to carry into effect all the lawful orders and directions of the town committee made in pursuance of any law of this State or of any ordinance that the said town committee may be empowered to make and establish. He shall have all the powers of a Justice of the peace coextensive with said Justice within the town and shall have jurisdiction and cognizance of all breaches of the peace and other offences in said town so far as to arrest

and hold or sell or fine and imprison offenders and all fines forfeitures and penalties which may be prescribed by any law of this State or by any ordinance of the town committee legally passed and established for the government of the town and of all neglects omissions or defaults of any town constable collector assessor treasurer town clerk or any other officer or person whose duty it may be to collect receive pay over or account for any money belonging to said town or to account or by any law or ordinance thereof provided that he shall not impose any fine exceeding ten dollars or have jurisdiction in civil matters exceeding the sum of ten dollars exclusive of costs. It shall be his duty at the request of any citizen to convene the town committee for any purpose connected with their duty. His fees for any service under this section shall be the same as those of a Justice of the Peace for a like service. He shall upon every conviction of a riotous turbulent or disorderly person under the provisions of this act shall be one dollar: and for any service or duty for which no fee may be provided by law the fee may be established by the ordinance of the town committee. But the Alderman shall have no vote in establishing any such fees nor upon any ordinance or question touching his compensation or any duty to be performed by him.

Section III. On the first Monday in March next there shall be an election held in the Council room in Dover for four commissioners of the town of Dover two of whom

shall be elected for two years and two of whom shall be elected for one year.
There shall also be an election held at the place aforesaid on the first Monday
of March A.D. 1862. for two commissioners to succeed those two elected for one year
as aforesaid. and to continue in office for two years. And there shall be an election held
on the first Monday in March in each and every year after the year A.D. 1862 for two com-
missioners who shall continue in office for two years: so that after the first election herein-
before provided for, there shall be two commissioners elected at the election in each
year for the term of two years. The commissioners shall be resident freeholders in said town
at the time of their election. Said election shall be opened at one o'clock and
close at four o'clock P. M. At such elections every free white male citizen residing
in said town, who shall be of the age of twenty one years and shall have paid the town
tax last assessed to him shall have the right to vote. Immediately after the election
shall be closed, the votes shall be read out and counted and the two persons having the high-
est number of votes shall be elected. In case of a tie the Alderman may give the casting
vote. The election shall be held by the Alderman and the two commissioners, who hold over.
The Alderman shall receive the ballots, and deposite them in a box to be provided for
that purpose. and the assisting commissioners shall each keep a list of the
votes voting. When the election shall be closed, the Alderman or one of his assistants
shall draw said tickets out of the box, open, and read out the same, and pass the same

one to one of the others for his inspection, while the third election officer shall tally the votes. After the result shall have been ascertained, the election officers shall make out certificates and deliver one to each of the commissioners elect with a notice of the time and place of the next meeting of the town committee. The commissioners elect shall be sworn in at said next meeting or any subsequent meeting by the alderman or one of the commissioners holding over. The first election herein before provided for, shall be held by the alderman and two of the present commissioners. If at any election the alderman or the commissioners whose duty it is to hold said election, should not be present for that purpose at the time herein before designated, the voters present may proceed to elect some one of their number in lieu of the alderman or absent commissioner, or commissioners. A minute of each election containing the names of the commissioners elect shall be entered immediately after said election in a book to be provided for that purpose and subscribed by the persons holding said election. Said book shall be preserved by the town commissioners and shall be evidence.

Section IV. The commissioners to be elected as herein before provided for and the Alderman shall be and they are hereby created a body politic and corporate in law and shall be able and capable to sue and be sued, plead and be impleaded in all courts of this state by the corporate name of "The Town of Dover". And may purchase, take, hold and enjoy lands tenements and hereditaments, in fee simple or otherwise, and also goods and chattels,

rights and credits. and may alien. grant. devise and dispose of the same as they may deem proper. and may do all other things which a body politic and corporate may lawfully do. to carry out and effect the object and purposes of this act. The alderman and commissioners for the time being shall have the superintendence and oversight of all the roads and streets now open within the limits of said town, and no overseer of any of said roads or streets shall be appointed by the levy court of Kent County but the said Levy Court shall annually appropriate for the repair of said roads and streets a sum of money not less than one hundred and fifty dollars and shall make an order for the payment thereof to the said commissioners. which sum so appropriated shall be expended for that purpose and no other. The said commissioners shall account to the Levy Court for the said money in the same manner as overseers of roads in said County. they shall severally receive and be allowed for each days actual service on said roads or streets. one dollar and for each half days service fifty cents. but no compensation shall be allowed for any fraction less than half a day.

Section V. The alderman and commissioners shall have power upon the application of ten, or more citizens of the town by petition for that purpose, to locate, lay out, and open any new street or streets or reopen any old street or streets now closed or which may hereafter be closed which ten or more citizens may desire to be located, laid out and opened, or reopened, allowing to the persons respectively through or over whose grounds such street or streets may pass such compen-

-sation therefor as they shall deem just and reasonable under all circumstances which compensation if any be allowed, shall be paid by the treasurer of the town out of the monies of said town upon warrants drawn upon him by the commissioners aforesaid

Section VI. Whenever the alderman and commissioners shall have proceeded to locate and lay out any street and shall have fixed the compensation therefor it shall be their duty immediately after the survey and location of the said street, to notify in writing the owner or owners of the real estate through or over which such street may run of their determination to open the same and to furnish a general description of the location thereof and also the amount of the damages or compensation allowed to each, and if such owner be not resident within the said town, to notify the holder of said real estate. If any owner be dissatisfied with the determination to lay out and open the said street or with the amount of the compensation or damages allowed by the alderman and commissioners he may within ten days after receiving notice from the alderman and commissioners as aforesaid appeal from the said determination or assessment or both by serving written notice to that effect on the said alderman and commissioners or some one of them. In order to prosecute said appeal such owner or owners shall within ten days after the expiration of the ten days allowed for appeals, apply to the Prothonotary of the Superior Court of the State of Delaware in and for Kent County who shall within three days thereafter, and upon notice to said alderman,

and commissioners & some one of them select and write down on a list the names of twenty one judicious and impartial freeholders residing in Dover Hundred ten of whom shall be freeholders owning no real estate in said town and eleven of whom shall be freeholders owning real estate in said town. Upon receiving said notice from the Prothonotary said Alderman and Commissioners shall immediately notify all persons owning real estate on the said street and residing in said town who have notified him of their intention to appeal of the time and place when and where the said names will be selected and at the time and place mentioned in the notice of the prothonotary said Appellants and Alderman and Commissioners shall attend. Then appellants their agent or attorney shall first strike one of said names and the alderman and commissioners their agent or attorney shall strike out another in like manner alternately until nine shall be left which freeholders list upon the list who shall constitute the freeholders to determine concerning the necessity of said street and assess the damages of all the owners of real estate through or over whose premises said street shall pass. Who shall have notified the Alderman and Commissioners of their intention to appeal and their award and assessment shall be final. and a copy thereof shall be communicated to all the parties appellant and respondent. In case either side be not represented before the Prothonotary or shall refuse to strike the Prothonotary shall strike for the party or person neglecting or refusing, any one of the parties may within ten days after the appointment of the said freeholders and upon five days notice to the other parties resident in said town & in case of non residence

five notice to the holders of any such estate but the freeholders aforesaid who shall thereupon proceed upon oath or affirmation to enquire of the necessity of such street and if they deem such street to be necessary to assess the damages of the several owners & their award shall be made within twenty days from the time of notifying them to meet. If any freeholder thus appointed or notified shall refuse to serve he shall forfeit the sum of twenty dollars to be recovered in an action of debt before any Justice of the peace of Kent County in the name of the town of Dover and for the use of said town & in any case the award of the freeholders shall be against the necessity of any such street, then no petition for any such street so condemned shall be entertained by the Aldermen and commissioners then acting for one year. The act of the majority of the said freeholders shall be as good as the act of the whole in making any such award or assessment of damages.

Section VII. If on any such appeal the award shall be against the necessity of a street & the freeholders shall increase the damages of any appellant then the costs of the appeal shall be born by the town. But if the freeholders shall affirm the necessity of the street and shall not increase the damages of any appellant then the costs shall be paid by the appellants equally. The fees of the freeholders shall be one dollar per day.

Section VIII. The damages which may be assessed upon the occasion of open-

-ing any street shall be paid out of the town funds or duly tendered before the property of any person in whose favor the damages are assessed shall be appropriated for the opening of any such street: and in case any such owner or owners in whose favor damages are assessed shall be a minor, or non-resident, or shall refuse to receive or be incapable for any cause of receiving the same such damages may be deposited in the Farmers Bank of the State of Delaware at Dover to the credit of such person or persons and subject to his or their order, and such deposit shall operate as payment.

Section IX. The aldermen and commissioners or a majority of them are hereby authorized and required to direct in writing the proprietor or proprietors of any house or land in the town of Dover, before or in front of which they may deem proper that a pavement or gutter or both should be made to lay a pavement of bricks or smooth stones or to make a gutter or lay a pavement and make a gutter of such length width or depth (if a gutter) as the said commissioners may specify in such direction, and if such proprietor or proprietors shall neglect or refuse for the space of three months after being directed as aforesaid to lay such pavement with good and sufficient curbs, or to cut and make such gutters, it shall and may be lawful for the said aldermen and commissioners, and they or a majority of them are hereby authorized and required to cause such pavements and gutters to be made, and to recover the costs of making the

same by distress and sale of any goods and chattels. Lands and tenements belonging to such proprietor or proprietors within the limits of said town. If any pavement or gutter already made shall at anytime by the said Alderman and Commissioners or a majority of them, be deemed an insufficient pavement or gutter, they or a majority of them shall have power and are hereby legained to direct in writing the proprietor or proprietors thereof to make a sufficient one, and upon neglect or refusal so to do, for the space of three months the said Alderman and Commissioners, or a majority of them shall cause the same to be done and recover the cost of doing the same in like manner as above described in case of new pavements. Notice to one coproprietor shall be notice to all: in case no proprietor shall live in the town, notice to the occupier of the said property shall be deemed a sufficient notice to the proprietor. The said alderman and Commissioners or a majority of them may cause such sidewalks or portions thereof as are unpaved, and which they may not deem proper to be paved to be curbed and covered with gravel sand or dirt and to be put in good order for the convenience of the citizens of said town. at the proper cost and charge of the owners of the property. They may cause flag stones to be put down at the crossings of the streets whenever they may think necessary and the cost of doing the same shall be defrayed out of the funds of the town.

Section X. It shall be the duty of the alderman and Commissioners of the town.

and of the Constable of Kent County residing in said town and of the town Constables to suppress all riotous, turbulent, disorderly or noisy assemblages or gatherings of negroes, mulattoes, or other persons, in the streets, Lanes or alleys of said town after night, or on the sabbath day, or at any other time or season whatever: and for this purpose it shall be the duty of any of said Constables upon the requisition of the Alderman or any one of said Commissioners and without further warrant forthwith to seize and arrest any such negros, mulattoes or any other persons so offending and to carry them before the Alderman, whose duty it shall be to hear and determine the case and upon conviction before him said Alderman shall sentence any such negro, mulatto, or other person so convicted to pay a fine not exceeding five dollars and may commit the party to prison for a period not more than five days, or until said fine and costs be paid, or in the case of a negro or mulatto, he may order said negro or mulatto to be whipped at the whipping post in said town by one of the constables designated by him for that purpose, with not less than ten, nor more than twenty lashes. It shall be the duty of said Alderman upon complaint made before him of any such riotous, turbulent or noisy assemblages as aforesaid, to issue his warrant to any one of the Constables, aforesaid commanding him to bring any such negro, mulatto or other person, so offending as aforesaid before him for trial. Any Constable arresting any such negro, mulatto or other person, offending as aforesaid after the hour of twelve o'clock at night, may take said negro,

mulatto. or other puson and deliver him into the custody of the keeper of the gail of Kent County. to await a trial before the Alderman as aforesaid. The fee to the Alderman for the trial of any case under this Section shall be fifty cents. The Constable making the arrest and the keeper of the jail shall each also receive in case of commitment whether by the Alderman or by the Constable fifty cents. In case of conviction the Constable shall have an additional fee of fifty cents.

Section XI. The Alderman Commissioners. and Constables. shall have power. and authority to suppress extinguish. and prevent all bon fires in any of the Streets lanes. alleys. or squares of the said town and to suppress and prevent the firing of guns or pistols or the letting of fireworks or the making and throwing of fireballs within the limits of said town: and the said Alderman and Commissioners may enact and publish ordinances with reasonable penalties for preventing the same. and punishing persons guilty of their violation. any fine imposed by any such ordinance may be collected before said Alderman or any Justice of the peace in said town during his absence and in default of payment said Alderman or Justice may commit for any time not exceeding five days.

Section 12. The said Alderman and Commissioners shall annually appoint four town constables who with the Constable of Kent County residing in said town shall constitute the town police.

Section 13. If any Constable shall neglect or refuse to perform the duties above

enjoined by this act he shall be deemed guilty of a misdemeanor in office and it shall be the duty of the alderman and commissioners to present him to the grand jury: and upon conviction he shall be fined in a sum not less than ten nor more than twenty dollars, and shall also forfeit his office.

Section 14. The said alderman and commissioners shall have authority to make such regulations and ordinances relative to the travelling over and upon the said streets and the use thereof, and the preventing or placing of carts, carriages, and other vehicles or obstructions in and upon any of said streets, lanes, alleys or sidewalks as they shall deem proper to secure the free and uninterrupted enjoyment thereof, and if any person shall wilfully violate the regulations and ordinances of the alderman and commissioners in that behalf, every person so offending shall forfeit and pay to the alderman and commissioners for the use of said town a sum not exceeding five dollars with costs at the suit of — said alderman and commissioners in the same manner as debts of that amount are by law recoverable.

Section 15. The said alderman and commissioners are hereby authorized and required to cause all obstructions and nuisances that may at any time be and exist within the limits of said town whether in the streets, lanes, alleys, or on the sidewalks or in any other place within the limits aforesaid, to be removed,

and abated. The said Alderman and commissioners or a majority of them may proceed either on their own view or upon complaint of any other citizen in writing stating the character of said nuisance or obstruction and where the same exist & the said alderman and commissioners or a majority of them either of themselves or upon such information and upon view shall determine that an obstruction or nuisance exists and ought to be removed they shall give notice in writing to the person causing the obstruction or nuisance or who is responsible for its existence or continuance to remove or abate the same and if such person shall refuse or neglect for the space of two days after such notice he shall forfeit and pay the sum of five dollars with costs to be recovered by the alderman and commissioners for the use of the town in the same manner as debts of that amount are recoverable and for every additional day the same shall remain unabated and unremoved shall forfeit the further sum of one dollar to be recovered with costs in the same manner.

Section 16. It shall and may be lawful for the said alderman and commissioners to use the jail of Kent County for the purpose of carrying into effect any Judgment or Sentence pronounced under the provisions of this act or for carrying into effect any ordinance or regulation adopted under the provisions of this Act

Section 17. The alderman and commissioners shall have authority to use the money in the treasury of said town for the improvement benefit

and ornament thereof as they may deem advisable. In the general performance of their duties, the acts, doings, and determinations of a majority of the town committee consisting of said Alderman and commissioners shall be as good as the acts, doings and determinations of the whole. In case of a vacancy among the commissioners the survivors or others shall have the same power and authority as the whole.

Section 18. The said alderman and commissioners shall have power and authority, and they are hereby required as soon as conveniently may be after the election of the commissioners on the first monday of March next, and the first Monday in March in every year thereafter to appoint a treasurer, collector, and clerk, and also some suitable person assessor, who shall be at the time of his appointment a freeholder in said town, to make a true, just and impartial valuation and assessment of all the real estate within said town and also an assessment of all the white male citizens residing in said town above the age of twenty one years, as well those owning as those not owning real estate within the limits of said town and also the personal property of such citizens subject to county assessment. And the said assessor shall make such assessment and return the same to the alderman and commissioners within six weeks next after the appointment of said assessor. The alderman and commissioners shall assess the real estate

and personal, and taxable personal property of the Assessor. The aldermen and commissioners shall within five days next after receiving the said assessment list cause a full and complete transcript of said assessment list to be hung up at the post office in said town there to remain for the space of ten days thereafter for public information: And the said aldermen and commissioners shall on the Monday next after the expiration of the said ten days hold a Court of appeal which shall continue open from one o'clock till four o'clock P. M. of said day. when they shall hear and determine appeals from the said assessment. Notice of the hanging up of the list and also at the same time notice of the time and place of hearing appeals shall be given by publication in a newspaper published in said town. or by notices posted in at least six public places therein. The decision of the Aldermen and commissioners upon any appeal shall be final and conclusive. No commissioner shall sit upon his own appeal, but the same shall be heard and determined by the others. The assessor in making the assessment shall include therein all dogs owned or kept within the said town, and the owner or keeper of any dog or dogs included in said assessment shall be liable to pay a yearly tax of fifty cents for each and every dog so owned or kept by him. After the valuation and assessment shall be examined and adjusted by the said aldermen and commissioners, all taxes shall be levied, assessed and raised, on the real estate,

personal property, persons and dogs, thus valued and assessed, in just and equal proportions and rates. The assessor immediately after his election and before entering upon the duties of his office shall be sworn or affirmed, by some judge or justice of the Peace, diligently, faithfully and impartially to perform the duties of his office to the best of his ability knowledge and judgment, and a certificate thereof shall be made by the person administering the oath or affirmation in the record book of the commissioners and aldermen containing the certificate of the election of the commissioners assessor and treasurer aforesaid.

Section 19. The Alderman and commissioners after having ascertained the sum necessary to be raised on the said town for the purposes of this act. (which said sum shall in no year exceed five hundred dollars nor be less than two hundred dollars,) and after having apportioned the same on the assessment and valuation aforesaid shall yearly in the month of april or as soon thereafter as convenient furnish the treasurer of said town with a list containing the names of the taxables, as well the owners of real estate, as those not owning real estate, and opposite the names of each the amount of the real estate his poll and assessable personal property and also the number of dogs owned by each person, and the tax on the whole valuation and assessment and the rate per hundred dollars. The list shall be signed by the alder-

=man and commissioners or a majority of them. The Treasurer immediately after receiving the said list shall proceed to collect the taxes mentioned in the said list and in collecting the same shall have the same powers as are given by law to the Collectors of County Rates and levies. The Treasurer before he enters on the duties of his office shall give bond with sufficient surety in the penal sum of one thousand dollars to the town of Dover conditioned for the faithful discharge of the trust reposed in him and the payment over to his successor in office of all such sum of money as may remain in his hands upon the settlement of his accounts. The said Treasurer shall pay all orders drawn on him by the said commissioners or a majority of them, and shall settle his accounts with the said commissioners annually in the month of February and as often and at such times as they or a majority of them shall require. The said treasurer, clerk and assessors shall each have a reasonable compensation to be determined by the commissioners and alderman. Provided the compensation of the treasurer as such shall not exceed three per cent. and that of the Collector or of the Treasurer acting as Collector shall not exceed ten per cent.

Section 20. The said alderman and commissioners shall have power in any year in which they may think proper to appoint a collector for said town, to collect the town tax levied by the said commissioners. The said Collector before he enters upon the performance of his duties shall give bond in

the sum of one thousand dollars to the alderman and commissioners conditioned for the discharge of his duties and the payment to the treasurer of all monies collected by him and for the settlement of his accounts with the treasurer in the month of February and at such other times as the alderman and commissioners shall require. In case a collector be appointed the list which the alderman and commissioners by section 19. are required to deliver to the treasurer shall be delivered to the collector. The collector shall have the same powers in the collection of the taxes as are conferred on the treasurer by said section and shall receive reasonable compensation to be determined in like manner.

Section 21. The present commissioners, treasurer clerk and assessor shall remain in office until the election next after the passage of this act. and until successors be duly chosen.

Section 22. All acts and parts of acts as are inconsistent with the provisions of the act. or which have been supplied by, and embraced in this act. are hereby repealed.

Section 23. This act shall be deemed and taken to be a public act. and shall be printed among the laws of this State.

Passed at Dover.
February 27. 1861.

John F. Williamson
Speaker of House of Reps

John Martin
Speaker of the Senate

An Act - in relation
to the Town of Dover.

Copied

Passed February 27. 1861