

*Thanks to those who worked hard to make this project possible:*

*The Honorable Jack A. Markell  
The Honorable Ruth Ann Minner  
The Honorable Myron T. Steele*

*Legislative Oversight Committee*

*The Honorable Henry duPont Ridgely  
The Honorable James T. Vaughn, Jr.  
The Honorable James T. Vaughn, Sr. (deceased)  
The Honorable Nancy W. Cook  
The Honorable Robert L. Venables, Jr.  
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*Administrative Office of the Courts*

*Office of Management & Budget  
Division of Facilities Management*

*Court Staff of the Kent County Courthouse*

*The People of the State of Delaware*

## **KENT COUNTY COURTHOUSE GRAND OPENING CEREMONY**



**Tuesday, June 14, 2011  
10:00 a.m.**

**38 The Green  
Dover, Delaware**

*Welcome – The Honorable William L. Witham, Jr.  
Resident Judge, Kent County  
Superior Court of State of Delaware*

*Presentation of Colors, The Delaware National Guard  
Color Guard*

*National Anthem, The Delaware National Guard's  
287<sup>th</sup> Army Band*

*Pledge of Allegiance  
Led by The Honorable Charles W. Welch, III  
Judge, Court of Common Pleas of the State of Delaware*

*Return of the Colors, Delaware National Guard  
Color Guard*

*Opening Remarks - The Honorable Jack A. Markell  
Governor, State of Delaware*

*Remarks – The Honorable Myron T. Steele  
Chief Justice, Supreme Court of Delaware*

*Presentation of the Portrait of  
The Honorable William G. Bush, III  
Superior Court of the State of Delaware  
by The Honorable Myron T. Steele  
to The Honorable James T. Vaughn, Jr.  
President Judge, Superior Court of the State of Delaware*

*Presentation of Senate and House Tributes  
The Honorable Anthony L. DeLuca, President Pro Tempore  
Delaware State Senate  
The Honorable E. Brad Bennett, Representative,  
Delaware House of Representatives*

*State of Delaware Presentation to Mrs. Robert O'Brien  
by The Honorable John W. Noble, Vice-Chancellor  
Delaware Court of Chancery*

*Kent County Presentation to Mrs. Robert O'Brien  
by The Honorable P. Brooks Banta, President,  
Kent County Levy Court*

*Historical Comments - The Honorable Henry duPont Ridgely  
Justice, Supreme Court of Delaware*

*Presentation of the Key to the Courthouse  
by the Honorable Ann Visalli, Director,  
Delaware Office of Management and Budget  
to the Honorable James T. Vaughn Jr.*

*Closing Remarks - The Honorable William L. Witham, Jr.*

*Tours immediately following the ceremony*

*Reception hosted by the Kent County Bar Association  
at The Outlook at the Duncan Center, 12 noon*

**INSIDE: CAMERAS IN THE COURTROOM? THE PROS & CONS**

# DELAWARE LAWYER

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WINTER 2002-2003



Photo courtesy of the Delaware Public Archives.  
The Kent County Courthouse, built in the 1870s.

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Maurice A. Hartnett, III

## THE COURTHOUSES OF KENT COUNTY 1680 — 2002



The Kent County Courthouse, as it looked when built in 1871 until its 1918 renovation.

**I**n the seventeenth century, the courts were often the dominant influence as to where a town would develop, and Dover came into being because it was chosen by William Penn upon his arrival in America in 1682 to be the site for the courts of Kent County. Until recent times, the courts were the most significant influence on the social and economic activities of the town. Even today, the Dover Green, which has been the location of the county courts since 1699, serves its original purpose and is the ceremonial center for Dover and the State.

Court was first held in Kent (then called St. Jones) County in 1680. It was probably held at the home of Chief Justice Witwell or at the home of Justice Edward Pack —

both lived on the St. Jones River near its mouth at the Delaware Bay. The home of Justice Pack was not, however, "Town Point," as some have believed. Town Point was a nearby plantation. Sometime after 1680, a building (probably of logs) was erected and used as the courthouse. Its location is unknown, but it probably was also near the mouth of the St. Jones River.

Commencing in 1690, court was held in the tavern of James Maxwell near the present intersection of Division Street, Park Drive and Kings Highway in Dover. There were objections, however, to the holding of court at that place because of its "boisterous tavern atmosphere," and, on March 10-14, 1690/1691,<sup>1</sup> at a meeting of the Court of General Sessions, it was decided to hold a meeting of the

freemen and inhabitants to discuss the problem. At this meeting, held on May 28, 1690/1691, a decision was made to purchase 50 acres of land from William Morton as the location of the Town of Dover and a new courthouse. It was further agreed at that meeting that the "Old Courthouse" would be burned to get its nails.

Little came of the proposal to build on the lands of Morton and in 1694, William Penn's Provincial Council decided to build a courthouse on lands of William Southersby near a landing at the west side of the head of the Dover (St. Jones) River. This landing is at a bend in the river near the foot of Water Street in Dover. Ocean-going vessels could, in 1694, reach the bend, and it was still being used as a boat landing during World War II. This was the third site selected to become the location of Dover, as earlier there had been proposals to erect a courthouse adjacent to Tidbury Branch.

On February 4, 1694/1695, the Provincial Council authorized the purchase of 200 acres, being the northernmost portion of a grant of land called "Brothers Portion." The 200-acre tract had as its northern boundary what is now North Street in Dover, extended southward to what is now South Street, and ran from the St. Jones to west of what is now the railroad and Eden Hill Farm. The remainder of "Brothers Portion" continued south to Puncheon Run, which is near the present intersection of U.S. 13 and South State Street in Dover. The land on which Eden Hill Farm is located was the western residue of the 200 acres not used when the Town of Dover was formally plotted in 1741.

Construction of a courthouse on the "Brothers Portion" began in 1697 at the site of the present Kent County Courthouse at the corner of South State Street and The Green. It was the first building erected in Dover. The site selected was consistent with the wishes of William Penn, who, on August 11, 1693, had directed that the Town of Dover be laid out and that a courthouse be built at the proposed cross streets of the Town. The courthouse

was built at the intersection of Kings Street (now State Street) and the Long Road (now the south side of The Green). At that time, the Long Road continued eastwardly in front of the present location of the Sykes House at 45 The Green to the St. Jones River. To the west it continued through The Green on toward what is now Governors Avenue (formerly High Street). This courthouse was built on a rise in the land which is the highest elevation as one proceeds west from the St. Jones Landing.

For several years prior to the completion of the courthouse, court was



The present Kent County Courthouse after its 1918 renovation.

again held at the houses of various Justices. On September 12, 1699, court was first held in the new courthouse, but the size and appearance of the structure are unknown. In December of 1699, this courthouse was leased for nine years to Phillip Hunings, contingent upon his maintaining a pasture, building a 25-foot by 15-foot stable, a 12-foot-square cellar, and keeping the courthouse in good repair for the use of the courts. He was also to keep an ordinary (tavern) or house of entertainment in the courthouse and to provide sufficient necessaries such as meat, drink, lodging, etc., and hay and corn for horses.

The 1699 courthouse was sold on February 22, 1722, to John Lindsey,

but continued in use as a tavern until after the Civil War, when it burned. The tavern was called "The King George Tavern" until its name was changed during the Revolution to "The George Tavern."

The Dover Green at various times has been called "Court House Square" (plot of Thomas Rodney, June 8, 1768); "Public Square" (Beers Atlas 1868); and "Market Square." As early as 1724, however, it was called the "New Court House Green," but that name fell into disuse until the mid-1800s, when the Town of Dover officially named it "The Green." The existence of a public square is typical of old English towns, and The Green was used for markets and fairs until the middle of the nineteenth century. It has always been the center of political activities.

At Battel's Tavern, on The Green, on December 7, 1787, Delaware became the first state to ratify the U.S. Constitution. Troops have left from The Green for all our wars, commencing with the Revolution, and it has been the scene of numerous political rallies and torchlight parades. Presidents Wilson, Coolidge, Harding, Johnson and Bush (the first), among others, have spoken here, and it has often been the site for the inauguration of governors. It was, until the 1920s, the scene for Return Day election ceremonies like those that still take place in Georgetown. Initially, the only polling

place in Kent County was the courthouse on the Dover Green. Later, when polling took place in the Hundreds, it was customary for almost the entire adult population of the County to convene on the Dover Green in front of the courthouse on the Thursday following the election to hear the returns as they were canvassed by the courts.

Although William Penn ordered the laying out of Dover on August 11, 1683, the actual plotting of the town was not commenced until 1717—long after the 1699 courthouse had been built and was in use. The formal laying out was not completed until 1740-1741, when it was formally plotted by Thomas Noxon. This plot has been

lost, but a true copy was prepared by Thomas Rodney on June 8, 1768 that is still of record in the Kent County Courthouse. It is likely that buildings were erected near the 1699 courthouse soon after it was completed, and the irregular shape of the lots on the Noxon plot seem to indicate that houses existed at the time of the formal layout. There are also various references in deeds and in letters to indicate that Dover was inhabited well before 1717, and in 1716, a writer claimed that Dover had 300 residents. In 1708, John Oldmixon wrote: "Kent County, very fruitful, but not well planted as the others. Dover is its capital. 'Twas formerly called St. Jones. 'Tis thin of houses and does not consist even now of about 30 or 40 Families." A Presbyterian minister preached in Dover in 1708 and an Anglican priest arrived in 1705.

In 1722 a new courthouse was erected on the site of the present Old State House on the east side of the Dover Green. The 1722 courthouse was a brick building about 25 feet square. Its site is now occupied by the south half of the Old State House, and part of the old cellar was probably incorporated into its cellar. On its front porch, the Declaration of Independence was first read to the inhabitants of Dover in July 1776, and a public celebration occurred, which antedated the celebration at Philadelphia. At that gathering a picture of King George III was burned.

The 1722 courthouse also became inadequate, and in 1775 the Kent County Levy Court, which was constituted in 1736, decided to have a new courthouse constructed. On March 29, 1775, the General Assembly authorized the vesting of title to lands for a new courthouse for the Supreme Court and Court of Common Pleas and Quarter Sessions. No steps were taken immediately to construct the new structure, however, and the 1722 building continued to be used.

On May 12, 1777, the capital of the new Delaware State was moved to Dover and the 1722 Kent County Court House was pressed into use as

the State Capitol. This building was demolished to make way for the new courthouse about 1787.

On January 21, 1786, the General Assembly enacted a bill to grant 2,800 British pounds sterling to Kent County to enlarge the courthouse the County was contemplating building so as to accommodate the State offices. On December 19, 1787, the Levy Court Commissioners agreed to change the size of the proposed courthouse from 60 feet by 40 feet to 70 feet by 40 feet. In 1791, the General Assembly authorized a lottery to raise 1,000 pounds for finishing the courthouse, and in 1792



The 1792 Kent County Courthouse (Old State House), restored in 1976.

an additional 500 pounds were appropriated toward the cost of the new building. By 1791 the new courthouse (which is now the Old State House building) was in use by the courts. In 1792, the General Assembly met there.

In 1792, the Sheriff of Kent County, John Clayton — with drawn sword — demanded that the General Assembly vacate the building to enable workmen to finish it. The General Assembly, in a huff at the insult, adjourned to Duck Creek. Partly as a result of this controversy, the Constitution of 1792 provided that the first session of the General Assembly held under the new Constitution would be held in Dover and the General Assembly has met in Dover ever since.

In 1794 the members of the Kent County Levy Court were still complaining that the State had not paid its fair share of the cost of the courthouse. They requested 450 pounds from a prior lottery that they never received and an additional 550 pounds as an appropriation to complete the building. In 1795 the General Assembly finally appropriated 1,066.64 United States dollars to complete the building.<sup>2</sup>

From 1791 until 1874, the building that is now the Old State House served as the courthouse for Kent County and as the State Capitol, but it had only one courtroom. For part of this time it also served as the Kent County Office Building. In 1830, major renovations were made to this building, and in 1835 the State erected an addition at the rear for State use. It was removed in 1976, at the time the Old State House was restored to its original appearance.

By 1870 it became obvious that the building serving as the Kent County Courthouse and as the State Capitol was overcrowded, and steps were taken by the Kent County Levy Court to have a new courthouse erected. In 1874 the old 1791 courthouse was sold to the State for exclusive use as the State Capitol, and the present courthouse was erected on the site of the 1699 courthouse, which

was then a vacant lot. At the time of its erection, it was Victorian in appearance and four stories high. When originally built, and up to a 1918 remodeling, the first (street) floor was occupied by small one-room offices leased to attorneys.

In 1918 a major renovation of the courthouse took place. The fourth floor, used as a town meeting room, ballroom and convention hall, was removed. The exterior appearance was also changed from Victorian to Georgian. An entire new brick facade was substituted for the narrow mortar bricks. The building was also expanded at this time, and the fireplaces were removed or covered over. During a major renovation in 1983, several of these fireplaces were rediscovered.

Various additions were added to the courthouse in the 1930s, in 1957 and in 1983. In 1983 the entire building was completely refurbished exclusively for court use. The project was a joint endeavor of the Kent County Levy Court and the State of Delaware Department of Administrative Services. Unlike in Delaware's other two counties, Kent County continues to own the courthouse, but the State leases the space used by the courts.

The county offices — Sheriff, Register in Chancery, Prothonotary, Recorder of Deeds, Clerk of the Peace, Register of Wills, etc. — were housed in the 1722 courthouse when it was first built. Sometime later they were moved to a County building that was built during the 1740s on Lot No. 33, as shown on the Town Plot of 1740. This lot was just to the north of the 1722 courthouse and was set aside for County use by the 1740 Plot. A separate jail was sold and replaced prior to 1753.

In 1858 a new County Building was erected on the site of the Old County Building. It was first occupied on January 11, 1859. A two-story addition was added to the County Building in 1903-04 to accommodate the expanding needs of the Recorder of Deeds. In 1909 this building housed the Register of Wills, Recorder of Deeds, Clerk of Orphans Court and Register in Chancery, Prothonotary, Sheriff, Clerk of the Peace, County Treasurer and Levy Court. This building was sold to the State in 1918, and the county offices were moved into the courthouse at the same time the courthouse was expanded and remodeled. At this time, the offices in the courthouse formerly leased to lawyers, which had fallen into disuse, were allotted to the County offices. The old County Office Building was turned around and moved to its present location at the northeast corner of The Green on July 16, 1932, to make more room for Court Street (now closed).

In 1979 Kent County erected a new County Office Building and all County offices — except the offices of the Sheriff, Prothonotary and Register in Chancery — were moved into it. The courthouse was then set aside for the exclusive use of the courts and court-related activities.

All of the courts (except Justice of the Peace Courts) shared a single courtroom until after World War II,

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when additional courtrooms were provided within the courthouse. In the 1950s, separate quarters outside the courthouse were provided for the Family Court, and in 1950 the new separate Supreme Court was given space in the Annex to the Old State House.

From earliest times, it was customary for the courts to treat the children of Dover to lemonade and cakes on the Dover Green on May Day. A bell cast in 1763 was first hung in the 1722 courthouse, and later in the cupola of the Old State House. It has now been removed and is located on the second floor of the Old State House. During the Civil War, much of the populace of Dover gathered daily on The Green to hear local lawyers read the latest dispatches from the war front. Both Southern sympathizers and Unionists attended, and there were often scuffles between the two sides. The Dover Green, like the rest of Dover, was first illuminated by gas on October 25, 1859, and by electricity on December

30, 1899.

Many famous trials have taken place in the Kent County courthouses. In 1872 a dentist attempted to defraud his life insurance carrier by murdering a black servant and skinning the body. He then set fire to a building and the body — hoping to pass off the body as his



The Delaware Supreme Court Building.

The doctor was apprehended on the midnight train to Harrington. He was represented at trial by Willard Saulsbury — later a U.S. Senator and Chancellor. At the trial he accomplished the near

impossible — he got his client off by asserting self defense! The doctor was convicted of a much lesser offense and received a short prison term. It is said that Willard Saulsbury prevailed because of his personal acquaintance with each juror.

In 1949, the courthouse was the scene of “the Lonely Hearts Murder” trial, which received daily national publicity. In 1948, Mrs. Inez Brennan lured several elderly men to her farm on Horsepond Road east of Dover by advertising the availability of her companionship in lonely hearts magazines. She then prevailed upon her 15-year-old son to murder the men for their money. Both were convicted of first degree murder and sentenced to life imprisonment. They were later released and left Delaware.

In 1953 a trial established the first national precedent that evidence obtained by radar was admissible in a court to prove the excessive speed of a motor vehicle.

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Even now, some natives say, late on a

indicate that the year 1691 is nearly commemorated and that 1692 is approaching.

2. The planning and building of the courthouse occurred over a period of time during which the United States Constitution was ratified and a single-currency monetary union was established.

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