An Act to Incorporate the Town of Little Creek.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (two-thirds of each branch concurring therein):-

Section 1,- That the citizens of the town of Little Creek shall be and they are hereby created a body politic and corporate in law and in equity, and shall be able and capable to sue and be sued, plead and be impleaded in courts of law and equity in this State and elsewhere, by the corporate name of the Town of Little Creek, and shall have a corporate seal, with power to alter the same as they may deem expedient, and with power to purchase, hold, receive and enjoy any lands and tenements or personal property, and to alien, grant, sell and dispose of the same in such manner as may be necessary.

Section 2,- The boundaries of the said town of Little Creek shall be as follows:- Beginning at a point in Little Creek River where there is a bridge and thence along said River in a westerly direction past the canning factory in the said Town of Little Creek, and thence in a northerly direction along the line of Wilson's field to a lane leading from the house now occupied by Robert Carsons, thence along said lane in an easterly direction to a fence, thence along said

fence in a northerly direction along the line of Wilson's field to a lane leading from Collin's house to the Public Road, thence across the said lane in a northerly direction to a point opposite the Mahon's Ditch Road, thence in an easterly direction to the Public Road leading from Little Creek River to the Mahon's Ditch Road, thence along said Public Road southerly to a gut on the easterly side of said road, thence following the course of said gut in a southerly direction until it comes back to the said Public Road in front of Love's Store, thence along the eastern boundary of said Public Road southerly to the aforesaid bridge, the place of Beginning. And the Commissioners hereinafter pro-vided for may at any time have the same surveyed, and a plot thereof made, and may have said plot recorded in the office of the Re-corder in and for Kent County, and being so recorded, it or a duly cer-tified copy thereof shall be evidence of what is therein properly set forth. The said town Commissioners may also have the streets, lanes and alleys surveyed and designated upon said plot. The streets as now known and established are as follows:- The Public Road leading from Little Creek Bridge to the Mahon's Ditch Road and within the above limits shall be called Maine Street and is not less than thirty feet wide, and the street back of the canning factory leading to the lane from Wilson's farm shall be called Clark Street, and is not less than thirty feet wide.

Section 3. That John T. Buckson, James Thomas Lowe, Thomas Kinzy, Samuel N. Lowber and Robert Blizzard shall be the Commissioners for the said Town of Little Creek until the first Monday in March in the year of our Lord one thousand nine hundred, and upon the said first Monday in March, and annually thereafter from two till four o'clock in the afternoon a town election shall be held by ballot for the purpose of electing five Commissioners and an Assessor, at which election all male citizens of twenty-one years of age, who shall have paid their town tax last assessed against them, or if they shall have become a resident in said town since the last town assessment was made and thirty days previous to the aforesaid election, and shall have paid their county and road taxes for the year current or next preceding, or if they shall have gained their majority since the last assessment was made, they shall have the right to vote at said election. The election shall be held by the Alderman of the said town and two of the Commissioners who shall be chosen at the last stated meeting of the said Commissioners previous to the election. In the event of a tie vote the Alderman shall give the casting vote to decide the election, and the persons having the highest number of votes shall be elected, and the Commissioners chosen to hold the election, shall be duly sworn to discharge their duties with fidelity and impartiality, and the Alderman or any Justice of the Peace shall

administer said oath or any other oath required by the provisions of this Act.

Section 4,- That in each and every year there shall be four stated meetings of the Commissioners of the town of Little Creek as follows:- on the first Monday of each of the months of March, June, September and December, at which meetings the said Commissioners may pass all ordinances that may be necessary for the good government of the town of Little Creek & the improvement of the streets, pavings, or sidewalks, and the proper lighting of the streets, and the planting and protection of ornamental trees, and for all other matters relating to the town of Little Creek that may be provided for by any of the provisions of this Act. The said Commissioners may pass ordinances imposing fines, penalties and forfeitures, and provide for their collection.

Section 5,- At the first stated meeting of the Commissioners in each and every year one of the said Commissioners shall be chosen President of the Board of Commissioners, and the President shall preside at all the meetings of the Commissioners, and shall have the general supervision of all the streets lanes and alleys of said town, and of all the persons that may be employed by the Commissioners, and shall receive complaints of nuisances and any other complaints of the citizens of the town of Little

Creek of the violations of the ordinances of the said town, and shall present the same to the Commissioners at their next meeting for their action; and in all cases where immediate action is required the President shall cause the same to be proceeded on by the Alderman. He shall sign all warrants for the payment of money, and shall perform such other duties as may be imposed by any of the ordinances of the said town.

Section 6, - The Town Commissioners shall have power to widen, straighten and extend the streets now existing, and also to lay out and open new ones, and for that purpose to purchase or condemn and appropriate land. When land is desired for either of these purposes, the Commissioners shall have a survey and plot made of the same clearly setting forth what is wanted and giving boundaries of the same by courses and distances, which said plot shall be submitted to the owner of said land, if the owner be a resident of Kent County, and the Commissioners shall endeavor to agree with him as to the price to be paid for the same. If the Town Commissioners and the owner thereof shall not be able to agree as to the price of the land as aforesaid, then and in such event the Town Commissioners shall choose two competent persons, and the owner of the land shall choose two competent persons whose duty shall be to value the land to be taken and assess the proper damages to be paid to the owner

thereof for taking the same. If the persons so so chosen shall fail to agree as to the proper assessment of damages, it shall be the duty of the said persons to choose an additional referee, who with the four already appointed shall make the assessment of damages and sign an award stating the amount of such assessment of damages and file the same with the Clerk of the said town for the inspection of all parties concerned. Should the owner of the land thus appraised deem the said valuation too low, he may within ten days after having received notice thereof in writing file with the Clerk of the said town an appeal from the decision of the referees chosen as aforesaid, and upon the filing of such appeal it shall be the duty of the Clerk to make forthwith a transcript of the proceedings had in the assessment and certify the same to the Prothonotary of the Superior Court in and for Kent County, who shall docket the same, and without further pleading put it on the trial list at the next Term of the said Superior Court, at which Term it shall have precedence and be tried unless continued by mutual consent. The appeal thus provided for shall be tried as other cases are tried in said Court. In the event that the owner of the land should refuse or decline or for any reason be unable to name the referees provided for in this Section, it shall be the duty of the nearest Justice of the Peace upon notice to act in behalf of the owner of the land in question

and anything the said Justice of the Peace shall do in that be-
-half shall be as legal as if the owner himself had so done.
If the owner of any such land be non-resident, two weeks notice of
these proceedings shall be given by the Town Commissioners to the
agent or tenant of the owner of the land of the intended condemnation
thereof, and if the owner shall have no agent or tenant in Kent
County upon whom a notice may be served, then and in such event a
notice shall be sent by mail to his address at least ten days before
proceedings shall be taken. If the owner shall have no known address
or shall fail to appear within ten days after any of such notices shall
have been given as aforesaid, then and in such case the nearest Jus-
-tice of the Peace shall be notified by the Commissioners, who shall
appear and act in behalf of the owner throughout the entire
proceedings, or until the appearance of the owner of the land,
and a notice shall be posted on the most conspicuous place on
the premises. Before entering upon their duties the said referees
shall be sworn to perform their duties without partiality and
with fidelity, and no referee shall be a citizen of the town of
Little Creek unless those chosen by the owner of the land. Should
the owner of the land to whom damages shall be awarded be
absent or not capable of receiving the same, the Town Commis-
sioners shall cause the amount awarded as aforesaid to be

placed in the Farmers' Bank of the State of Delaware, at Dover to the credit of the owner or owners, and the Town Treasurer shall procure two receipts from the Cashier of the said Bank and file one with the Clerk of the town of Little Creek, and, if possible, mail the other to the address of such owner or owners. Should the Commissioners deem the finding of the referees too high, they may file and prosecute an appeal in the Superior Court in the same manner as the owner of the land, or they may abandon the project.

Section 7.- That the Town Commissioners at their first stated meeting, or as soon thereafter as convenient, and annually thereafter, shall elect by ballot some suitable and competent person to be Alderman of the town of Little Creek, who may or may not be a Justice of the Peace, resident of said town, to serve for the period of one year, or until his successor shall be duly elected, subject, however, to be removed from office at any time by a vote of three fifths of the Town Commissioners of the town of Little Creek. Before entering upon the duties of his office, the Alderman shall be sworn or affirmed by the President of the Board of Town Commissioners to perform the duties of his office faithfully and impartially.

Section 8.- That the Town Commissioners at their first stated meeting

or as soon thereafter as may be convenient, and annually thereafter, may elect one or more persons to act as constable or constables for said town., who shall be sworn to perform his or their duty faithfully and impartially.

Section 9,- That it shall be the duty of the Alderman and of the town constable or constables to suppress all riotous, turbulent, disorderly or noisy assemblages or gatherings of persons in or about any building used for any fair, festival, concert, or any social, literary or religious meeting, or any entertainment whatsoever, or in the streets, lanes, squares, alleys, or sidewalks; and for this purpose it shall be the duty of the town Constable to seize and arrest any such person or persons so offending and carry him or them, as the case may be, before the Alderman of said town, whose duty it shall be to hear and determine the matter, and upon conviction before him, the Alderman shall cause any person so convicted to pay a fine of not more than ten dollars, and may commit the person or persons convicted as aforesaid to prison for a period not exceeding thirty days, or until said fine and costs shall be paid.

Section 10,- It Shall be the duty of the Alderman, upon complaint made before him of any riotous, turbulent or noisy assemblage or gathering as aforesaid to issue

his warrant to any constable of the said town of Little Creek commanding him to arrest and bring before him for trial any person or persons so offending, and the person or persons so arrested shall be tried and punished in the same manner as is set forth in the preceding Section.

Section 11,- That it shall be the duty of the town constable or constables to arrest any drunken or disorderly persons they may see upon any of the streets of said town, and to take such person or persons so arrested before the Alderman, who shall proceed forthwith to hear and determine the case, and upon conviction before him, he shall sentence such person or persons in the same manner and to the same punishment as is provided in Section 9 of this Act for the punishment of persons brought before him. If it shall appear to the Alderman that the person or persons so arrested shall not be in a condition to be heard and tried he may commit such person or persons to await a trial at a time to be fixed by him, such time shall in no case be more than twenty-four hours from the time of committment, unless the expiration of the said twenty-four hours would be on the Lords day, and then not later than ten o'clock on the Monday morning following. The fee of the

Alderman in any of such cases shall be fifty cents, and to the constable making the arrest fifty cents. In case of commitment, the constable shall receive an additional fee of one dollar, and the keeper of the jail shall be entitled to a fee of fifty cents for each committment, and he shall be entitled to the same pay for the board of the persons so committed as is allowed by the Levy Court of Kent County to the Sheriff for keeping county prisoners. In cases not herein provided for the fees of the Alderman and constable shall be the same as are paid to Justices of the Peace and County constables in like cases.

Section 12,- It shall be the duty of the Commissioners on the First Monday in March next or as soon as conveniently may be thereafter, and annually thereafter, to elect by ballot a Treasurer and Clerk, who shall hold their offices until the first Monday in March next after their election, and until their successors shal be duly elected and qualified. The Treasurer and Clerk may or may not be the same person, the said Commissioners shall also have authority to elect by ballot a collector of taxes in any year they may think it proper to do so. The Treasurer before entering upon the duties of his office shall be sworn or affirmed to perform the duties of his office faithfully, honestly and diligently, and s hall also before entering

upon the duties of his office give bond to the town of Little Creek, with sufficient sureties to be approved by the Commissioners of said town in the penal sum of One Hundred and Fifty Dollars, conditioned for the faithful discharge of the duties of his office, and for the payment to his successor in office of all sums of money belonging to said town which may remain in his hands upon the settlement of his accounts, to which bond and condition there shall be annexed a warrant of attorney for the confession of judgment for the penalty. The said Treasurer shall pay all orders drawn on him by order of the Commissioners and signed by the President thereof out of any moneys in his hands belonging to said town. He shall settle his accounts with the said Commissioners annually by the first Monday in March and at such other times as the said Commissioners may require. It shall be the duty of the Clerk of said town to keep a true and faithful record of all the proceedings of said town at all meetings held by them, and to do and perform all other matters and things that may be prescribed by any Section of this Act or any Ordinance enacted by the Commissioners. The Treasurer, Clerk and Assessors shall receive a reasonable compensation for their services to be determined by the Commissioners of said town.

Section 13,- It shall be the duty of the Commissioners of said town at their first meeting in March next, or as soon thereafter as may be convenient, to choose by ballot an Assessor to serve until the first Monday in March A. D. 1900, or until his successor shall be chosen. It Shall be the duty of the Assessor within two weeks after his election to make a just and impartial valuation and assessment of all the real estate and assessable personal property within said town, and also an assessment of all the male citizens residing in said town above the age of twenty-one years, as well those owning real estate as those not owning real estate within the limits at an amount which shall be fixed by the Commissioners at their first stated meeting but the sum so to be fixed shall be the same for every class and description of said citizens, and shall not exceed the sum of One Hundred Dollars, and the said Assessor shall forthwith after making said assessment deliver to the Commissioners a duplicate containing the names of all the persons assessed, the amount of their assessment, distinguishing the assessment of the real and personal property of each. Upon the return of the assessment as aforesaid the Commissioners shall give five days public notice that they will sit together at a certain place and on a certain day to be fixed by them from one

to four o'clock in the afternoon to hear appeals from the said assessment, and at such times the Commissioners shall have power to add to or decrease any assessment. When the appeal day is past, the Commissioners shall without delay cause the assessment list to be transcribed and the transcript shall be delivered to the Collector, who shall thereupon collect from each taxable the amount of his tax, and pay over the whole amount collected, deducting commissions and delinquencies, to the Treasurer of said town on or before the first day of October next after receiving his duplicate. The Town Commissioners shall fix the amount of the commissions to be paid to the Collector for collecting the taxes, and the said Collector shall have the same power and authority for the collection of taxes as are now conferred or may be hereafter conferred by law on collectors of county taxes.

Section 14. That the Commissioners herein named and their successors in office shall at their first stated meeting in each year, or as soon thereafter as may be, determine the amount of tax to be raised in said town for that year, not exceeding Five Hundred dollars, including tax on real estate, personal property and poll tax, and excluding delinquencies and commissions for collection. The Commissioners or a majority of them shall have power and authority to use any and all moneys

thus determined and collected for the general improvement, benefit and ornament of said town as they may deem advisable, and for any other purposes provided for by any of the Sections of this Act, and all the money paid out by the Treasurer shall be on the order of the Commissioners and signed by the President and Clerk thereof.

Section 15. That the Town Commissioners shall have power to enact ordinances for the paving or improving of the sidewalks, which ordinances shall be applicable to those persons only who own property fronting upon the sidewalks, who shall bear all of the expense of making the pavement or other improvements ordered in front of their respective properties. If such ordinance be not complied with within one month after notice be given the Commissioners may procure the materials and cause the necessary work to be done and collect the expense so incurred from the owner or owners of the lands adjoining such sidewalks. The Commissioners shall have power to sell any real estate or personal property for the purpose of paying the expenses as aforesaid, but no sale shall be made unless thirty days notice shall have been given by advertisement at three of the most public places in the said town, and if such proper notice shall have been given

and the sale shall have been made as aforesaid, the purchaser at said sale shall take a valid and complete title to the property thus sold, subject to prior liens and incumbrances. The money realized from said sale shall be applied to paying the expenses of said sale, and of the work done and materials furnished, and if there should be any remaining the Commissioners shall cause the treasurer to pay the same to the owners or owner of the property thus sold.

Section 16,- That the President and Commissioners shall have the superintendence and oversight of all the roads and streets now opened or that shall hereafter be opened within the limits of said town, and no overseer of any roads or streets that may be appointed by the Levy Court of Kent County shall have any jurisdiction or oversight over any of the streets or roads in the limits of said town, and the Levy Court shall annually appropriate for the repair of said roads or streets a sum of money not less than Seventy-Five Dollars, and shall make an order for the payment thereof to the Treasurer of the town of Little Creek.

Section 17. The said town Commissioners of Little Creek shall have power to enact ordinances to prevent nuisances, to preserve the health of the town, and to prevent the introduction

of infectious or contagious diseases, and on complaint of any citizen to cause examination of any chimney, stove-pipe, fixture or any other matter dangerous to the citizens of the said town, and if adjudged dangerous, to require it to be repaired or removed. The Commissioners shall have power to define and remove nuisances and to prohibit the firing of guns or pistols, the making of bon-fires, the setting off of fire-works, and to prevent or suppress any dangerous sport or practice, and generally they shall have all the powers necessary to preserve and maintain peace and good order in said town.

Section 18. The Commissioners shall have power to levy a special tax to pay for a right of way, charges and costs incidental to the widening, straightening, extending, and opening new streets, lanes or alleys, and when necessary, for the repair of those streets, lanes or alleys laid out previous to the passage of this Act, which tax shall be collected as other town taxes are collected.

Section 19. That the Levy Court of Kent County shall have charge of the bridge over Little Creek, and shall cause the said bridge and the abutments thereof to be kept in good repair.

Amend House Bill #141, as follows:

Section 6. The Town Commissioners shall have power to widen, straighten and extend the streets now existing and also to lay out and open new ones, and for that purpose to purchase or condemn the appropriate land. Whenever the Town Commissioners shall have determined to locate and lay out or widen any street, lane or alley, and shall have fixed the compensation therefore, it shall be their duty immediately after the survey and location of said street, lane or alley to notify, in writing, the owner or owners of the real estate through or over which such street, lane or alley may run, of their determination to open or widen 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 said Town, to notify the holder or tenant of said real estate, but if there be no holder or tenant resident within said Town, the said notice shall be affixed to the most conspicuous part of the premises. If any owner be dissatisfied with the amount of the compensation or damages allowed by the Town Commissioners as aforesaid, he or she may within ten days after such notice as aforesaid, appeal

from the said assessment of compensation or damages by serving a written notice to that effect on the President of said Commissioners, or the person performing the duties of the President of the Town Commissioners for the time being. In order to prosecute said appeal such owner or owners shall within fifteen days after the expiration of the ten days allowed for appeals, and upon ten days' notice to the said President of the Town Commissioners, or the person performing the duties of the President of the Commissioners for the time being, make written application to the associate Judge of the Superior Court of this State, resident in Kent County, for the appointment of a commission to hear and determine the matter of damages or compensation, and thereupon the said Associate Judge shall issue a commission under his hand directed to five freholders of the said County, three of whom shall be residents of said Town of Little Creek, and two of whom shall be non-residents of said Town, commanding them to assess the damages which the owner of the real estate through or over whose lands said street, lane or alley shall pass, who shall have notified the said Town Commissioners of their intention to appeal, may incur by reason there of;, and to make return of their proceedings to the said Associate

judge at a time therein appointed. The freeholders named in such commission being first sworn or affirmed, as in said commission shall be directed, shall view the premises, and they or a majority of them shall assess the damages as aforesaid and shall make return in writing of their proceedings in the premises to the said Associate Judge, who shall deliver said return to the said Town Commissioners, which shall be final and conclusive. The said Associate Judge shall have power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town Commissioners may pay or tender the same to the person or persons entitled thereto within one month after the same shall be finally ascertained, or if the person or persons so entitled reside out of or are absent from the Town during said period of one month, or are minors, then the same may be deposited to his or her credit at the Farmers' Bank of the State of Delaware at Dover within said time, and thereupon the said property or land may be taken or occupied for the uses aforesaid. In the ascertainment and assessment of damages by the freeholders appointed by the Associate Judge as aforesaid if the damages shall be increased, the costs of appeal shall be paid by the Treasurer of the Town out of any money in his hands belonging to the Town, but if said damages shall

not be increased the costs of appeal shall be paid by the party appealing. The fees of the freeholders shall be two dollars a day to each, which shall be taxed as part of the costs. After the damages shall be fixed and ascertained by the freeholders as aforesaid, the Town Commissioners shall have the option to pay the damages assessed within the time aforesaid, and proceed with the said improvements, or, upon the payment of the costs only, may abandon the proposed improvements.

Theodore F. Clark
Speaker of the House of Representatives

Chas. H. Salmon
President Protem of the Senate

Passed at Dover March 3rd A.D. 1899

Approved this the twenty third
day of March A.D. 1899

Ch. M. Cummell
Governor.

Copied.

House Bill

No 141

An Act to Incorporate the Town of Little Creek.

Examined and found Correct
3/8 – 99 W L Davis

Examined and found Correct
March 9th 1899 S. J. Abbott

(10–73)

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Passed at Dover
March 3rd A.D. 1899

Recvd March 10th 1899
Chas. H. Tunnell
Governor.